



The Planning for Life Newsletter

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December 2008

Volume 1, Issue 2

On The Road to Equality: Same Sex Couples' Rights in Washington

The Washington Domestic Partnership Registration laws have made great strides in giving same sex couples over 200 rights they did not have before. Some of the important rights given to same sex couples are the right to be at the bedside of a dying partner, right to make funeral arrangements, and community property rights identical to that of married couples.

While Washington is progressive in this area, the Federal government is not. Over 1000 federal rights given spouses are still withheld from same sex couples.



Washington's rights are still "untested" and it remains to be seen how they hold up under political and legal challenge. Rights also change dramatically from state boarder to state boarder, and from day to day. California's same sex marriage decision was instantly overturned by the passage of Proposition 8. Further, the portability of such a marriage from state boarder to state boarder was generally not available, even when it was legal in California. This is the epitome of "law in flux" which makes it especially hard for attorneys to definitively advise their clients.

Because of this, estate planning attorneys continue to advise their same sex clients to create iron clad estate planning documents that include 1) mirror image wills, 2) a relationship agreement , 3) health and financial power of attorneys, 4) HIPPA permission, and 5) a Health Care Directive (the last optional). Also, if a same sex couple has children, they should always do a second parent adoption, as well as registering. This gives the child eligibility to federal benefits down the road and protects both partners' parental rights more resiliently. See an attorney who specializes in same sex estate planning for more information.

Not Registered? Check out our *How to Register as a Domestic Partner in Washington State* pamphlet, downloadable under Resources and Classes at www.anastasiolaw.com.

Protecting Disabled Beneficiary's Benefits

If you are writing a will with a disabled heir or giving a life time gift to a disabled person, it is imperative that you create and place the assets in a Special Needs Trust. This is to protect that person's federal and state benefits that help pay for expensive assisted living, machines, medical treatments, and in-home care, among other things.

If you do not put it in a Special Needs Trust, it can end that person's benefits eligibility until only \$2000 is left to your heir, before she can get benefits again. If the bequest is small—say \$10,000— assisted living or other expenses could run through this bequest quickly. However, if it is properly placed in a Special Needs Trust, it can be used to improve her standard of living over the course of her life and not affect her benefits eligibility at all.

Disabilities include most that hinder daily functionality, including, but not limited to, sensory deprivation (e.g. blindness, deafness), physical disabilities (e.g. paraplegic, heart failure), and mental disabilities (e.g. dementia, Alzheimer's, bi-polar disorder, even addictions at times). See an attorney that specializes in Medicare/Medicaid Planning for more information.

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*Charity Anastasio,
Attorney at Law, PLLC
wishing you and yours a
most Memorable and
Merry Holiday Season!*



SUN	MON	TUE	WED	THU	FRI	SAT
30	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31	1	2	3

*Happy Holidays
from*

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Constitutional Corner

Most attorneys one comes across these days have a practice area of which they will not deviate from in the slightest. This is both wise and reasonable, as the study of law is vast and it is impossible to be a jack of all trades. However, virtually every attorney had a general education in all main areas of law and, in Washington, studied over 20 subjects earnestly, in order to pass the Washington State Bar Exam. One area of law that is both sexy and pervasive is Constitutional Law. It even comes into play in Estate Planning and Elder Law frequently (my practice areas). Because of this, I am making a running column called Constitutional Corner, where I will look at modern constitutional issues, whether they intersect with my practice, or just interest me. Here is the first installment. I hope you enjoy it.

During the arduous Presidential campaign, the new star of the Republican Party, Governor Sarah Palin, claimed that the media was violating her First Amendment Rights to Freedom of Speech by attacking her comments and conclusions repeatedly. The Governor may have felt that her rights were violated, but she wouldn't have found protection under the Constitution for her hardships. The Constitution protects people from the government's actions, not actions of private citizens. The media is not government run, so it cannot be deemed a government actor. Only when a private citizen is acting on direct orders of a government body (like searching a house because a police officer told him to), can the actions of a private citizen lead to constitutional protections.

It should also be noted that not all speech is free. Governor Palin's speech would likely be protected, as political in nature. But if she used fighting words, defamed someone, or cursed, then it would be unprotected speech. Further, the government could regulate where and when she could speak, so long as the government made sure she was given a time and place to talk, even if the speech was protected.

It is reasonable that intense media attention had a chilling effect on Governor Palin's desire to speak. There is no disputing she was under the microscope from the second Senator McCain chose her as his running mate. But the Constitution requires more than a mere chilling effect. Speech must be barred, and it wasn't here. Governor Palin would need to look to Tort Law for a remedy—state common laws that give remedies to parties who are wronged. Specifically, she could have sought redress for libel and slander (defamation by written and oral communications). Good luck with that Governor Palin.

