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Unmarried Couples: Do the Paperwork



Steig Larsson, the Swedish author of *The Girl with the Dragon Tattoo* trilogy, was notable in life as an accomplished writer. His death in 2004 made him notable in another way—he had never written a will, leaving his romantic partner and literary collaborator of 32 years with no rights to his financial or literary estate. Instead, the enormous wealth generated by Larsson's books went to his father and brother, in keeping with Swedish law.¹

The rules are the same in America: Cohabitation without marriage grants no inheritance rights or legal protections the partners. Civil domestic partnerships offer some, but not all the legal benefits of marriage, and those vary from state to state. Domestic partnership agreements are not recognized by the Federal government, so domestic partners can't collect on a deceased partner's Social Security, for example.² There are social as well as financial rights that unmarried couples lack, unless they've prepared legal agreements. For instance, they do not have the right to make medical decisions for their loved one in an emergency.

Nevertheless, cohabitation outside of marriage continues to gain popularity. According to 2016 U.S. Census data, the number of cohabitating couples rose 29% to 18 million, up from 14 million in 2007. And people over 50 make up nearly a quarter of cohabitating unmarried couples.³ (In some cases, but certainly not all, senior couples may remain unmarried in order to protect the inheritance rights of children from a previous marriage.)

While it's important for married couples to have properly executed legal documents to ensure their wishes will be carried out in the event of illness, incapacitation or death, it's even more crucial for unmarried couples, who are not considered related in the eyes of the Federal government and most states.

Here are some of the important legal documents that unmarried couples should consider putting in place, ideally with the help of an attorney who knows the family and estate laws in the couple's state of residence.

1) The “No-Nup”

Like a pre-nup for the no-nuptials crowd, a written cohabitation agreement can include everything from who is responsible for the dog. If the couple has children, the “no-nup” would include instructions about custody and financial obligations should the couple separate.

2) Wills and trusts

If a married person dies intestate (that is, with no will or trust), the courts typically allow the spouse, registered domestic partner or blood relatives to inherit under what is known as intestate succession. Unmarried couples have no intestate succession status, making estate planning crucial. In certain states, domestic partners face the same issue.⁴ If there are natural or adopted children in the family, guardianships and other considerations must be planned for and put in writing.

3) Properly designated beneficiaries

If you have named beneficiaries for your financial assets, such as investment accounts and life insurance policies, these assets typically pass directly to the beneficiaries rather than being governed by your will. As a result, all couples, married or unmarried, should make sure their named beneficiaries are up to date. If you forget, a vital asset could go to an ex, for instance, rather than a current partner.

4) Financial and Healthcare Powers of Attorney

Important for singles as well as couples are legal documents that appoint someone to act on your behalf if you are incapacitated. Work with your advisor and estate attorney to set

up a Durable Power of Attorney for business and legal decisions; a Health Care Surrogate who can speak with your doctors; a living will or healthcare directive that clearly states your end-of-life wishes; and a document that states who is responsible for making funeral arrangements upon your death.⁵

Unmarried couples can tap their financial advisor and a qualified estate attorney to protect their loved ones and their assets. Doing without the formal institution of marriage makes these steps all the more important.

Footnotes:

¹[Steig Larsson: The Legacy](#)

²[FindLaw: What is a domestic partnership?](#)

³[Pew Research: Number of U.S. adults cohabiting with a partner continues to rise, especially among those 50 and older](#)

⁴[Nolo Press: How an Estate Is Settled If There's No Will: Intestate Succession](#)

⁵[US News: 11 financial documents unmarried couples should know about](#)

Additional Resources:

- [Money: 5 Smart Financial Moves for Unmarried Couples Who Live Together](#)

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