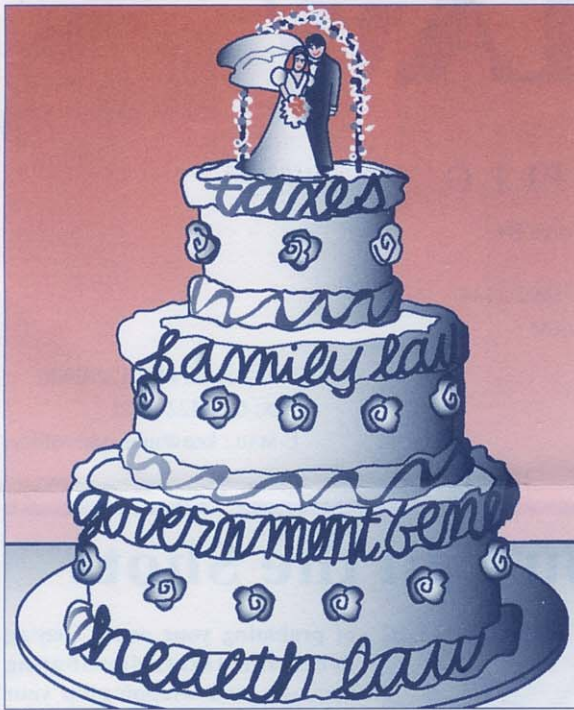


The Legal Side of Marriage



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When you say, “I do,” you are making a personal commitment to another person. What you may not realize is that you are also agreeing to a battery of new legal rights and responsibilities. More than 1,000 rights and responsibilities are automatically accorded to married couples. Marriage is a private bond between two people, but it is also an important legal institution.

Here’s a quick look at some of the things you agree to when you’re at the altar. If you have specific questions, your lawyer will have the answers.

Family Law

Married couples have a variety of rights and responsibilities with respect to family issues. Many of these rights will only be relevant if the couple divorces or separates. For example, marriage entitles a person to an equitable distribution of marital property upon divorce. (Most property that is acquired during a marriage is considered **marital** or **community property**.) Marriage also entitles a person to seek support (**alimony** or **maintenance**) in the event of a separation or divorce.

Real Estate

In some states you are eligible to own property with your spouse in **tenancy by the entirety**. In this form of ownership, which is traditionally only available to husbands and wives, each tenant effectively owns the entire estate. Neither can deal with the property indepen-

dently of the other. The main advantage of this is that creditors of one spouse cannot force the sale of the home without the other spouse’s consent. In addition, when one spouse dies, the remaining spouse automatically becomes the owner of the entire property, regardless of what the will of the deceased spouse says. Spouses also have **homestead rights**, which may protect the home from forced sale for collection of debts or may grant favorable property tax treatment.

Taxes

Marriage gives you and your spouse the right to file jointly, although you can file separately if you prefer. Filing jointly is likely to benefit couples if one spouse has a high income and the other spouse has a low income.

Health Care Laws

If you are married, you automatically have the right to visit your spouse in hospital if he or she is injured. It’s easy to take this right for granted—but if you are one half of an unmarried couple, such access could be denied.

If one spouse becomes incapacitated and can no longer make medical decisions, a court will usually name the other spouse as guardian or conservator to watch over his or her affairs. If the incapacitated person is unmarried, the court may name the adult children, siblings, or parents as guardians.

Wills and Estates

If you are unmarried and you die without a will, your property is distributed in accordance with state intestacy laws, which distribute property to your family. If you have a partner, then he or she could receive nothing, even if you have been living together for years. On the other hand, if you’re married and you die without a will, the state intestacy laws give your spouse rights to your property.

If you’re married, your spouse can’t disinherit you, no matter what he or she says in a will—you’re entitled to a share of the estate. Marriage also gives you preferential status to be named guardian or executor.

Government Benefits

The moment you marry, you have rights to

certain government benefits via your spouse, including survivor benefits under Social Security and a broad range of military benefits if your spouse is in the military.

Private Sector Benefits

If you are married, you may be entitled to health insurance through your spouse’s employer. You may also be entitled to the right to take sick-leave to care for your spouse or child. And as a minor money-saving bonus, you may be eligible for family memberships at gyms, clubs, and other organizations, as well as family rates for auto insurance.

Other Rights

There are many other rights you may be entitled to if you are married, across a variety of legal areas. If your spouse is killed, you may have the right to sue a third person for **wrongful death**. If your spouse is injured, you may have the right to sue for **loss of consortium**. Marriage can give spouses the right to immigrate. And if one spouse is involved in criminal activities, the other spouse cannot be compelled to testify against him or her. If one spouse ends up in jail anyway, the other will have the consolation of visiting rights.

Domestic Partnerships and Civil Unions

If a couple is unmarried, each person must do a lot of additional paperwork—from writing a will to drafting powers of attorney for health care—to have the same rights as a married person. And there are some rights that married people are entitled to, such as the right to government benefits through their spouse, that unmarried couples cannot receive, no matter how long they have been together.

Some state and local governments allow persons of the same sex (and in some jurisdictions, unmarried persons of different sex) to register as domestic partners. The benefits and rights that arise from a domestic partnership vary from jurisdiction to jurisdiction. Common rights include eligibility for family health insurance, sick-leave to care for a family member or partner, bereavement leave, rights to visit a partner in the hospital, and the right to make health care decisions for an incapacitated partner. In Vermont, a law enabling same sex couples to enter into civil unions extends to lesbian and gay couples the effect of every Vermont law, regulation, and court precedent in the state that applies to married couples.