Statutes Related to Domestic Partnerships, Civil Unions and Same-Sex Marriage to date (December, 2009)

This legislative summary sheet was developed to give an overview of the policy and legislation related to domestic partnerships, civil unions and same-sex marriage. Statutes and bills can be reviewed individually, but often it is useful to view them in “themes” or “clusters” to:

- Highlight related statutes in one particular state
- Make it easier to compare legislation between states
- Illustrate varying legislation language and content

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Establishes domestic partnership registries

California

- Cal Fam Code § 297
  Domestic partners are two adults who have chosen to share one another’s lives in an intimate and committed relationship of mutual caring. A domestic partnership shall be established in California when both persons file a Declaration of Domestic Partnership with the Secretary of State pursuant to this division, and, at the time of filing, all of the following requirements are met: 1) both persons have a common residence; 2) neither person is married to someone else or is a member of another domestic partnership with someone else that has not been terminated, dissolved, or adjudged a nullity; 3) the two persons are not related by blood in a way that would prevent them from being married to each other in this state; 4) both persons are at least 18 years of age; 5) either of the following: A) both persons are members of the same–sex; B) one or both of the persons meet the eligibility criteria under Title II of the Social Security Act as defined in 42 U.S.C. Section 402(a) for old–age insurance benefits or Title XVI of the Social Security Act as defined in 42 U.S.C. Section 1381 for aged individuals. Notwithstanding any other provision of this section, persons of opposite sexes may not constitute a domestic partnership unless one or both of the persons are over the age of 62; 6) both persons are capable of consenting to the domestic partnership.

Hawaii

- HRS § 572C–4
  In order to enter into a valid reciprocal beneficiary relationship, it shall be necessary that: 1) each of the parties be at least eighteen years old; 2) neither of the parties be married nor a party to another reciprocal beneficiary relationship; 3) the parties be legally prohibited from marrying one another under chapter 572; 4) consent of either party to the reciprocal beneficiary relationship has not been obtained by force, duress, or fraud; and 5) each of the parties sign a declaration of reciprocal beneficiary relationship as provided in section 572C–5.

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Maine

22 M.R.S. § 2710

The Office of Health Data and Program Management within the department, referred to in this section as "the registry," shall establish a domestic partner registry. Domestic partners may become registered domestic partners if: A) at the time when a declaration under subsection 3 is filed, each domestic partner is a mentally competent adult and not impaired or related in a fashion that would prohibit marriage under Title 19-A, section 701, subsection 2, 3 or 4; B) the domestic partners have been legally domiciled together in this State for at least 12 months preceding the filing; C) neither domestic partner is married or in a registered domestic partnership with another person; and D) each domestic partner is the sole domestic partner of the other and expects to remain so.

Nevada

Ch. 393; 2009 Nev. SB 283 – Nevada Domestic Partnership Act.

To be eligible to register pursuant to subsection 1, two persons desiring to enter into a domestic partnership must furnish proof satisfactory to the Office of the Secretary of State that: a) both persons have a common residence; b) except as otherwise provided in section 10 of this act, neither person is married or a member of another domestic partnership; c) the two persons are not related by blood in a way that would prevent them from being married to each other in this State; d) both persons are at least 18 years of age; and e) both persons are competent to consent to the domestic partnership.

Oregon

Ore. Laws 561; 2009 Ore. HB 2839

A domestic partnership is prohibited and void when: a) either party to the domestic partnership had a partner, wife or husband living at the time of the domestic partnership unless the partner, wife or husband was the other party to the domestic partnership; b) the parties to the domestic partnership are first cousins or any nearer of kin to each other, whether of the whole or half blood, whether by blood or adoption, computing by the rules of the civil law. However, when the parties are first cousins by adoption only, the domestic partnership is not prohibited or void; 2) when either party to a domestic partnership is incapable of making the civil contract or consenting to the contract for want of legal age or sufficient understanding, or when the consent of either party is obtained by force or fraud, the domestic partnership is void from the time it is so declared by a judgment of a court having jurisdiction of the domestic partnership.

Washington

Rev. Code Wash. (ARCW) § 26.60.030

To enter into a state registered domestic partnership the two persons involved must meet the following requirements: 1) both persons share a common residence; 2) both persons are at least eighteen years of age; 3) neither person is married to someone other than the party to the domestic partnership and neither person is in a state registered domestic partnership with another person; 4) both persons are capable of consenting to the domestic partnership; 5) both of the following are true: a) the persons are not nearer of kin to each other than second cousins, whether of the whole or half blood computing by the rules of the civil law; and b) neither person is a sibling, child, grandchild, aunt, uncle, niece, or nephew to the other person; and 6) either (a) both persons are members of the same-sex; or (b) at least one of the persons is sixty-two years of age or older.

Ch. 521; 2009 Wa. SB 5688
It is the intent of the legislature that for all purposes under state law, state registered domestic partners shall be treated the same as married spouses. Any privilege, immunity, right, benefit, or responsibility granted or imposed by statute, administrative or court rule, policy, common law or any other law to an individual because the individual is or was a spouse, or because the individual is or was an in-law in a specified way to another individual, is granted on equivalent terms, substantive and procedural, to an individual because the individual is or was in a state registered domestic partnership or because the individual is or was, based on a state registered domestic partnership, related in a specified way to another individual. The provisions of this act shall be liberally construed to achieve equal treatment, to the extent not in conflict with federal law, of state registered domestic partners and married spouses.

Wisconsin
- Wis. Stat. § 770.05
  Two individuals may form a domestic partnership if they satisfy all of the following criteria: 1) each individual is at least 18 years old and capable of consenting to the domestic partnership; 2) neither individual is married to, or in a domestic partnership with, another individual; 3) the two individuals share a common residence. Two individuals may share a common residence even if any of the following applies: a) only one of the individuals has legal ownership of the residence; b) one or both of the individuals have one or more additional residences not shared with the other individual; c) one of the individuals leaves the common residence with the intent to return; 4) the 2 individuals are not nearer of kin to each other than second cousins, whether of the whole or half blood or by adoption; 5) the individuals are members of the same-sex.

Establishes civil unions

Connecticut
  A person is eligible to enter into a civil union if such person is: 1) not a party to another civil union or a marriage; 2) of the same-sex as the other party to the civil union; 3) at least eighteen years of age; and 4) not prohibited from entering into a civil union pursuant to section 46b–38cc.

New Hampshire
- RSA 457–A:2 (Repealed effective January 1, 2011)
  Parties entering into a civil union shall be subject to the same requirements and conditions as contained in RSA 457, provided that civil unions shall only be allowed between one unmarried man and another unmarried man both of whom are at least 18 years of age or one unmarried woman and another unmarried woman both of whom are at least 18 years of age, subject to the prohibitions in RSA 457–A:3 and RSA 457–A:4 and provided that they are not in another civil union.
- RSA 457:46
  Notwithstanding the provisions of RSA 457–A, no new civil unions shall be established on or after January 1, 2010. Two consenting persons who are parties to a valid civil union entered into prior to January 1, 2010 pursuant to this chapter may apply and receive a marriage license and have such marriage solemnized pursuant to RSA 457, provided that the parties are otherwise eligible to marry under RSA 457 and the parties to the marriage are the same as the parties to the civil union. Such parties may also apply by January 1, 2011.
to the clerk of the town or city in which their civil union is recorded to have their civil union legally designated and recorded as a marriage, without any additional requirements of payment of marriage licensing fees or solemnization contained in RSA 457, provided that such parties’ civil union was not previously dissolved or annulled.

New Jersey

The Legislature finds and declares that: a. same-sex couples in New Jersey live together in committed relationships without the benefits and rights afforded to heterosexual couples who choose to marry; b. promoting such stable and durable relationships as well as eliminating obstacles and hardships these couples may face is necessary and proper and reaffirms this State’s obligation to insure equality for all the citizens of New Jersey; c. New Jersey was one of the first states to adopt comprehensive legislation prohibiting discrimination based on affection or sexual orientation and one of the first states to formally recognize domestic partnerships by enacting the "Domestic Partnership Act,” P.L.2003, c.246 (C.26:8A-1 et al.) on January 12, 2004 thereby guaranteeing in law certain rights and benefits to those individuals who enter into domestic partnerships; d. those rights and benefits afforded to same-sex couples under the "Domestic Partnership Act” should be expanded by the legal recognition of civil unions between same-sex couples in order to provide these couples with all the rights and benefits that married heterosexual couples enjoy.

N.J. Stat. § 26:8A-4.1
On or after the effective date [Feb. 19, 2007] of this act, no domestic partnerships shall be registered under P.L.2003, c.246 (C.26:8A-1 et al.), except that two persons who are each 62 years of age or older may establish a domestic partnership pursuant to the provisions of P.L.2003, c.246 (C.26:8A-1 et al.). This act shall not alter the rights and responsibilities of domestic partnerships existing before the effective date of this act, except that eligible domestic partners shall be given notice and opportunity to enter into a civil union pursuant to the provisions of this act. Entry into a civil union, when joined by both parties to an existing domestic partnership, shall operate to terminate the domestic partnership.

Vermont

15 V.S.A. § 1303
For a reciprocal beneficiaries relationship to be established in Vermont, it shall be necessary that the parties satisfy all of the following criteria: 1) be at least 18 years of age and competent to enter into a contract; 2) not be a party to another reciprocal beneficiaries relationship, a civil union, or a civil marriage; 3) be related by blood or by adoption and prohibited from establishing a civil union or civil marriage with the other party to the proposed reciprocal beneficiaries relationship; 4) consent to the reciprocal beneficiaries relationship without force, fraud or duress.

15 V.S.A. § 1202
For a civil union to be established in Vermont, it shall be necessary that the parties to a civil union satisfy all of the following criteria: 1) not be a party to another civil union or a marriage; 2) be of the same-sex; 3) meet the criteria and obligations set forth in 18 V.S.A. chapter 106.
Allows same-sex couples to marry*

Connecticut

- Ct. P.A. 13; 2009 Ct. SB 899
  
  On and after the effective date of this section and prior to October 1, 2010, two persons who are parties to a civil union entered into pursuant to sections 46b-38aa to 46b-38oo, inclusive, of the general statutes, as amended by this act, may apply for and be issued a marriage license, provided such persons are otherwise eligible to marry under section 4 of this act and chapter 815e of the general statutes and the parties to the marriage will be the same as the parties to the civil union.

New Hampshire

- RSA 457:1
  
  The purpose of this chapter is to affirm the right of two individuals desiring to marry and who otherwise meet the eligibility requirements of this chapter to have their marriage solemnized in a religious or civil ceremony in accordance with the provisions of this chapter.

- RSA 457:46
  
  Notwithstanding the provisions of RSA 457-A, no new civil unions shall be established on or after January 1, 2010. Two consenting persons who are parties to a valid civil union entered into prior to January 1, 2010 pursuant to this chapter may apply and receive a marriage license and have such marriage solemnized pursuant to RSA 457, provided that the parties are otherwise eligible to marry under RSA 457 and the parties to the marriage are the same as the parties to the civil union. Such parties may also apply by January 1, 2011 to the clerk of the town or city in which their civil union is recorded to have their civil union legally designated and recorded as a marriage, without any additional requirements of payment of marriage licensing fees or solemnization contained in RSA 457, provided that such parties’ civil union was not previously dissolved or annulled.

Vermont

- Vt. ACT 3; 2009 Vt. S. 115
  
  Changes the definition of marriage from a union between a man and woman to the legally recognized union of two people. When used in this chapter or in any other statute, the word “marriage” shall mean a civil marriage.

* In addition, two states (IA, MA) allow same-sex marriage based on case law.

The Network has compiled additional Statutes by Theme and Bills by Theme products to help provide an overview of the bills and statutes related to Work and Family in various states. You can find these summary sheets at: [http://wfnetwork.bc.edu/policy.php](http://wfnetwork.bc.edu/policy.php).