

## A Review of Domestic Partner Benefits in the Public and Private Sectors

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## **Executive Summary**

While still representing a relatively small portion of all employers, the number of public and private sector employers extending health and welfare benefits to employees' domestic partners increased significantly during the 1990s. Changes in the structure of the family, the increasing value of benefits to employees, and efforts to eliminate discrimination in the workplace contribute to the increase in employers providing domestic partner benefits.

Proponents argue that a domestic partner should have access to the same employer-provided benefits that spouses receive. Proponents also note that offering domestic partner benefits can increase employee morale and satisfaction and create a competitive advantage in recruiting new employees. Those opposed to domestic partner benefits argue that insurance regulations and home rule laws limit employers' legal authority to offer the benefits. In addition, opponents cite moral objections and added costs.

The administration of domestic partner benefits varies by employer. Factors that vary include the specific benefits extended, eligibility requirements, and participation rates. The benefits most often extended to domestic partners include medical, vision, and dental benefits, family sick leave, and bereavement leave. Some employers require partners to hold a joint lease, checking account, or credit account to enroll. Others require that partners have joint residency for at least six months before enrollment. Most private sector organizations include only same-gender couples in the domestic partner benefit plan, while most public sector employers include same-gender and unmarried opposite-gender couples.

Participation rates and other factors influence the cost of extending benefits to employees' domestic partners. The number of employees enrolling a domestic partner in the employers benefit plan varies across organizations. Research indicates that:

- When eligibility is limited to same-gender partners, on average, less than one percent of the total employee population enrolls; and
- When eligibility includes both same and opposite-gender partners, on average, a total of 2 percent to 5 percent of the total employee population enrolls.

Not all public sector employers track the cost of domestic partner benefits separately from other employee benefit costs. Data from some jurisdictions indicate that the percentage increase in benefit costs associated with domestic partner benefits range from 0.7 percent to 3 percent.

As of February 1999, the Human Rights Campaign reports that 476 private sector companies and 67 state and local governments extend employee benefits to domestic partners. Some private sector employers include the Washington Post Company, Marriott International, and Bell Atlantic. Public sector examples include Baltimore City, Hennepin County, Minnesota and Multnomah County, Oregon. None of the five major County and bi-County agencies in Montgomery County provide domestic partner benefits to their employees at this time.



## **I. Introduction**

### **A. Authority**

Council Resolution No. 13-1388, FY 1999 Work Program of the Office of Legislative Oversight, adopted August 4, 1998.

### **B. Scope**

This report examines issues associated with extending employee benefits to domestic partners, including:

- Legal authority,
- Types of benefits extended,
- Individuals eligible for the benefits,
- Proof of partnership requirements, and
- Enrollment and cost trends.

The report also looks at the prevalence of domestic partner benefits in the United States, and identifies public, private and non-profit organizations that extend benefits to employees' domestic partners. The report concludes with a summary of general findings about the issues involved in extending employee benefits to domestic partners.

The Council asked the Office of Legislative Oversight (OLO) to identify employers that extend benefits to employees' domestic partners, and to address the general issues associated with implementing domestic partner benefits. *The Council did not ask OLO to develop specific recommendations about whether to implement domestic partner benefits in County-funded agencies.*

### **C. Organization of the Report**

Chapter II, Definitions and Background provides definitions and background information about domestic partner benefits, including a brief history of domestic partner benefits, and some arguments cited for and against extending benefits to domestic partners.

Chapter III, Administration of Domestic Partner Benefits reviews issues associated with implementing domestic partner benefits and describes trends among organizations with experience in the area of domestic partner benefits.

Chapter IV, Employers Extending Benefits to Domestic Partners identifies public, private and non-profit employers that extend benefits to employees' domestic partners. The chapter also provides summary information about the domestic partner benefit plans of several employers.

Chapter V, Other Relevant Issues identifies other issues related to implementing domestic partner benefits.

Chapter VI, Summary of Findings presents OLO's findings.

#### **D. Methodology**

Jennifer Kimball, Legislative Analyst in the Office of Legislative Oversight (OLO), conducted this project. OLO collected information for this study from a variety of sources. (Appendix A, beginning at ©1, includes a list of resources.) Books, journals, and newspapers provided most of the background information, including types of benefits and implementation issues. Benefit consulting firms (e.g., the Segal Company) and advocacy organizations (e.g., the Human Rights Campaign) provided additional information. Through telephone interviews, OLO verified information about domestic partner benefits provided by the sample of employers described in Chapter IV.

#### **E. Acknowledgements**

The Office of Legislative Oversight appreciates the assistance of staff in the County and bi-County agencies and other jurisdictions who provided information during the course of this study.

## **II. Definitions and Background**

### **A. Definition of “Domestic Partner” and “Employee Benefits”**

#### **1. “Domestic Partner”**

Employers use different definitions of the term “domestic partner”. Almost all employers require that to qualify as domestic partners, a couple must:

- Be involved in a close personal relationship;
- Share the same residence;
- Be jointly responsible for each other’s welfare and financial obligations;
- Not be related by blood to a degree of closeness that would prohibit legal marriage;
- Be old enough to consent to marriage in the state in which they reside;
- Not be married to anyone else; and
- Be mentally competent to contract.

Some employers define a domestic partner relationship to include only same-gender couples who meet the criteria listed above, while others include same-gender and opposite-gender couples.

For purposes of this report, OLO uses the following definition of domestic partner:

“Domestic partners are two adults of any sex who have chosen to share one another’s lives in an intimate and committed relationship of mutual caring, who live together, and who have agreed to be jointly responsible for basic living expenses incurred during the domestic partnership.”<sup>1</sup>

Chapter III of this report further describes which couples qualify as domestic partners and what employers require as proof of a domestic partnership.

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<sup>1</sup> Kane, Sara Wyn. “Proposal for a Model Employee Benefit Program: Responding to the Changing Trends of Society.” Benefits Quarterly Second Quarter 1998: 25-38.

## 2. “Employee Benefits”

According to The Handbook of Employee Benefits (Richard D. Irwin, Inc., 1992), employee benefits include any form of compensation other than direct wages paid to the employee. The author sorts benefits into the following seven categories:

- Employer’s share of medical and medically related benefit payments;
- Payments for time not worked (e.g., paid sick leave, paid vacations, holidays);
- Miscellaneous benefit payments (e.g., employee discounts, meals, educational expenditures, child care);
- Payments for non-production time while on the job (e.g., paid rest periods, lunch periods, travel time);
- Employer’s share of retirement and savings plan payments;
- Employer’s share of life insurance and death benefits; and
- Employer’s share of legally required payments (e.g., social security payments).

This report focuses on health and health-related benefit payments and payments for time not worked, including medical, dental, and vision benefits, and bereavement and family sick leave benefits. This report also addresses, in less detail, retirement, life insurance, and miscellaneous benefits.<sup>2</sup>

### **B. Brief History of Domestic Partner Benefits**

Domestic partner benefits first appeared in New York City in 1982, when District 65 of the Distributive Workers of America brought the issue to the bargaining table with The Village Voice newspaper. Contract negotiations between the union and the newspaper resulted in extending medical benefits to employees’ domestic partners. At least four additional employers extended benefits to domestic partners in the 1980s, including the American Psychological Association Insurance Trust in 1983; the cities of West Hollywood, California and Berkeley, California in 1985; and the Ben and Jerry’s Ice Cream Company in 1989.

The number of employers extending benefits to domestic partners increased substantially in the 1990s. According to Liz Winfeld, benefits consultant and co-author of Straight Talk About Gays in the Workplace (American Management Association, 1995), the number of public and private employers offering full coverage domestic partner benefits increased from five in 1990 to more than 480 in 1995. The private sector led other sectors in extending benefits, particularly employers in the high-tech industry, the entertainment industry, and law firms.

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<sup>2</sup> This report does not review the employer’s share of legally required payments (e.g., social security payments) or payment for non-production time while on the job (e.g., paid rest periods).



Colleges and universities began extending benefits to domestic partners in the early 1990s. As of February 1999, according to the Human Rights Campaign, 83 colleges and universities (public and private) provide medical benefits to domestic partners. The Human Rights Campaign also reports that, as of February 1999, 67 public sector employers extend medical benefits to employees' domestic partners.<sup>3</sup>

### **C. Some Arguments Cited For and Against Extending Benefits to Domestic Partners**

Throughout the 1980s and 1990s, various employers and employees studied and discussed whether to implement domestic partner benefits. Extending benefits to domestic partners does not change the benefits provided by the employer, but modifies the definition of who is eligible for coverage.

#### **1. Some Arguments Cited in Favor of Extending Benefits to Domestic Partners**

Employers and employees cite the following reasons in favor of extending benefits to domestic partners:

- Maintains fairness and equity by providing equal pay for equal work;
- Creates a competitive advantage in attracting and retaining employees;
- Supports diversity in the workplace and promotes employee goodwill; and
- Complies with non-discrimination ordinances and avoids high cost discrimination court cases brought by employees against employers.

Research indicates that three factors in particular influence employers to extend benefits to domestic partners, including the increased value of benefits to employees, changes in family structure, and efforts to eliminate workplace discrimination. This section explains these factors.

Benefits represent a significant component of an employee's total compensation package. In 1960, benefits represented only 10 percent of an average employee's compensation. In contrast, a 1992 study by the U.S. Chamber of Commerce, reported that between 37 and 40 percent of an average employee's compensation is in benefits. The increasing value of benefits to employees prompts employers, especially in competitive labor markets, to provide domestic partner benefits.

Many benefit plans meet the needs of the family structure prevalent in the 1940s and 1950s, while both the structure and needs of American families have changed.

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<sup>3</sup> Various advocacy groups research and publish lists of employers that provide domestic partner benefits. The Human Rights Campaign (HRC) seems to produce the most complete and updated list of employers that provide medical benefits to employees' domestic partners. The employers on the HRC list may or may not extend dental and vision benefits. Employers that only extend leave benefits are not included. The HRC's complete list of employers, updated February 1999, is included at Appendix C. **OLO did not independently verify all of the information reported by the Human Rights Campaign.**

According to the U.S. Census, 78 percent of American households were headed by a married couple in 1950. That percentage fell to 56 percent in 1990, with the number of single parents, unmarried opposite-gender couples, and same-gender couples increasing significantly. In 1996, 5.3 million couples in the United States reported themselves as same-gender or opposite-gender domestic partners.

The public's perception of same-gender relationships is also changing, with more jurisdictions protecting gay men and lesbians from discrimination in the workplace. Jurisdictions that offer domestic partner benefits typically also adopt ordinances, laws or executive orders that ban sexual orientation discrimination in public employment, private employment, education, and housing.

The Montgomery County Code includes language prohibiting discrimination in employment (attached at Appendix B). It states:

“The public policy of Montgomery County is declared to be to foster equal employment opportunity for all without regard to race, color, religious creed, ancestry, national origin, age, sex, marital status, handicap, or sexual orientation and strictly in accord with their individual merits as human beings.” (Montgomery County Code, Section 27-17)

During the 1999 session of the Maryland General Assembly, the legislature considered a similar measure that would ban discrimination based on sexual orientation. The House of Delegates passed the legislation in March, but the measure did not pass the Senate. It would have authorized the Maryland Commission on Human Relations to investigate complaints of discrimination based on sexual orientation in employment and housing. The Commission could impose fines, require payment of back wages, and tailor other sanctions in response to a specific discriminatory act. Howard County, Prince George's County, and Baltimore City already have similar provisions in place.

## 2. Some Arguments Cited Against Extending Benefits to Domestic Partners

Employers who *do not extend* benefits to employees' domestic partners frequently cite the following reasons:

- Employees have not asked the employer to extend benefits to domestic partners;
- State laws and insurance regulations limit the employer's authority to extend the benefits;
- Employers have moral objections to the benefits and fear possible public backlash; and
- The cost of extending benefits to domestic partners is unclear.

Some employers state that they have not extended benefits to domestic partners because employees have not requested them. This is partly explained by research indicating that many employees' domestic partners already receive medical and other

benefits from their own employers. In other cases, employees choose not to disclose their sexual orientation at the workplace and therefore do not request benefits for their domestic partners.

Insurance regulations and other laws also limit the extension of benefits to domestic partners. Some local governments, for example, do not have the authority to change the definition of "family" to include domestic partners. OLO's research found that some jurisdictions that implemented the benefits were forced to defend the policy in court, and in some cases, rescind the benefits. The prospect of a these legal battles convinces some employers to forego domestic partner benefits.

Some employers also express concern about possible negative outcomes of extending domestic partner benefits. For example, it is not always clear how many employees will enroll their domestic partner and the subsequent cost of the policy to the employer. The fact that benefits represent an on-going cost makes this factor even more important. Employers also fear public backlash, including lost business and lawsuits.

### **III. Administration of Domestic Partner Benefits**

#### **A. Legal Authority**

Employers may encounter legal barriers to implementing domestic partner benefits. In some cases, state insurance regulations or home rule laws restrict the local government's authority to implement the benefits. In other cases, jurisdictions were sued by taxpayers who did not support the benefits.

In some states, insurance regulations bar employers from offering domestic partner benefits to employees. For example, the State Insurance Commission in Georgia banned health benefit coverage for same-gender domestic partners, stating that, "For an insurer to offer health coverage to domestic partners, the relationship between the individuals must meet the requirements of a ceremonial or common law marriage."

The Maryland Insurance Administration (MIA) and the Maryland Health Care and Cost Commission regulate insurance for groups of over 50 employees and for small employers, respectively. Until recently, both organizations restricted employer benefits coverage to employees' family members related by blood, marriage, or adoption. In November 1998, they changed their policies to give employers the option to adopt domestic partner benefits. Self-insured employers are not subject to the MIA or Health Care and Cost Commission rules.

In some states, local governments do not have the authority under home rule laws to extend benefits to domestic partners. For example, Arlington County, Virginia extended employee benefits to domestic partners in 1997. A group of citizens sued the County, objecting to spending tax dollars on domestic partner benefits. On March 4, 1999, a Circuit Court judge ruled that Arlington's domestic partner benefits are prohibited under Virginia state law. The judge ruled that the state law does not give local governments the authority to define "dependent" to include both married and unmarried partners. The judge stated publicly that he hopes the County will appeal the decision so the issue can be addressed by the Virginia Supreme Court. At this time, the judge agreed to stay his ruling until County officials decide whether to file an appeal.

The County Attorney in Pima County, Arizona, sued the Board of Supervisors when the Board adopted domestic partner benefits in 1998. The County Attorney argued that domestic partner benefits violated a State law that defines appropriate and inappropriate cohabitation. A Circuit Court judge ruled in favor of the Board, and Pima County retained its domestic partner benefits provision.

The City of Minneapolis was also sued by a city resident for spending tax dollars on domestic partner benefits, prompting the city to rescind medical benefits for domestic partners. As of this writing, Minneapolis only extends family sick leave and bereavement leave to domestic partners.

## **B. Types of Benefits**

As indicated earlier, employee benefits can refer to any form of compensation other than direct wages paid to the employee (see page 6). This section of the report identifies the leave, medical, and other miscellaneous benefits that employers typically extend to domestic partners.

### 1. Leave Benefits

Employers often extend certain leave benefits to domestic partners as a precursor to, or in place of, extending full medical benefits. Leave benefits include family sick leave and bereavement leave, which allow an employee to take paid leave in order to care for a sick or injured partner or in the event of a partner's death. Since employers typically incorporate the cost of leave benefits into overall payroll costs and do not itemize them separately, they do not generate as much public or political attention as other domestic partner benefits.

### 2. Medical Benefits

Extending medical benefits to domestic partners, and in some cases to the partners' minor children, appears to have the most significant economic value to employees. Health benefits represent a more direct cost to the employer than leave benefits, and can include some combination of medical, vision, and/or dental insurance coverage. Most employers who extend health benefits to domestic partners also extend leave benefits.

### 3. Miscellaneous Benefits

Some employers extend additional benefits to domestic partners, such as access to employee assistance programs, financial counseling, and child care services. Private sector employers may also extend adoption assistance, incentive stock options, and profit sharing plans to employees' domestic partners. Miscellaneous benefits often extended to domestic partners of college and university employees include faculty/staff privileges, student/faculty housing, university ID issuance, class auditing privileges, and tuition waivers.

### 4. Retirement and Life Insurance Benefits

The benefits literature includes less information about extending pension and life insurance benefits to domestic partners. Dennis Hostetler and Joan Pynes, authors of "Domestic Partnership Benefits-Dispelling the Myth" (Review of Public Personnel Administration, 1995) suggest that these "future cost benefits" and other miscellaneous benefits may raise some interesting questions in the future.

According to benefits consultant Liz Winfeld, an employee can choose any other party to receive the proceeds from a private pension plan or to be the beneficiary of insurance policies, except in cases where a pension plan is wholly paid by the employer. When the employer pays the entire cost of the pension plan, anyone who is not a legal spouse can be denied payment upon the death of the employee.

Some of the public sector employers contacted for this report extend all benefits that spouses can receive to domestic partners, including retirement benefits and life insurance. For example, Philadelphia amended the city's Retirement System Ordinance in May 1998 to allow city employees to designate any person, including their domestic partner, as their pension beneficiary. Other domestic partner benefit plans are more limited in scope.

### **C. Eligibility**

Eligibility criteria for domestic partner benefits vary across employers. Some employers extend the benefits to all employees, while others limit the benefits to a subset of their work force, such as members of the union that negotiated the benefit. The eligibility of same-gender versus opposite-gender couples, and eligibility of dependants of an employee's domestic partner also vary across employers.

#### 1. Gender

Some employers limit the definition of domestic partner to same-gender partners, while others include unmarried opposite-gender partners. Those employers that exclude opposite-gender couples argue that those couples have a legal avenue to benefits through marriage. Employers that include opposite-gender couples argue that limiting domestic partner benefits to same-gender partners discriminates against heterosexual couples who choose not to marry. The benefits literature suggests that more private sector employers limit eligibility to same-gender couples, while most public sector employers consider both same and opposite-gender couples eligible.

#### 2. Dependents

Employers may also decide to extend benefits to the dependent children of the employee's domestic partner. This includes natural or adopted children, stepchildren and children for whom the domestic partner is appointed legal guardian. Employers usually require that dependents reside in the employee's household (unless a full time college student), be financially dependent on the employee, and be under the age of 19 (or up to the age of 25 if a full time student).

Travis County, Texas and Arlington County, Virginia take a slightly different approach to extending benefits. Both counties allow employees to enroll one adult dependent in the benefit plan. The adult can be a spouse, a same-gender or opposite-gender domestic partner, or another dependent adult relative such as a grandparent or parent. The employee must claim the adult as a dependent on their federal income tax

return. Travis County staff indicated that the vast majority of employees enroll a spouse or an adult relative such as a parent, rather than a domestic partner.

In the private sector, Bank of America provides the same flexibility through Extended Family Benefits. Bank of America's 80,000 employees can enroll one domestic partner or another dependent adult relative, such as a grandparent or parent. Other companies are considering this broader coverage.

#### **D. Proof of Partnership Requirements**

Employers require various standards and documentation to verify that a domestic partnership exists. Some standards mirror those required of married couples. Other standards are unique to domestic partner relationships and are implemented to discourage fraudulent enrollment in benefit plans.

Almost all employers require, as with married couples, that the employee and domestic partner are:

- Not related by blood to a degree of closeness that would prohibit legal marriage;
- Old enough to consent to marriage in the state in which they reside;
- Not married to anyone else; and
- Mentally competent to contract.

Employers also require proof of partnership not required of an employee seeking benefits for a spouse. For example, an employer may require that a domestic partnership existed for a specified period of time before enrollment in a benefit plan, or require joint residency of at least six months before enrollment. Some employers also require a waiting period, six months on average, between different domestic partner relationships. (That requirement does not apply in the case of a partner's death).

Employers establish other requirements to discourage fraudulent registration. These standards generally require proof of financial and legal obligations between the partners, such as:

- Shared household expenses;
- Joint lease, mortgage, or deed;
- Joint ownership of a vehicle;
- Joint checking account or credit account;
- Designation of the partner as a beneficiary of the employee's life insurance, retirement benefits or will; and/or
- Designation of the domestic partner as holding power of attorney for health care.

The procedure for enrolling a domestic partner in a benefits plan usually includes the employee and his or her domestic partner signing an affidavit of domestic partnership. The affidavit identifies the elements that the employer requires to recognize the partnership (e.g., not married to anyone else, relationship existed for at least six months, joint checking account). The affidavit indicates that the individuals are signing under penalty of perjury and that false information may result in disciplinary action. The employer's personnel or human resources office keeps the affidavit in a confidential file. Appendix D includes sample Affidavits of Domestic Partnership from Tucson, Arizona and Multnomah County, Oregon.

If available in the jurisdiction, an employer may also require that the partners formally register the domestic partnership with the local government. Registering a domestic partnership requires completing and signing a notarized form that is filed with the local government.

For example, Philadelphia offers Life Partnership Registration to city residents. Partners that register receive a Certificate of Life Partnership and a Life Partnership Verification Statement Acceptance letter as proof of a verified life partnership. Registration grants life partners exemption from paying the city's real estate transfer tax when transferring property between partners. It also makes domestic partners of city employees eligible to enroll in the city's benefit plan.

Domestic partners in Marin County, California can file a Declaration of Domestic Partnership with the County clerk. County Government employees must obtain a Declaration of Domestic Partnership to enroll a partner in the County's benefit plan. County Government employees must also complete an affidavit of domestic partnership with the County's Human Resources Office. Appendix E includes a description of Philadelphia's Life Partnership Registration and a copy of Marin County's Declaration of Domestic Partnership.

## **E. Participation Rates**

A major factor behind the marginal cost of implementing domestic partner benefits is the rate of employee participation. Employers that extend employee benefits to domestic partners consistently report that fewer employees than expected take advantage of the added benefit. Specifically, research indicates that:

- When eligibility is limited to same-gender partners, on average, less than one percent of the total employee population enrolls; and
- When eligibility includes both same and opposite-gender partners, on average, a total of two percent to five percent of the total employee population enrolls.



Research also indicates that when employers include same-gender and opposite-gender couples in the definition of domestic partner, more opposite-gender than same-gender partners enroll. According to Aon Consulting's Research and Training Services Unit, two thirds of domestic partner benefit recipients are in opposite-gender partnerships. In addition, some jurisdictions contacted by OLO in conjunction with this study reported that more opposite-gender partners enroll in domestic partner benefits than same-gender partners.

A variety of factors may explain the prevalence of opposite-gender partners enrolling in domestic partner benefit plans. First, there are more unmarried opposite-gender partners in the population than same-gender partners. In addition, same-gender partners of employees are more likely to receive benefits through their own employers. Some same-gender couples may not enroll because they prefer to not reveal their sexual orientation at the work place.

The experience of specific employers demonstrates the participation trends described above. For example:

- The City of San Francisco projected that 2,000 employees would enroll a domestic partner when benefits were extended and 287 employees did.
- When the City of Rochester, New York extended benefits to domestic partners 31 opposite-gender couples enrolled and 5 same-gender couples enrolled.
- Of Seattle's 10,000 employees, 2.3 percent elected domestic partner benefits. Of those employees, opposite-gender couples outnumber same-gender couples two to one.
- In the private sector, between 2 percent and 3 percent of Starbucks employees claim domestic partners in the health insurance program. Fewer than 1 percent of Lotus Development Corporation's 3,600 employees enrolled in domestic partner benefits. Approximately 0.3 percent of Time Warner employees enrolled in domestic partner benefits.

Chapter III provides participation rates for additional employers.

## **F. Additional Cost Factors**

A variety of factors, in addition to participation rates, influence the cost of extending benefits to domestic partners. First, the employer may choose not to subsidize the cost of domestic partner benefits. In Travis County, Texas for example, an employee's domestic partner may enroll in the group health insurance plan. While the domestic partner benefits from the lower group plan rates, Travis County requires the employee to pay the entire cost of his or her partner's benefits. No other jurisdiction that OLO identified had this policy.

Liz Winfeld, benefits consultant and co-author of Straight Talk About Gays in the Workplace (American Management Association, 1995), estimates that for an organization with between 100 and 100,000 employees, extending benefits to unmarried partners (same-gender and opposite-gender) will increase an organization's benefits costs by approximately one percent. Not all jurisdictions track the cost of extending benefits to domestic partners separately from other employee benefit costs. OLO's research did identify the percentage increase in benefit costs associated with domestic partners benefits in some jurisdictions, as indicated in Table 1.

**Table 1: Increase in Benefits Costs Associated with Domestic Partner Benefits**

<b>Jurisdiction</b>	<b>Percentage Increase in Benefit Costs</b>
Berkeley, CA	3%
Boston, MA	2.5%
San Mateo County, CA	0.7%
Seattle, WA	1.4%
West Hollywood, CA	2%

In this region, Arlington County staff reports that domestic partner benefits cost the County approximately \$100,000 annually. The city of Takoma Parks reports that the cost of domestic partner benefits is "negligible".

According to a benefits consultant with Hewitt Associates, a few health maintenance organizations initially surcharged employees enrolled in domestic partner benefit plans. As health care costs for domestic partners proved to be no different than other plan participants, the surcharges were dropped.

## **G. Tax Consequences**

Another important issue relates to the taxing of domestic partner benefits. The Internal Revenue Service (IRS) Code indicates that employees must pay income tax on the value of their partners' health insurance coverage. According to the IRS, "Unless an employee provides more than half of a domestic partner's support, the employee must pay tax on benefits extended to the companion from an employer-provided accident or health plan."

Benefits are excludable from taxable income only if the recipient is a legal spouse or legal dependent, as defined by Section 152 of the Internal Revenue Code. Section 152 states that a domestic partner is a dependent if the partner shares a residence with the employee for the full taxable year (except for certain temporary absences), the partner is a citizen or resident of the U.S., and the partner receives more than half of his or her support (as defined by the Internal Revenue Code) from the employee.

Two of the counties contacted for this study mentioned that this creates additional administrative work for the employer, because the pay and benefit systems did not automatically designate which employees enroll spouses versus domestic partners. Both counties had to program the system to indicate which employees enroll domestic partners so that the system taxes employees correctly.

## **IV. Employers Extending Benefits to Domestic Partners**

The number of employers extending benefits to domestic partners increased significantly over the past ten years. However, the total number still represent a small percentage of all employers nationwide. As of this writing, none of the five major County and bi-County agencies in Montgomery County (County Government, Montgomery County Public Schools, Montgomery College, Maryland-National Capital Park and Planning Commission, and Washington Suburban Sanitary Commission) provide domestic partner benefits.

This chapter describes the recent trends in extending employee benefits to domestic partners in the public sector, private sector, and education institutions. For selected organizations, this chapter provides specific information about the benefit plans, including:

- Types of benefits extended to domestic partners;
- When the organization extended benefits to domestic partners;
- Percent of employees enrolling a domestic partner in the benefit plan; and
- Whether same-gender and opposite-gender couples are eligible to enroll.

### **A. Public Sector Employers**

In general, public sector employers have expanded benefits to employees' domestic partners at a slower pace than private sector employers. As of February 1999, the Human Rights Campaign reports that three state governments and approximately 60 city and county governments provide domestic partner benefits to employees. One school district, one transit system, and one water and electric board also extend the benefits. More jurisdictions in the state of California extend benefits to domestic partners than in any other state. Appendix C (beginning at ©9) includes a list, generated by the Human Rights Campaign, of all public sector employers that extend benefits to domestic partners.

In October 1997, Congressman Barney Frank introduced federal legislation to make domestic partners of federal employees eligible for health insurance coverage through the federal employee health program. The House of Representatives did not pass Congressman Frank's bill, which would have provided health benefits and retiree survivor benefits for same-gender or opposite-gender domestic partners of federal government employees. The bill required that a couple live together in a committed, intimate relationship, and be responsible for each other's welfare and financial obligations. It also required couples to sign an affidavit of domestic partnership.

OLO collected additional information about the domestic partner benefits in selected jurisdictions. The tables on pages 21 through 24 summarize the domestic partner benefit plans in the 13 U.S. counties that provide domestic partner benefits and in 10 U.S. cities. The cities described in this section include the two Maryland jurisdictions that provide

domestic partner benefits (Baltimore and Takoma Park), and eight other cities with moderate to large populations.

### 1. County Governments

OLO gathered additional information from staff in the 13 counties that extended benefits to domestic partners as of February 1999.<sup>4</sup> These counties, listed in Table 2A (page 21), represent less than one percent of the 3,068 counties in the U.S. The counties offering domestic partner benefits range in population from 81,900 (Monroe County, Florida) to 9.6 million (Los Angeles County, California). The population of five of the 13 counties falls between 500,000 and 1,000,000.

**Which types of benefits does the employer extend to domestic partners?** Seven of the 13 county governments extend all five categories of benefits to domestic partners (i.e., family sick leave, bereavement leave, medical, dental, and vision benefits). Four of the county governments listed provide health-related benefits, but no leave benefits. Dane County, Wisconsin, only extends bereavement leave. All 13 of the county governments listed extend benefits to same-gender and opposite-gender couples.

**What year were domestic partner benefits implemented?** The majority of the county governments listed implemented domestic partner benefits between 1995 and 1999. Santa Cruz County has provided the benefits the longest, since 1986. Four other counties implemented the benefits between 1990 and 1994. Dane County, Wisconsin extended bereavement leave to different bargaining units in different years, beginning in 1994. Marin County, California extended medical benefits to employees' domestic partners in 1997 and extended dental and vision benefits in 1999.

**How many employees are enrolled in the county governments' benefit plan?** Table 2B (page 22) provides data on the number of county employees enrolled in health and welfare benefit plans, and those eligible to enroll a domestic partner. The total number of employees enrolled in benefit plans varies depending on the size of the county government's work force. Los Angeles County enrolls the most employees, 80,000, in a benefit plan. Eight of the 13 county governments enroll fewer than 5,000 employees.

In all but one of the 13 county governments, all of the employees enrolled in the benefit plan are eligible to enroll a domestic partner. Los Angeles County did not negotiate domestic partner benefits with the firefighters' union; which accounts for the 5,000 fewer employees who are eligible to enroll a domestic partner in that plan.

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<sup>4</sup> The Human Rights Campaign includes Broward County, FL, Hennepin County, MN, and Wayne County, MI on its list of employers with domestic partner benefits. OLO independently learned that these three counties do not extend benefits to domestic partners. As a result, OLO excluded these jurisdictions from this analysis. Other counties may provide domestic partners benefits but are not included in this analysis because they were not identified by the Human Rights Campaign.

**How many employees currently enroll a domestic partner?** Table 2B also shows the number and percent of eligible county employees in the 13 jurisdictions who enroll a domestic partner. Expressed as a percent of the eligible employees, the percent of employees enrolling a domestic partner ranges from 0.83 percent to 4.8 percent. Los Angeles County's most recent figure of 0.83 percent is from 1995. Los Angeles County staff indicate that the number has increased since then but the County Government does not have the exact number. Alameda County, California staff did not have data available either, but estimates that several hundred employees (approximately 3 percent) enroll a domestic partner.

## 2. City Governments

OLO contacted staff in 10 city governments that extend benefits to their employees' domestic partners. Tables 3A and 3B (pages 23-24) list the information collected about the benefit plans in these cities. The population of half of the cities surveyed is between 400,000 and 700,000. Two of the cities house fewer than 400,000 people and the population in the remaining three cities is over 1,000,000. The list includes the two cities in Maryland, Baltimore and Takoma Park, that extend benefits to employees' domestic partners.

**Which types of benefits does the employer extend to domestic partners?** Half of the city governments contacted provide the full range of benefits described in this report, including family sick leave, bereavement leave, medical, dental, and vision benefits. Minneapolis extends only the leave benefits to domestic partners. The remaining four city governments extend a combination of these benefits. Baltimore, Philadelphia, and Tucson limit domestic partner benefits to same-gender couples.

**What year were domestic partner benefits implemented?** Seattle and Minneapolis extended domestic partner benefits to employees first, in 1989 and 1991, respectively. The other eight city governments extended the benefits between 1994 and 1999.

**How many employees currently enroll a domestic partner?** Table 3B (page 24) provides information on the number of city government employees enrolled in health and welfare benefit plans, and the number of eligible employees enrolling domestic partners. In all of the city governments listed, all city employees who are eligible for benefits may enroll a domestic partner in the benefits plan.

Five of the city governments contacted report that fewer than 1 percent of city employees enroll a domestic partner. Approximately 1.7 percent of the Seattle city employees enroll a domestic partner in the benefit plan. Takoma Park staff report that 2 or 3 employees, between two and three percent of the total workforce, use the city's domestic partner benefits.

**Table 2A: Characteristics of Domestic Partner Benefit Plans in U.S. Counties**

County	Population	Which types of benefits does the employer extend to domestic partners?					What year were domestic partner benefits implemented?	What percent of the workforce is subject to collective bargaining?
		Family Sick Leave	Bereave-Ment Leave	Medical	Dental	Vision		
Alameda, CA	1,408,000	X	X	X	X		1996	70%
Arlington, VA	187,100	X	X	X	X	X	1997	0%
Dane, WI	394,000		X				1994 <sup>5</sup>	83%
King, WA	1,629,000	X	X	X	X	X	1995	80%
Los Angeles, CA	9,600,000			X	X		1995	5%
Marin, CA	230,000			X	X	X	'97 (med)/'99 (vis&den)	95%
Monroe, FL	81,900	X	X	X	X	X	1998	0%
Multnomah, OR	636,000	X	X	X	X	X	1990	80%
Pima, AZ	817,900			X	X	X	1998	0%
San Francisco, CA	790,000	X	X	X	X	X	1992	99%
San Mateo, CA	711,000	X	X	X	X	X	1992	90%
Santa Cruz, CA <sup>6</sup>	246,000	X	X	X	X	X	1986	75%
Travis, TX <sup>7</sup>	688,000			X	X		1997	0%

<sup>5</sup> The different bargaining units extended the benefit at different times, the first occurring in 1994.

<sup>6</sup> The California Public Employees Retirement System oversees Santa Cruz County's medical benefits. This state agency does not permit extending benefits to domestic partners. Instead the County implemented a Reimbursement Program. Through this program, if an employee's domestic partner enrolls in one of five medical benefit plans, the employee will be reimbursed up to \$80 per month for the cost of the domestic partner's coverage. If the premium costs exceed the \$80 reimbursement, the employee must pay the next \$64. The County reimburses employees any premium cost above the \$64 employee contribution.

<sup>7</sup> Under the Travis County Plan, an employee's domestic partner may enroll in the County medical and dental plan, but the employee must pay the entire cost of the partner's benefits.

**Table 2B: Enrollment in Benefit Plans in U.S. Counties**

<b>County</b>	<b>How many employees are enrolled in a health/welfare benefit plan?</b>	<b>How many of the employees are eligible to enroll a domestic partner in the benefit plan?</b>	<b>How many of the eligible employees enroll a domestic partner in the benefit plan?</b>	<b>What percent of eligible employees enroll a domestic partner in the benefit plan?</b>	<b>Are the domestic partner benefits extended to same-gender <u>and</u> opposite-gender couples?</b>
Alameda, CA	10,000	10,000	N/A <sup>8</sup>	N/A	Yes
Arlington, VA	2,000	2,000	24 <sup>9</sup>	1.2%	Yes
Dane, WI	1,950	1,950	N/A	N/A	Yes
King, WA	13,500	13,500	N/A	N/A	Yes
Los Angeles, CA	80,000	75,000	620 <sup>10</sup>	.83%	Yes
Marin, CA	1,900	1,900	21	1.1%	Yes
Monroe, FL	1,300	1,300	28	2.2%	Yes
Multnomah, OR	4,500	4,500	50-125	1%-3%	Yes
Pima, AZ	7,000	7,000	100	1.4%	Yes
San Francisco, CA	36,000 <sup>11</sup>	36,000	992	2.8%	Yes
San Mateo, CA	4,500	4,500	215	4.8%	Yes
Santa Cruz, CA	2,400	2,400	25	1.0%	Yes
Travis, TX	3,800	3,800	100	2.6%	Yes

<sup>8</sup> County staff did not have a figure available but estimates that several hundred employees enroll domestic partners.

<sup>9</sup> Due to Virginia insurance regulations, Arlington County employees may only enroll a domestic partner in the Capital Choice Health Insurance Plan and the Blue Cross Blue Shield Indemnity Dental Plan. Employees cannot enroll domestic partners in the Kaiser Permanente Plan.

<sup>10</sup> In 1995, 620 employees enrolled a domestic partner. County staff report that the number has increased, but the exact figure is not available.

<sup>11</sup> Includes city, county, and school system employees.



**Table 3A: Characteristics of Domestic Partner Benefit Plans in Selected U.S. Cities**

City	Population	Which types of benefits does the employer extend to domestic partners?					What year were domestic partner benefits implemented?	What percent of the workforce is subject to collective bargaining?
		Family Sick Leave	Bereave-Ment Leave	Medical	Dental	Vision		
Baltimore, MD	700,000	X	X	X	X	X	1994	67%
Boston, MA	575,000	X	X	X			1998	90%
Denver, CO	500,000	X	X	X	X	X	1997	20%
Minneapolis, MN	359,000	X	X				1991	95%
Philadelphia, PA <sup>12</sup>	1,500,000	X	X	X	X	X	1999	73%
Portland, OR	1,800,000	X	X <sup>13</sup>	X	X	X	1994	50%
San Diego, CA	1,225,000			X	X	X	1996	85%
Seattle, WA	536,000	X	X	X	X	X	1989	75%
Takoma Park, MD	18,600	X	X	X		X	1995	75%
Tucson, AZ	443,000	X		X	X	X	1998	0%

<sup>12</sup> Staff in the city's benefits office only had access to information about the city's non-represented employees. The city passed an ordinance that requires all bargaining units to extend benefits to domestic partners, but the benefits office does not have specific information about the plans provided to the represented employees.

<sup>13</sup> Currently, only represented employees can take bereavement leave in the event of a domestic partner's death. The city is in the process of expanding that leave benefit to non-represented employees also.

**Table 3B. Enrollment in Benefit Plans in U.S. Cities**

<b>City</b>	<b>How many employees are enrolled in a health/welfare benefit plan?</b>	<b>How many of the employees are eligible to enroll a domestic partner in the benefit plan?</b>	<b>How many of the eligible employees enroll a domestic partner in the benefit plan?</b>	<b>Percent of eligible employees that enroll a domestic partner in the benefit plan?</b>	<b>Are the domestic partner benefits extended to same-gender <u>and</u> opposite-gender couples?</b>
Baltimore, MD	30,000 <sup>14</sup>	30,000 <sup>13</sup>	120	0.4%	No
Boston, MA	30,000 <sup>13</sup>	30,000 <sup>13</sup>	105	0.4%	Yes
Denver, CO	16,000	16,000	60	0.4%	Yes
Minneapolis, MN	5,000	5,000	N/A	N/A	Yes
Philadelphia, PA	8,000 <sup>15</sup>	8,000	10	0.1%	No
Portland, OR	2,500	2,500	N/A	N/A	Yes
San Diego, CA	10,000	10,000	N/A	N/A	Yes
Seattle, WA	12,000	12,000	200	1.7%	Yes
Takoma Park, MD	100	100	2-3	2%-3%	Yes
Tucson, AZ	4,800	4,800	25	0.5%	No

<sup>14</sup> Includes active and retired employees.

<sup>15</sup> The city has 8,000 non-represented employees and 22,000 represented employees. Benefits information about the represented employees was not available.

## **B. Private Sector Employers**

The Human Rights Campaign also maintains a list of private sector, non-profit sector, and union organizations that extend benefits to employees' domestic partners. The Human Rights Campaign reports that 476 of these employers extended benefits to domestic partners as of February 1999 (See Appendix C, beginning at ©9, for a list of these employers).

In 1991, Lotus Corp. became the first large private employer to offer domestic partner benefits. By 1997, IBM was the largest private sector employer offering domestic partner benefits, with 110,000 employees in the United States. IBM extended benefits to same-gender couples and cited equity and labor competition as reasons for implementing the benefits. An IBM statement on the benefits reads, "To win in today's marketplace, IBM, as an equal opportunity employer, must strive to provide benefit plans and programs that attract top talent and retain key performers in a highly competitive and changing business environment."

Other well-known private sector organizations that extend benefits to employees' domestic partners include the Washington Post Company, Walt Disney, Apple Computer Inc., Metro-Goldwyn-Mayer Inc/United Artists (MGM), Microsoft Corporation, and Xerox Corporation.

To provide the Council with additional information about the prevalence of domestic partner benefits in Montgomery County, OLO contacted the ten largest private sector employers in the County.<sup>16</sup> Table 4 (page 26) indicates the number of employees at Montgomery County sites and which employers extend benefits to their employees' domestic partners. Three of the ten private sector employers currently extend benefits to employees' domestic partners.

Marriott International extended medical and dental benefits to domestic partners in January 1999. All benefit-eligible Marriott employees may enroll a domestic partner. Marriott staff estimate that fewer than 1 percent of the entire company's employees currently enroll a domestic partner. Marriott extends the benefits to same-gender and opposite-gender couples. Bell Atlantic and the Kaiser Foundation Health Plan extend medical, dental, and vision benefits to domestic partners of employees. Specific information about the plans was not available.

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<sup>16</sup> OLO used the Montgomery Business Gazette's list of major Montgomery County employers to identify the 10 largest employers in the County. The Gazette reported the list in December 1998, based on the number of employees at each organizations' Montgomery County sites.

**Table 4: Montgomery County Private Sector Employers' Domestic Partner Benefit Policies**

<b>Employer</b>	<b>Number of Employees at Montgomery County Sites</b>	<b>Domestic Partner Benefits?</b>
Marriott International	6,108	Yes
Kaiser Foundation Health Plan of the Mid-Atlantic States Inc.	5,496	Yes
Giant Food Inc.	5,000	No
Adventist HealthCare	5,000	No
Bell Atlantic Maryland	3,500-4,000	Yes
Lockheed Martin Corp.	2,971 <sup>17</sup>	No
Holy Cross Hospital	2,500	No
Claims Administration Corp.	2,100	No
Hughes Network Systems	2,000	No <sup>18</sup>
Suburban Hospital Healthcare System	1,600	No

### **C. Education Institutions**

The Human Rights Campaign also reports, as of February 1999, that 83 colleges and universities in the United States extend benefits to employees' domestic partners. The list includes a combination of public and private institutions located throughout the country. A majority of the colleges and universities listed are located in New York State, Massachusetts, and California. Appendix C (beginning at ©9) lists all of the colleges and universities that the Human Rights Campaign reports extend benefits to domestic partners.

In the Baltimore-Washington Metropolitan region, American University and Johns Hopkins University extend benefits to their employees' domestic partners. American University extended benefits to domestic partners in 1993, including medical, dental, and vision benefits, family sick leave, and bereavement leave. All 1,700 full-time employees are eligible to enroll a domestic partner, with the plan limited to same-gender couples. American University did not have information available on the number of employees currently enrolling a domestic partner.

Johns Hopkins University began offering benefits to employees' domestic partners in January 1999. Benefits extended include medical and dental insurance, family sick leave, and bereavement leave. The University does not provide vision benefits to any of its employees. Domestic partners of Johns Hopkins employees also have access to special

<sup>17</sup> 1997 figure

<sup>18</sup> Hughes Network Systems must follow those benefit policies of its parent company, Hughes Electronics in Los Angeles.

tuition programs and athletic facilities. Approximately 9,000 full time employees are eligible to enroll a domestic partner. (Students employed by the university are not eligible.) Like American University, only same-gender couples are eligible. Johns Hopkins staff estimate that between 250 and 300 employees (2.8 percent-3.3 percent) enrolled a domestic partner since the benefit became available.

## **V. Other Relevant Issues**

### **A. COBRA and FMLA**

The Consolidated Omnibus Reconciliation Act of 1985 (COBRA) established federal requirements that employers offer the opportunity to maintain employee enrollment in an employer's health plan for up to 18 months following separation from the employer. COBRA allows employees to self-pay for coverage at group rates for the 18-month period. Qualified families of divorced or deceased employees are eligible for up to three years.

Qualified individuals include the employee, spouse, or dependent children who had coverage under the plan on the day before the qualifying event. Since domestic partners are not "spouses", COBRA does not apply. According to the International Personnel Management Association, many employers who extend health benefits to domestic partners also provide "COBRA equivalent" continued coverage to their employees' domestic partners.

The federal Family and Medical Leave Act mandates up to 12 weeks unpaid leave for employees to care for a spouse, son, daughter, or parent with a serious health condition or other need. The law is not written to include a domestic partner. Many employers who offer domestic partner benefits also voluntarily extend "FMLA equivalent" benefits to domestic partners.

### **B. Contractor Nondiscrimination Requirement**

The City of San Francisco implemented domestic partner benefits in 1991. In June 1997, the Equal Benefits Ordinance, passed by the San Francisco Board of Supervisors, went into effect. The ordinance requires any contractor who does business with the city to provide its employees with domestic partner benefits. The city contracts with approximately 8,000 companies.

To date, San Francisco is the only city in the U.S. to pass this kind of measure. The Associated Press reported that the city has faced little opposition from business owners. Shell Oil and Chevron report that they plan to extend benefits to domestic partners in response to the San Francisco ordinance.

In contrast, the Air Transport Association filed suit in U.S. District Court challenging the ordinance. The suit charged that "the local law violated the principal of federal pre-emption as established by the Employee Retirement Income Security Act and the Airline Deregulation Act." The Air Transport Association argued that airlines have always been and should be governed by federal, not local, government. The Court decided that the San Francisco measure applies to any contractor other than an airline, because it is federally regulated.

### **C. Legality of Marriage**

The legality of same-gender marriage is a related issue. Some advocacy groups focus their lobbying efforts on legalizing same-gender marriage because it automatically makes domestic partners eligible for benefits currently offered to legal spouses.

In 1991, three same-gender couples sued the state of Hawaii for the right to marry. The Hawaii Supreme Court ruled in 1993 that the state cannot refuse to recognize same-gender marriage unless it can show a “compelling interest” for doing so. The State of Hawaii challenged that ruling and the case is currently under appeal.

The Hawaii Supreme Court decision is important to other jurisdictions because the Constitution indicates that every state must give “full faith and credit” to the public acts of other states. Therefore, if the Hawaiian Court ruling upholds the legality of same-gender marriages, all other states must recognize same-gender marriages performed in Hawaii.

Congress passed the Defense of Marriage Act in response to the developments in Hawaii. The Act allows states to not recognize same-gender marriages performed in other states. Some local governments have taken action in response to the activity in Hawaii also. For example, 28 states responded by passing statutes banning same-gender marriage.

## VI. Summary of Findings

### A. Background

For purposes of this report, OLO defines domestic partners as “two adults of any sex who have chosen to share one another’s lives in an intimate and committed relationship of mutual caring, who live together, and who have agreed to be jointly responsible for basic living expenses incurred during the domestic partnership.”<sup>19</sup>

During the 1990s, increasing numbers of employers extended health and welfare benefits to employees’ domestic partners. Although the number continues to increase, it still represents a small proportion of the total employers nationwide. The Human Rights Campaign reports that, as of February 1999, the following numbers of employers provide domestic partner benefits:

- 67 state and local governments,
- 83 colleges and universities, and
- 476 not-for-profit, for-profit, and union employers.<sup>20</sup>

Research indicates that three major factors influence employers’ decisions to extend benefits to domestic partners.

- Benefits represent a significant and increasing component of an employee’s total compensation package, making benefits a priority to current and potential employees.
- Many benefit plans meet the needs of the family structure prevalent in the 1940s and 1950s, primarily households headed by married couples. Domestic partner benefits attempt to meet the needs of other family structures, such as opposite-gender couples that are not married and same-gender couples.
- More employers are protecting employees from discrimination in the workplace by enacting ordinances, laws or executive orders that ban sexual orientation discrimination in public employment, private employment, education, and housing. The Montgomery County Code includes language prohibiting discrimination in employment (attached at Appendix B).

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<sup>19</sup> Kane, Sara Wyn. “Proposal for a Model Employee Benefit Program: Responding to the Changing Trends of Society.” Benefits Quarterly Second Quarter 1998: 25-38.

<sup>20</sup> Various advocacy groups research and publish lists of organizations that provide domestic partner benefits. The Human Rights Campaign (HRC) seems to produce the most complete and updated list of employers that provide medical benefits to employees’ domestic partners. The employers on the HRC list may or may not include dental and vision benefits in the medical benefits extended. Employers that only extend leave benefits are not included. The HRC’s complete list of employers, updated February 1999, is included at Appendix C. **OLO did not independently verify all of the information reported by the Human Rights Campaign.**



Proponents of domestic partner benefits argue that the benefits maintain fairness and equity by providing equal pay for equal work; create a competitive advantage in attracting and retaining good employees; and promote employee goodwill. Fear of cost increases and public backlash, including lost business and lawsuits, keep employers from extending benefits to domestic partners. They may also be hindered by insurance regulations and other laws that limit their authority to extend the benefits. This report identifies some public sector employers that were sued in response to implementation of domestic partner benefits.

## **B. Administration of Domestic Partner Benefits**

### 1. Benefits and Eligibility

The benefits extended to domestic partners and the specific eligibility requirements vary across employers. This report focuses on medical benefits, vision benefits, dental benefits, family sick leave, and bereavement leave. Most employers who provide domestic partner benefits extend one or a combination of these benefits to domestic partners of their employees. Some employers also extend retirement and life insurance benefits or other miscellaneous benefits, such as adoption assistance or tuition waivers.

Some employers extend the benefits to all employees, while others limit the benefits to a subset of their work force, such as members of the union that negotiated the benefit. The eligibility of same-gender versus opposite-gender couples, and eligibility of dependants of an employee's domestic partner also vary across employers. Research indicates that public sector employers usually include same-gender and opposite-gender couples, while private sector employers tend to limit domestic partner benefits to same-gender couples.

Employers generally require that employees submit various information as "proof of partnership". Some of the information is similar to that required of married couples, such as proof that they are not related by blood to a degree that would prohibit legal marriage. Other information required of domestic partners is not required of spouses. For example, the employer may require that the couple has shared a joint residence for at least six months or that the employee has not had another domestic partner in the past six months. Employers may also require that the partners prove a financial obligation or responsibility to each other through documents such as a joint lease, mortgage or deed or joint ownership of a vehicle.

### 2. Participation and Cost Trends

A major factor behind the marginal cost of implementing domestic partner benefits is the rate of employee participation. Employers that extend benefits to domestic partners consistently report that fewer employees than expected take advantage of the

added benefit. Specifically, research indicates that:

- When eligibility is limited to same-gender partners, on average, less than one percent of the total employee population enrolls; and
- When eligibility includes both same-gender and opposite-gender partners, on average, a total of two percent to five percent of the total employee population enrolls.

OLO's research into domestic partner benefits in 23 cities and counties found participation rates ranging from 0.1 percent to 4.8 percent.

Liz Winfeld, benefits consultant and co-author of Straight Talk About Gays in the Workplace (American Management Association, 1995), estimates that for an organization with between 100 and 100,000 employees, extending benefits to unmarried partners (same-gender and opposite-gender) will increase an organization's benefits costs by approximately one percent. Not all jurisdictions track the cost of extending benefits to domestic partners separately from other employee benefit costs. Among local governments in the U.S., OLO identified percentage increases in costs due to implementing domestic partner benefits that ranged from 0.7 percent to 3.0 percent.

There are tax consequences to enrolling a domestic partner in an employer sponsored benefit plan. The Internal Revenue Service Code indicates that employees must pay income tax on the value of their partners' health insurance coverage. Benefits are excludable from taxable income only if the recipient is a legal spouse or legal dependent, as defined by Section 152 of the Internal Revenue Code.

### **C. Employers Extending Benefits to Domestic Partners**

A variety of employers currently extend one or more of the benefits described in this report to employees' domestic partners. The Human Rights Campaign tracks and reports the employers that extend medical benefits, including public sector employers; college and university employers; and non-profit, for-profit and union employers. Appendix C includes the Human Rights Campaign list of employers.

To provide the Council with additional information, OLO collected data from selected cities and counties about their domestic partner benefit plans. OLO also studied the prevalence of domestic partner benefits in regional education institutions and the ten largest private sector employers in the County.

#### **1. Public Sector**

In general, the public sector has implemented domestic partner benefits at a slower pace than the private sector. None of the five County and bi-County agencies in Montgomery County currently provide domestic partner benefits.

OLO contacted all 13 counties that provide domestic partner benefits and 10 cities to collect specific information about their domestic partner benefits. Seven of the 13 counties contacted extend medical, dental, and vision benefits, as well as family sick leave and bereavement leave. The other six counties provide some combination of those benefits. One county only includes bereavement leave. In all but one county, all employees are eligible to enroll their domestic partner in the benefit plan, including a same-gender or opposite-gender partner. The percentage of employees that enroll a domestic partner ranged from 0.83 percent to 4.8 percent.

The characteristics of the benefit plans in the cities were similar. Five of the ten cities provide the full set of benefits described in this report (i.e., medical, dental, vision, family sick leave, bereavement leave) and one city only extends leave benefits. Three of the cities contacted limit eligibility to same-gender couples. The percentage of employees that enroll a domestic partner ranged from 0.1 percent to 3 percent in the 10 cities contacted.

## 2. Private Sector

Research indicates that domestic partner benefits are most prevalent in the high-tech industry, the entertainment industry, and law firms. The HRC reported, as of February 1999, that 476 private sector employers provide domestic partner benefits.

Some well-known private sector organizations that extend benefits to employees' domestic partners include IBM, The Washington Post Company, Walt Disney, Apple Computer Inc., Metro-Goldwyn-Mayer Inc/United Artists (MGM), Microsoft Corporation, and Xerox Corporation. Three of the ten largest private sector employers in Montgomery County extend benefits to domestic partners, including Marriott International, Bell Atlantic Maryland, and Kaiser Foundation Health Plan of the Mid-Atlantic States Inc.

## 3. Education Institutions

The Human Rights Campaign also reports, as of February 1999, that 83 colleges and universities in the United States extend benefits to employees' domestic partners. The list includes a combination of public and private institutions located throughout the country, the majority of which are located in New York State, Massachusetts, and California. In the Baltimore-Washington Metropolitan region, American University and Johns Hopkins University extend benefits to their employees' domestic partners.



## Appendix A

### List of Resources

- Arlington County, Virginia. Employee Relations Benefits Newsletter. May 1997.
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- Causey, Mike. "The Federal Diary – Domestic Partner Benefits." Washington Post October 31, 1997.
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Philadelphia Commission on Human Relations. FAQ Sheet – Frequently Asked Questions About Life Partnership For City of Philadelphia Employees.

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## **Appendix B**

**Montgomery County Code**

**Chapter 27**

**Division 3. Discrimination in Employment**

- (b) Nothing in this subdivision prevents any person from exercising any right or seeking any remedy to which that person is otherwise entitled, or from filing any complaint with any other agency or court. If an action involving the same parties is pending before any other agency or court, the commission must advise the complainant to incorporate the allegations of the complaint in the previous action where appropriate.
- (c) Any person discriminated against under section 27-16A may initiate a civil action in any court of appropriate jurisdiction. (1988 L.M.C., ch. 4, § 2.)

## DIVISION 3. DISCRIMINATION IN EMPLOYMENT.

**Sec. 27-17. Declaration of policy.**

The council finds that discrimination in employment because of race, color, religious creed, ancestry, national origin, age, sex, marital status, handicap, or sexual orientation adversely affects the health, welfare, peace and safety of the community. Persons subject to such discrimination suffer unemployment and under employment resulting in low family income, overcrowded housing, poor health conditions, antisocial behavior, poverty, and lack of hope, injuring the public welfare, placing a burden upon the public treasury to ameliorate the conditions thus produced and creating conditions which endanger the public peace and order. The public policy of Montgomery County is declared to be to foster equal employment opportunity for all without regard to race, color, religious creed, ancestry, national origin, sex, marital status, age, handicap, or sexual orientation and strictly in accord with their individual merits as human beings. (1974 L.M.C., ch. 9, § 1; 1977 L.M.C., ch. 30, § 9; 1978 L.M.C., ch. 6, § 7; 1984 L.M.C., ch. 26, § 13.)

**Sec. 27-18. Definitions.**

As used this division, the following words and phrases shall be defined as follows:

- (a) *Person* includes one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries and their officers and agents.
- (b) *Employer* includes any person, whenever situated, who employs more than six (6) employees within the county, either for compensation or on a volunteer basis, or who recruits individuals within the county to apply for employment within the county or elsewhere; the term shall include Montgomery County and its instrumentalities and agencies.



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- (c) *Employment agency* includes any person regularly undertaking or attempting, with or without compensation, to procure employees for an employer or to procure for employees opportunities to work for an employer.
- (d) *Labor organization* includes any organization, agency, employee representation committee, group, association or plan in which employees participate directly or indirectly and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours or other terms, conditions or privileges of employment and any agent thereof, and any conference, general committee, joint or system board or joint council which is subordinate to a national or international labor organization.
- (e) *Employee* includes any individual employed by an employer, either for compensation or on a volunteer basis and any person seeking or applying for employment.
- (f) *Religious creed* includes all aspects of religious observances and practices, as well as belief.
- (g) The terms "because of sex" or "on the basis of sex" include, but are not limited to, because of, or on the basis of pregnancy, childbirth or related medical conditions. (1974 L.M.C., ch. 9, § 1; 1975 L.M.C., ch. 18, § 1; 1977 L.M.C., ch. 30, § 9; 1979 L.M.C., ch. 52, § 1; 1984 L.M.C., ch. 26, § 27-18.)

**Sec. 27-19. Unlawful employment practices.**

- (a) It shall be an unlawful employment practice to do any of the following acts because of the race, color, religious creed, ancestry, national origin, age, sex, marital status, handicap, or sexual orientation of any individual or because of any reason that would not have been asserted but for the race, color, religious creed, ancestry, national origin, age, sex, marital status, handicap, or sexual orientation of the individual:
  - (1) For an employer:
    - a. To fail or refuse to hire or fail to accept the services of or to discharge any individual or otherwise to discriminate against any individual with respect to compensation, terms, conditions or privileges of employment.
    - b. To limit, segregate, or classify employees in any way which would deprive or tend to affect adversely any individual's employment opportunities or status as an employee.

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Chapter 27

- (2) For an employment agency to fail or refuse to refer for employment, to assign job classifications to, or to classify or refer for employment, or otherwise to discriminate against, any individual.
  - (3) For a labor organization:
    - a. To exclude or to expel from its membership or otherwise to discriminate against any individual.
    - b. To limit, segregate, or classify its membership or to classify or fail or refuse to refer for employment any individual in any way which would deprive or tend to deprive any individual of equal employment opportunities, or would affect adversely the individual's employment opportunities or status as an employee, or as an applicant for employment.
    - c. To cause or attempt to cause an employer to discriminate against an individual in violation of this section.
  - (4) For any employer, labor organization or joint labor-management committee controlling apprenticeship or other training programs to discriminate against any individual in admission to, or employment in, any program established to provide apprenticeship or other training.
- (b) It shall be a violation of this division for any person to cause or coerce or attempt to cause or coerce, directly or indirectly, retaliate against any person because such person has lawfully opposed any act or failure to act that is a violation of this division or has, in good faith, filed a complaint, testified, participated or assisted in any way in any proceeding or investigation under this division or to prevent any person from complying with this division. It shall also be a violation of this division for any person to assist in, compel or coerce the doing of any act declared to be an unlawful employment practice under this division, or to obstruct or prevent enforcement or compliance with the provisions of this division, or to attempt directly or indirectly to commit any act declared by this division to be unlawful employment practice.
- (c) It shall be a violation of this division for any person, employer, labor organization or employment agency to print or publish or cause to be printed or published, any notice or advertisement relating to employment by such employer, or membership in or any classification or referral for employment by such labor organization, or relating to any classification or referral for employment by such employment agency, indicating any preference, limitation or specification based on race, color, religious creed, ancestry, national origin, age, sex, marital status, handicap, or sexual orientation except that such a notice or advertisement may indicate a preference, limitation or specification which is a

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bona fide occupational qualification for employment reasonably necessary to the normal operation of the particular business or enterprise.

- (d) Notwithstanding any other provision of this division, it shall not be an unlawful employment practice:
  - (1) For an employer to hire and employ employees, for an employment agency to classify or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining programs, to admit or employ any individual in any such program, on the basis of race, color, religious creed, age, sex, marital status, national origin, ancestry, handicap, or sexual orientation in those certain instances where such basis is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise;
  - (2) For a religious corporation, association or society to hire and employ employees of a particular religion to perform purely religious functions; and
  - (3) For an employer to deny employment on the basis of religious creed in those cases when the observance, practice or belief cannot be reasonably accommodated by an employer without causing undue hardship on the conduct of the employer's business.
- (e) Notwithstanding any other provision of this division, it shall not be unlawful for any employer to observe the terms of a bona fide seniority system or any bona fide employee benefit plan, such as retirement, pension or insurance plan, which is not a subterfuge to evade the provisions and purposes of this division, except that no such employee benefit plan shall excuse an employer's failure to hire any qualified person.
- (f) The provisions of this division that prohibit discrimination in employment on the basis of sexual orientation do not apply to:
  - (1) Positions of employment that are related to religious activities of an employer if:
    - a. The employer is:
      - 1. A religious corporation, association, or society;
      - 2. An organization that is affiliated with a religious corporation, association, or society; and

- b. The primary purpose of the religious activity is not commercial; and
- (2) Any position of employment in a religious school. (1974 L.M.C., ch. 9, § 1; 1974 L.M.C., ch. 34, § 1; 1975 L.M.C., ch. 18, § 2; 1977 L.M.C., ch. 30, § 9; 1978 L.M.C., ch. 6, § 8; 1979 L.M.C., ch. 52, § 2; 1984 L.M.C., ch. 26, § 15; 1994 L.M.C., ch. 11, § 1.)

**Editor's note**—The above section is interpreted in Weathersby v. Kentucky Fried Chicken Nat'l. Mgt. Co., 86 Md.App. 533, 587 A.2d 569 (1991) and quoted in Hanna v. Emergency Medicine Associates, P.A., 77 Md.App. 595, 551 A.2d 492 (1989). Section 27-19 is cited in Hopkins v. Baltimore Gas and Electric Company, 77 F.3d 745 (4th Cir. 1996), a sexual harassment case, as an example of the enactment of local laws addressing sexual orientation. Section 27-19(b) is cited in Weathersby v. Kentucky Fried Chicken Nat'l. Mgt. Co., 804 F.Supp. 756 (D.Md. 1992).

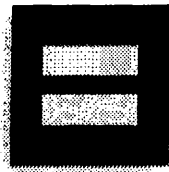
**Sec. 27-20. Rights of complainant; civil action by county attorney.**

- (a) Any person who has been subjected to any act of discrimination prohibited under this division shall be deemed to have been denied a civil right and shall be entitled to sue for damages, injunction or other civil relief, including reasonable attorney's fees; provided, however, that no suit shall be commenced until forty-five (45) days after a complaint alleging such an act of discrimination has been filed with the commission; and provided further, that if any proceedings with respect to such complaint are still pending before the executive secretary of the commission, the court may, in its discretion, stay proceedings before it for not more than sixty (60) days pending resolution of the complaint. In addition to any judicial enforcement provided elsewhere in this division, in any case in which the commission panel determines that the person complained against has violated this division, the commission panel may certify the matter to the county attorney to seek any available state or federal judicial relief in any court of competent jurisdiction on behalf of the person subjected to such violation and, where appropriate, on behalf of residents of the county similarly situated.
- (b) In any case in which an employer, employment agency or labor organization fails to comply with an order of a court issued in a civil action brought under subsection (a) of this section, the county attorney may commence proceedings to compel compliance with such order.
- (c) Whenever the county attorney has reasonable cause to believe that any person is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights secured by this division, the county attorney may originate a civil action in the appropriate court by signing and filing with that court a complaint setting forth facts pertaining to such pattern or practice, and requesting back pay or such other relief, including an application for a permanent or temporary injunction, restraining order or other order against the

## **Appendix C**

### **Employers with Domestic Partnership Policies**

This appendix contains a list of employers that extend benefits to employees' domestic partners. The source of the list of the Human Rights Campaign web site ([www.hrc.org](http://www.hrc.org)). OLO used the list as a resource for this report. OLO did not independently contact all of the employers to verify the accuracy of this extensive list. The Human Rights Campaign web site identifies the location (city and state) of the employers on the list. Location information was not included in Appendix C.



**HUMAN  
RIGHTS  
CAMPAIGN**

## EMPLOYERS WITH DOMESTIC PARTNERSHIP POLICIES\*

*As of February 24, 1999*

### I. State & Local Government (Total number = 67)

Employer Name
City of Alameda
City of Albany
City of Ann Arbor
City of Atlanta
City of Baltimore
City of Berkeley
City of Boston
City of Burlington
City of Cambridge
City of Carrboro
City of Chapel Hill
City of Chicago
City of Corvallis
City of Denver
City of Hartford
City of Iowa City
City of Ithaca
City of Key West
City of Laguna Beach
City of Livingston
City of Los Angeles
City of Los Angeles Unified School District
City of Madison
City of Middlebury
City of New Orleans
City of New York
City of Northampton
City of Oak Park
City of Oakland
City of Olympia
City of Petaluma
City of Philadelphia

City of Portland
City of Rochester
City of Sacramento
City of San Diego
City of San Francisco
City of Santa Barbara
City of Santa Cruz
City of Seattle
City of Springfield
City of St. Paul
City of Takoma Park
City of Tucson
City of Tumwater
City of West Hollywood
City of West Palm Beach
County of Alameda
County of Arlington
County of Broward
County of Hennepin
County of King
County of Los Angeles
County of Marin
County of Monroe
County of Multnomah
County of Pima
County of San Francisco
County of San Mateo
County of Santa Cruz
County of Travis
County of Wayne
Eugene Water & Electric Board
Santa Cruz Metro Transit System
State of New York
State of Oregon
State of Vermont

## II. Colleges & Universities (Total number = 83)

Employer Name	
Albert Einstein Medical College	Springfield College
American University	Stanford University
Amherst College	SUNY - State University of New York System (15 Campuses)
Antioch College (system wide)	Swarthmore College
Bowdoin College	Syracuse University
Brooklyn Law School	Thomas Jefferson University & Hospital
Brown University	Trinity College
California Academy of Sciences	Tufts University
California Institute of Technology	Union Theological Seminary
Carleton College	University of Alaska
Claremont Colleges	University of California System (9 Campuses)
Clark University	University of Chicago
Colby College	University of Colorado at Boulder
Colorado College	University of Denver
Columbia University (all colleges)	University of Iowa
Cornell University	University of Maine System
CUNY City University of New York System (20 Campuses)	University of Michigan
Dartmouth College	University of Minnesota
DeAnza Community College	University of New Mexico
Denison University	University of Pennsylvania
Dickinson College	University of Rochester
Duke University	University of Southern California
Eastern Michigan University	University of Tampa
Emerson College	University of Vermont
Emory University	University of Washington
Foothill College	Wayne State University
Ginnell College	Wellesley College
Hamilton College	Wesleyan University
Harvard University	Williams College
Hofstra University	Yale University
Ithaca College	
Johns Hopkins University	
Julliard School	
Lawrence University	
Lesley College	
Mary Washington College	
Massachusetts Institute of Technology	
Michigan State University	
Middlebury College	
Mission College	
Moorehead State University	
New York Law School	
New York University	
Northeastern University	
Northwestern University	
Oberlin College	
Occidental College	
Princeton University	
Rochester Institute of Technology	
Rockefeller University	
Rush University	
Simmons College	
Smith College	

**III. Private Sector - Includes: not-for-profit, for-profit and unions**  
**(Total number = 476)**

Employer Name
Actor's Fund of America
Adobe Systems
Adolph Coors Co.
Advanced Micro Devices
Advocates for Youth
Aetna Life & Casualty Insurance
AFSCME # 57
AFSCME # 67
AFSCME # 82 (prison employees)
AFSCME # 829
Akron Beacon Journal
Allen, Watkins, Leck, Gamble & Mallory
Allina Health Systems
America OnLine
American Association of University Professors
American Civil Liberties Union
American Express Co.
American Friends Service Committee
American Lawyer Media
American Library Association
American President Lines
American Psychological Association
Anderson, Kill, Olick & Oshinsky
Apple Computer
Arent, Fox, Kintner, Plotkin & Kahn
Arizona Cable
Arizona Public Service
Arnold & Porter
Arter & Hadden
Assoc. Help of Retarded Children
AT&T
Atlanta Braves
Atlanta Hawks
Atlantic Records & Pictures
Autodesk Inc.
Avon Products
BankAmerica Corp.
BankBoston Corp.
Bankers Trust Corp.
Banyan Systems
Barnes & Noble
Barra Inc.
Bausch & Lomb Inc.
Bay Area Rapid Transit
Bay Networks Inc.
BBN Advanced Computers Inc.
Bell Atlantic
Bell Northern Research
Ben and Jerry's Corp.
Beth Israel Medical Center
Beth Israel Medical Center
Bingham, Dana & Gould, LLP
Bisys Cinti Regional Center
Black & Veatch

Blue Cross/Blue Shield of Connecticut
Blue Cross/Blue Shield of Massachusetts
Blue Cross/Blue Shield of New York
Booz-Allen & Hamilton Inc.
Borland International
Bose Corp.
Boston Consulting Group
Boston Globe Co.
Bostrom/Cybul Design
BP Amoco Corp.
Bristol-Myers Squibb Co.
Brobeck, Phleger & Harrison
Bronson, Bronson & McKinnon
Brown & Wood
Brown, Rudnick, Freed & Gesmer
Bureau of National Affairs
Business for Social Responsibility
Cadence Computer Software
California Pacific Medical Center
Calloway Golf
Cambridge Technology Group
Cambridge Technology Partners
Candle Corp.
Carroll, Burdick & McDonough
Cartoon Network
Celestial Seasonings
Centigram Communications Corp.
Centura Software Corp.
Cerdian Corp.
Chadbourne & Parke
Charles Schwab & Co.
Chase Manhattan Bank Corp.
Chevron Corp.
Children's Healthcare Center
Children's Hospital of Boston
Chiron America
Choate, Hall & Stewart
Chubb Life Insurance Co. of America
Cisco Systems
Cleary, Gottlieb, Steen & Hamilton
Clorox Co.
CMP Media Inc.
CNN
Codman Square Health Center
Committee of Interns and Residents
Communications Management Associates
Compaq Computer Corp.
Computer Associates International
Computer Graphics
Consumer's United Insurance
Consumers Union
Cooley, Godward & Castro
Corel/Wordperfect Corp.
Costco Wholesale



Coudert Brothers  
 Council on Foundations  
 Covington & Burling  
 Cravath, Swain & Moore  
 Cray Research  
 Creative Artists Agency Inc.  
 Crowell & Morig  
 Crum and Forster Insurance  
 Dana Farber Cancer Institute  
 David Sarnoff Research Center  
 Davis, Polk & Wardwell  
 Debevoise & Plimpton  
 Deluxe Corp.  
 Democratic National Committee  
 Dewey Ballantine  
 Dickstein, Shapiro, Mohn & Oshinsky  
 Digital Equipment Corp.  
 Director's Guild-Industry Health Fund  
 Discovery Channel  
 District Council 1707  
 Donna Karan  
 Dow, Lohnes & Albertson  
 DreamWorks SKG  
 Duane, Morris & Heckscher  
 E! Entertainment Television  
 Eastern Mountain Sports  
 Eastman Kodak Co.  
 EES Consulting Inc.  
 Egghead Software  
 Electronic Data Systems Corp.  
 Entertainment Radio Network  
 ENTEX  
 Episcopal Diocese of Newark  
 Estee Lauder Companies  
 Fannie Mae  
 Farella, Braun, & Martel  
 Fenwick & West L.L.P.  
 Finnegan, Henderson, Farabow, Garrett & Dunner  
 First Tech Computer  
 Fish & Richardson PC  
 Fleishman-Hillard Inc.  
 Focus Homes Inc.  
 Foley, Hoag & Eliot L.L.P.  
 Ford Foundation  
 Forte Software  
 FOX Broadcasting  
 Frame Relay Technologies Inc.  
 Fred Hutchinson Cancer Research Center  
 Freddie Mac  
 Fried, Frank, Harris, Shriver & Jacobson  
 Gap Inc.  
 Gardener's Supply Co.  
 Gardner, Carton & Douglas  
 Gay and Lesbian Advocates and Defenders (GLAD)  
 Gay and Lesbian Alliance Against Defamation (GLAAD)  
 Gay and Lesbian Medical Association  
 Gay and Lesbian Victory Fund  
 Genentech  
 Gibson, Dunn & Crutcher LLP

Gill Foundation  
 Glaxo-Wellcome  
 Golsten, Storrs  
 Goodwill Games  
 Gordon & Rees  
 Graham & James  
 Greenberg, Glusker, Fields, Claman & Machtinger  
 Greenpeace  
 Group Health Cooperative of Puget Sound  
 Hale and Door  
 Hartford Financial Services Co.  
 Harvard Pilgrim Health Care Inc.  
 Hearst Corp.  
 Heller, Ehrman, White & McAuliffe  
 Hewitt Associates  
 Hewlett-Packard  
 Hill & Barlow  
 Hill & Knowlton  
 Holland & Knight  
 Home Box Office (HBO)  
 Hotel and Restaurant Employees Union  
 Hotel Workers Union - Local 26  
 Howrey & Simon  
 Hubbard Farms  
 Human Rights Campaign  
 ICM Mortgage Corp.  
 IDG  
 IDS Financial Services  
 Illinois Masonic Medical Center  
 Imation Corp.  
 Immunex Corp.  
 Informix Software  
 Insurance Co. of the West  
 Intel Inc.  
 Interleaf  
 Intermedia Partners  
 International Brotherhood of Electrical Workers #18  
 International Brotherhood of Teamsters #70  
 International Business Machines (IBM)  
 International Data Corp.  
 Isis Pharmaceuticals Inc.  
 J. P. Morgan & Co.  
 Jackson Labs  
 Jackson, Tufts, Cole & Black  
 James Irvine Foundation  
 Jeffer, Mangels, Butler & Marmaro  
 Jenner & Block  
 Jet Propulsion Lab  
 Jewish Board of Family and Children's Services  
 Jewish Community Centers Association  
 John D. & Catherine T. MacArthur Foundation  
 John Hancock Mutual Life Insurance  
 Joyce Mertz-Gilmore Foundation  
 Kahn, Howrey  
 Kaiser Foundation Health Plan  
 Katten, Muchin & Zavis  
 Kaye, Scholer, Fireman, Hays & Handler  
 Keynote Systems Inc.  
 Keynote Systems Inc.

Knight-Ridder  
 KQED Radio  
 Lambda Legal Defense & Education Fund  
 Latham & Watkins  
 Lawrence Berkeley Laboratory  
 Lawrence Livermore National Laboratory  
 Learning Company  
 LeBoeuf, Lamb, Greene & MacRae  
 Legal Aid  
 Levi Strauss & Co.  
 Liberty Mutual Insurance Group  
 Life USA  
 Lilienthan, Fowler  
 Lillick & Charles  
 Lincoln National  
 Local Initiatives Support Corp.  
 Long & Levit  
 Los Alamos National Laboratory  
 Los Angeles Philharmonic Association  
 Lotus Development  
 Lucas Films  
 Lucent Technologies  
 MacMillan Publishing Co.  
 Mark Hopkins Inter-Continental Hotel  
 Mark Shale Outlet  
 Market News Service  
 Marriott International  
 Mattel Inc.  
 Mayer, Brown & Platt  
 Mayor, Day, Caldwell & Keeton L.L.P.  
 McCutchen, Doyle, Brown & Enersen  
 McGraw-Hill  
 McKenna & Cunio  
 McKinsey & Co. Inc.  
 Mentor Graphics Corp.  
 Merrill Lynch  
 Metro-Goldwyn-Mayer Inc./United Artists (MGM/UA)  
 Miami Herald  
 Microsoft Corp.  
 Milbank, Tweed, Hadley, & McCloy  
 Millipore Corp.  
 Minneapolis Public Library  
 Minneapolis Star Tribune  
 Minnesota Public Radio  
 Mintz, Levin, Cohn, Ferris, Glovsky & Popeo  
 Mitretek Systems  
 Mobil Corp.  
 Monitor Communications  
 Monsanto Co.  
 Montefiore Medical Center  
 Morrison & Foerster  
 Mount Sinai Hospital  
 Munger, Tolles & Olsen  
 Museum of Modern Art  
 Musicians Local 47  
 National Association of Socially Responsible Organizations  
 National Audubon Society

National Center for Lesbian Rights  
 National Conference of Christians & Jews  
 National Equity Fund  
 National Gay & Lesbian Task Force  
 National Grocers Assoc.  
 National Organization for Women  
 National Public Radio  
 Nationsbank Corp.  
 Nature Conservancy  
 NCR Corp.  
 Netscape Communications Corp.  
 Nevada Bell  
 New England Medical Center  
 New York Times Guild Benefits Plan  
 Newspaper Guild of Greater Philadelphia  
 NeXT Software Inc.  
 Nike Inc.  
 Northern States Power (MN)  
 Northern Telecom Inc.  
 Northern Trust Corp.  
 Nossaman, Guthner, Know & Elliot  
 Novartis Pharmaceutical Corp.  
 Novell  
 NW Ayer & Partners Inc.  
 NYNEX Corp.  
 O'Melveny & Meyers  
 Oakland Children's Hospital  
 Otel America Inc.  
 Oil and Chemical Atomic Workers  
 OneWave Inc.  
 Oracle Corp.  
 Organic Online  
 Orrick, Herrington & Sutcliffe  
 Pacific Bell  
 Pacific Enterprises  
 Pacific Gas and Electric  
 Pacific Stock Exchange  
 Pacificare Health Systems  
 Pacificorp  
 Para Transit  
 Paradigm  
 Paramount Pictures  
 Park Nicolet Medical Center  
 Patagonia Inc.  
 Pathmark Stores Inc.  
 Patton Boggs L.L.P.  
 Paul, Hastings, Janofsky & Walker  
 Paul, Weiss, Rifkind, Wharton & Garrison  
 Peabody & Arnold  
 PeopleSoft Inc.  
 Pew Charitable Trusts  
 Pillsbury  
 Pillsbury, Madison & Sutro  
 Planned Parenthood Federation of America  
 Platinum  
 Portland Cable Access

Post & Schell PC  
Pride Fund  
Principal Financial Group  
Principle Mutual Life Insurance  
Professional Musicians Union Local 47  
Proskauer, Rose, Goetz & Mendelsohn L.L.P.  
Public Broadcasting Service (PBS)  
QualComm  
Quark Inc.  
Radius  
  
Reader's Digest Association  
Recreational Equipment Inc. (REI)  
Reebok International  
Research Triangle Institute  
Reuters America Holdings Inc.  
Rhode Island Counseling Assocs.  
Rhone Poulenc  
Rogers & Wells  
Ropes & Gray  
Rosenfeld, Meyer & Susman LLP  
RSVP Travel Productions Inc.  
Saddleback Memorial Center  
San Francisco 49ers  
San Francisco Chronicle  
Santa Cruz Operations  
SAS Institute Inc.  
Schiff, Hardin & Waite  
Schulte, Roth & Zabel L.L.P.  
Scripps Research Inst.  
Scudder Kemper Investments  
Seagate Technology Inc.  
Seagram Co. Ltd.  
Seattle City Light  
Seattle Mental Health Institute  
Seattle Public Library  
Seattle Symphony Orchestra  
Seattle Times  
Segal Co  
Shaw, Pittman, Potts & Trowbridge  
Shell Oil Co.  
Sherman & Sterling  
Showtime Networks Inc.  
Sidley & Austin  
Silicon Graphics  
Simpson, Thatcher & Bartlett  
Skadden, Arps, Slate, Meagher & Flom  
Smith & Hawken  
Smith Kettlewell Eye Institute  
SmithKline Beecham  
Sonnenschien, Nath & Rosenthal  
Sony Corp. of America  
Southern California Gas Co.  
Space Telescope Science Institute  
Speech Language Hearing Assn  
Springs Industries  
St. Paul Companies  
St. Petersburg Times

St. Vincent Hospital  
Starbucks Coffee Co.  
State Bar of California  
Steptoe & Johnson  
Sullivan & Cromwell  
Sun Microsystems  
  
Supermac Technology  
Swope Parkway Medical Center  
Sybase  
Tambrands Inc.  
Tattered Cover Bookstore  
TBS  
Teachers' Insurance & Annuity  
Tech Data Corp.  
Tele-Communications Inc.  
Teradyne  
Testa, Hurwitz & Thibault L.L.P.  
Thelen, Marin, Johnson & Bridges  
Thinking Machines  
Ticketmaster Group Inc.  
Timberland Co.  
Time Warner  
Times Mirror Co.  
TNT  
Tower Records and Video Stores  
Townsend and Townsend and Crew  
Troop, Meisinger, Steuber & Pasich  
Tropicana/Dole Beverages  
Tufts Healthcare Plan  
Turner Broadcasting System  
Turner Classic Movies  
Union of American Hebrew Congregations  
Unisys  
Unitarian Universalist Committee  
United Church Board Homeland  
United University Professors  
United Way of San Francisco  
Universal Studios Inc.  
Urban Institute  
US Healthcare  
US West Communications & Media Group  
Veritas Software Corp.  
Vermont Girl Scouts Council  
Verner, Lipfert, Bernhard, McPherson & Hand  
Viacom Inc.  
Village Voice  
Vinson & Elkins, L.L.P.  
Visa International  
Vision Services Plan  
Visioneer Inc.  
Wachtell, Lipton, Rosen & Katz  
Wainwright Bank  
Walker Art Center  
Walker, Ritcher & Quinn Inc.  
Walt Disney  
Warner Brothers

Washington Post Co.
Watson Wyatt & Co.
Weil, Gotshal & Manges
Wells Fargo & Co.
WGBH Public Television
White & Case
White & Williams
Whitman Walker Clinic
Whole Foods Mkt./Fresh Fields
Wilder Foundation
Wiley, Rein & Fielding
Wilkie, Farr & Gallagher
William Morris Agency
Wilmer, Cutler & Pickering
Winston & Strawn
Winthrop, Stimson, Putnam & Roberts
Wolf, Block, Schorr & Solis-Cohen L.L.P.
Worcester Telegram
Working Assets Funding Service
World Championship Wrestling
WQED FM
Writers Guild of America West
Xerox Corp.
Ziff-Davis Publishing

## **Appendix D**

**City of Tucson, Arizona  
Domestic Partnership Affidavit**

**Multnomah County, Oregon  
Affidavit of Marriage or Domestic Partnership**



# CITY OF TUCSON

The Sonoran City

TUCSON, ARIZONA 85726-7210  
P.O. BOX 27210

EMPLOYEE BENEFITS DIVISION  
(602) 791-4597

## CONFIDENTIAL DOMESTIC PARTNERSHIP AFFIDAVIT

### AFFIDAVIT

\_\_\_\_\_, an employee of the City of Tucson, and \_\_\_\_\_, do hereby affirm that on or before \_\_\_\_\_, 19\_\_\_\_, we agreed to live as domestic partners, and that we have so lived since that time. We further affirm that our relationship meets the definition stated on this form. We acknowledge that the purpose of this form is to receive City of Tucson employee domestic partner benefits.

### DEFINITION

Domestic partners are defined as two adults who:

1. Share the same regular and permanent residence, and
2. Are jointly responsible for the basic necessities of life. Basic necessities of life means the cost of basic food, shelter and any other expenses. The individuals need not contribute equally to the cost of these expenses, as long as they agree that both are responsible for the cost. We affirm that at least one of the joint expenses listed below applies:
  - a. Joint lease agreement or joint mortgage
  - b. Power of attorney
  - c. Deed or assignment naming both parties as joint tenants or tenants in common
  - d. Joint checking, savings or investment account
  - e. Joint ownership of a motor vehicle
  - f. Joint credit account
  - g. Other (please specify) \_\_\_\_\_

Eligible employees must affirm that they and their domestic partner meet all of the following criteria:

- Are the same sex, and
- Are not related by blood to a degree of closeness that would prohibit legal marriage, and
- Are both at least 18 years of age, and
- Reside together and intend to do so permanently, and
- Are not legally married, and
- Are responsible for each other's common welfare, and
- Are each other's sole domestic partner, and
- Were mentally competent to consent to contract when the domestic partnership began.

We understand that if this statement is false the City may pursue criminal prosecution and civil remedies for reimbursement of all costs together with reasonable attorney fees. Further, the City may take disciplinary action up to and including termination from employment against the employee-partner.

EMPLOYEE

DOMESTIC PARTNER

\_\_\_\_\_  
(Print name)

\_\_\_\_\_  
(Print name)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

- ☐ New Hire

☐ Open Enrollment

☐ New Domestic Partnership commencing \_\_\_\_\_

**Multnomah County**  
**AFFIDAVIT OF MARRIAGE OR DOMESTIC PARTNERSHIP**

I, (print name of employee) \_\_\_\_\_,  
certify that I and (print name of spouse or domestic partner) \_\_\_\_\_  
(check and complete either A. or B., whichever applies):

A. \_\_\_\_\_ were legally married on (date) \_\_\_\_\_  
Or have a Common Law Marriage recognized under Oregon law as follows:  
\_\_\_\_\_

B. \_\_\_\_\_ are and have each been the other's partner in a domestic partnership, as  
defined below. We began sharing the same residence on (date) \_\_\_\_\_.

For purposes of this affidavit, a "domestic partnership" is one consisting of two persons in which the  
members:

- 1) Jointly shared the same permanent residence for at least six (6) months immediately preceding  
the date of this affidavit and intend to continue to do so indefinitely;
- 2) Have a close personal relationship with each other;
- 3) Are not legally married to anyone;
- 4) Are each eighteen (18) years of age or older;
- 5) Are not related to each other by blood in a degree of kinship closer than would bar marriage in the  
State of Oregon;
- 6) Were mentally competent to contract when the domestic partnership began;
- 7) Are each other's sole domestic partner, and
- 8) Are jointly responsible for each other's common welfare including "basic living expenses," For  
purposes of this affidavit, "basic living expenses" means the cost of basic food, shelter, and any  
other expenses of a member of the domestic partnership which are paid at least in part by a  
program or benefit for which the partner qualified because of domestic partnership. The  
individuals need not contribute equally or jointly to the cost of these expenses as long as they  
agree that both are responsible for the cost.

This affidavit terminates upon the death of the signing employee's spouse or domestic partner or by a  
change in circumstances attested to in this affidavit. The signing employee must notify the Employee  
Services Division (Benefits Unit) within ninety (90) days after such death or change by filing a  
Statement of Termination of Marriage/Domestic Partnership. After filing of a Statement of  
Termination of Marriage/Domestic Partnership, the employee may not file a new Statement of  
Marriage/Domestic Partnership for the purpose of enrolling a new domestic partner for six (6) months  
from the date such statement is received by the Employee Services Division (Benefits Unit).

**NOTICE: Signing this affidavit may or may not have legal implications affecting relations  
between domestic partners beyond the extension of medical or dental insurance coverage  
for which it is intended. If you desire further information concerning the possible legal  
consequences of signing this form, please consult an attorney.**

**I attest that the certification I have provided herein is true and correct to the best  
of my knowledge.**

Employee Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Received by: \_\_\_\_\_ of Benefits Unit on (date): \_\_\_\_\_

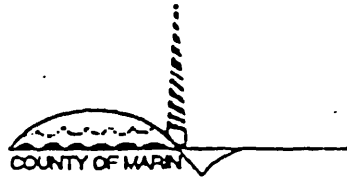




## **Appendix E**

**Marin County, California  
Declaration of Domestic Partnership**

**City of Philadelphia, Pennsylvania  
Domestic Partnership-Your Guide to Life Partnership Registration**



**MARIN COUNTY  
DECLARATION OF  
DOMESTIC PARTNERSHIP**

\_\_\_\_\_  
We declare under penalty of perjury:

1. We live together (see definition on the other side of this page);
2. We agree to be responsible for each other's basic living expenses (see definition on the other side of this page) during our domestic partnership;
3. We are both eighteen years of age or older;
4. Neither of us is married;
5. Neither of us is related to the other as a parent, brother or sister, half brother or sister, niece, nephew, aunt, uncle, grandparent or grandchild;
6. Neither of us has a different domestic partner now;
7. Neither of us has had a different domestic partner in the last six months (this last condition does not apply if you had a partner who died; if you did, cross this out).

We declare under penalty of perjury under the laws of the State of California that the statements above are true and correct.

Signed on \_\_\_\_\_, 19 \_\_\_\_ in \_\_\_\_\_

Signature \_\_\_\_\_ Print Name \_\_\_\_\_

Signed on \_\_\_\_\_, 19 \_\_\_\_ in \_\_\_\_\_

Signature \_\_\_\_\_ Print Name \_\_\_\_\_

YOU MUST ALSO FILL OUT THE OTHER SIDE OF THIS FORM

1.

**"Live together"** means that the two of you share a place to live. You don't both have to be on the rental agreement or deed. It is okay if one or both of you has a separate place somewhere else. Even if one of you leaves the place you share, you still live together as long as the one who left intends to return.

**"Basic living expenses"** includes costs for food, shelter, and medical expenses. You don't have to split basic expenses to be domestic partners. You just have to agree to provide these things for your partner if he or she can't provide for him or herself.

**2.**

Name \_\_\_\_\_

**Address** \_\_\_\_\_

City, State and Zip Code \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_

City, State and Zip Code \_\_\_\_\_

**3.**

- (1) File this form, in person, with the Marin County Clerk; or  
(2) Sign this form in front of a Notary public and have the Notary fill in the notarization at the bottom of this page. You must then file this form with the Marin County Clerk.

To be able to file this form with the County Clerk, one of you must work substantially full-time in Marin or both of you live together in Marin (see explanation below).

- ☐ Check here to state that one of you works substantially full-time in Marin.
- ☐ Check here to state that you live together in Marin.

4.

STATE OF CALIFORNIA )  
 )SS  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me, \_\_\_\_\_, a Notary Public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared \_\_\_\_\_, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that by their signature on the instrument they, or the entity upon behalf of which they acted, executed the instrument.

**WITNESS my hand and official seal.**

**Notary Public**  
**in and for said County and State**

My commission expires: \_\_\_\_\_

**After notarization, you must file the form with the Marin County Clerk**

### DECLARATION OF DOMESTIC PARTNERSHIP



## Domestic Partnership Law in the City of Philadelphia

Three bills passed by City Council on May 7, 1998 and signed by Mayor Edward G. Rendell on May 19, 1998, created laws on domestic partnership for the City of Philadelphia. In brief, they are as follows:

*Bill No. 970750* amended the Fair Practices Ordinance to include a definition of life partnership being a long-term committed relationship between two unmarried individuals of the same gender. It prohibits discrimination based on marital status in employment, housing, City services, and public accommodations. In effect, the bill makes Life Partners of City employees eligible for benefits under the City's and municipal union's various employee benefit plans. (*Philadelphia Code Chapter 9-1100*)

*Bill No. 970749* amended the Realty Transfer Tax to exempt transfer of property between Life Partners from the tax. (*Philadelphia Code Chapter 19-1400*)

*Bill No. 970745* amended the Retirement System Ordinance to allow members of the Retirement System to name as beneficiaries and survivors any person designated by the employee, which could include one's life partner. (*Retirement System Ordinance and Municipal Retirement Benefit Plan Ordinance*)

THE PHILADELPHIA COMMISSION ON HUMAN RELATIONS was established in 1951 by the City Charter to enforce laws which prohibit discrimination in employment, housing, and public accommodations.

PCHR has nine commissioners, an executive director, and a staff of professional investigators and mediators who work in the intake unit, compliance division, and community relations division. The Commission also provides staff for the Fair Housing Commission.

Discrimination is defined as different and worse treatment because of a characteristic that an individual has. In employment it is illegal to discriminate on the bases of race, color, religion, national origin, ancestry, age over 40, sex, sexual orientation, disability, and marital status. In housing the bases are race, color, religion, national origin, ancestry, age, physical disability, sex, sexual orientation, marital status, presence of children, or source of income. In public accommodations and the delivery of City services, the bases are the same as employment except age is not covered in public accommodations.

PCHR also provides a variety of other services which attempt to prevent intergroup conflict and promote intergroup harmony. The Disputes Resolution Program which provides mediation in conflicts between neighbors, is one of those services.

Staff are available who are fluent in Vietnamese, Chinese, Cambodian, Russian, Portuguese, Yiddish, and Spanish.



### PHILADELPHIA COMMISSION ON HUMAN RELATIONS

### PHILADELPHIA FAIR HOUSING COMMISSION

HONORABLE EDWARD G. RENDELL  
Mayor, City of Philadelphia

JAMES S. ALLEN, SR., CHAIRPERSON  
Philadelphia Commission on Human Relations

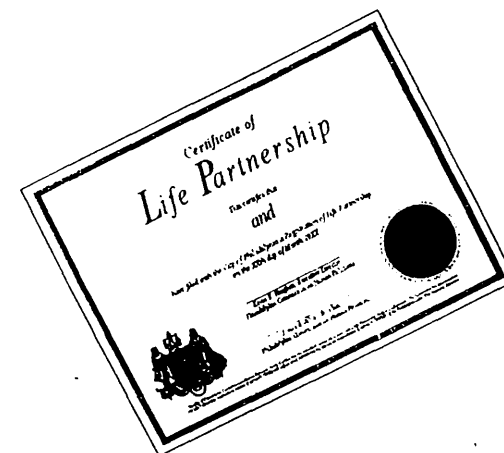
RALPH E. BLANKS, CHAIRPERSON  
Philadelphia Fair Housing Commission

KEVIN E. VAUGHAN, EXECUTIVE DIRECTOR  
Philadelphia Commission on Human Relations  
Philadelphia Fair Housing Commission

34 South 11th Street, 6th Floor  
Philadelphia, PA 19107  
(215) 686-4670 voice  
(215) 686-4684 fax

# Domestic Partnership

## Your Guide To Life Partnership Registration



Philadelphia Commission  
on Human Relations

Philadelphia Fair  
Housing Commission

## About Domestic Partnership

Over 65 states or municipalities in the United States have domestic partnership policies. In addition, over 229 employers offer employee benefits to same gender partners. Through these policies, lesbian and gay couples are given recognition of their relationships. Many of those policies often grant benefits and rights to domestic partnerships as they would to married couples and families.

## Domestic Partnership In Philadelphia

The City of Philadelphia is proud to have a domestic partnership policy. Historic advancements in civil rights for lesbian women and gay men were made in Philadelphia. On May 7, 1998, City Council passed three bills that collectively created domestic partnership policy including the amendment of the Fair Practices Ordinance. Mayor Edward G. Rendell signed them into law on May 19, 1998.

## Life Partnership is Domestic Partnership

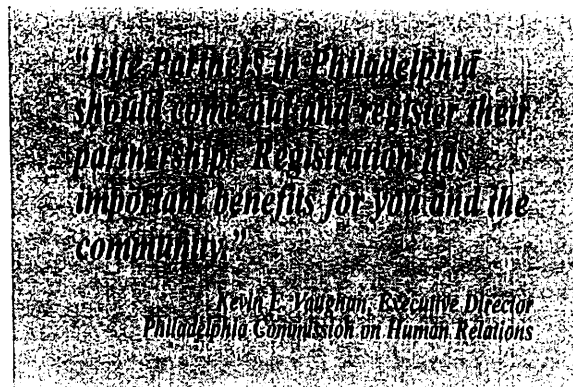
In Philadelphia, domestic partnership is 'Life Partnership'. To be recognized as 'Life Partners', same-gender couples need to register with the City of Philadelphia through the Philadelphia Commission on Human Relations.

## Official Life Partnership Definition

In brief, Life Partnership is a long-term committed relationship between two individual adults who:

- Are of the same gender.
- Agree to share the common necessities of life.
- Agree to be responsible for each other's welfare.
- Are not related by blood.
- Are not married.
- Share at least one residence.
- Are the sole Life Partner of the other person.

Recognition is achieved through registration.



## Benefits of Registration

There are a number of benefits and rights granted to registered Life Partners in Philadelphia.

Newly registered partners will receive a 'Certificate of Life Partnership' issued by the City of Philadelphia and a Life Partnership Verification Statement Acceptance Letter. The Acceptance Letter serves as official proof of your verified Life Partnership.

Registration grants Life Partners exemption from paying the City's real estate transfer tax when transferring property between partners. This exemption previously only applied to transfers between family members.

Life partners of employees of the City of Philadelphia are eligible to receive benefits under the City's and their union's various employee benefit plans (ie. medical coverage, leave, etc). These employees may also designate their life partner or any other person as a beneficiary of their retirement benefits.

Under the Fair Practices Ordinance, it is unlawful to discriminate on the basis of marital status (including status as a Life Partner) in employment, housing, public accommodations, and the delivery of City services. Discrimination on the basis of sexual orientation has been prohibited since 1982.

## Documents Needed To Register

Life Partners will need to provide evidence of their interdependency. Applicants must submit a 'Life Partnership Verification Statement' and proof of at least three of the following:

- Common ownership of property or lease in Philadelphia.
- Common ownership of a vehicle.
- Driver's license listing a common address.
- Joint bank or credit accounts.
- Designation as a beneficiary of life insurance, retirement benefits or under a partner's will.
- Assignment of durable power of attorney or health care power of attorney.

## Make Your Partnership Count

The Philadelphia Commission on Human Relations encourages Life Partners to register their partnerships with the City of Philadelphia. Registration will help: improve knowledge and visibility of same-gender relationships; advance civil rights for lesbian women and gay men; and enhance the quality of life for all in Philadelphia.

## How Do We Register?

A complete Life Partnership Registration & Information Packet is available that includes the following:

- Complete registration information.
- A Life Partnership Verification Statement
- Detailed information about rights and benefits.
- Helpful resources.

For your Packet, contact the Philadelphia Commission on Human Relations. Call or stop by today!

**PHILADELPHIA COMMISSION  
ON HUMAN RELATIONS**  
34 South 11th Street, 6th Floor  
Philadelphia, PA 19107  
(215) 686-4670

