

**Town Topics, July 21, 2004 Legal Forum: "New Jersey Recognizes Domestic Partners " by Lisa Randazzese, Esq.**

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On July 10, 2004, New Jersey's Domestic Partnership Act ("Act") went into effect. The Act creates the legal status of "domestic partners" for registered same-sex couples over the age of 18 and opposite-sex couples over the age of 62. The Act confers certain rights and benefits, and imposes certain obligations and responsibilities, upon those who register as domestic partners. The Act grants to domestic partners some of the benefits that are currently afforded to married couples, including: (1) legal and medical decision-making rights for an incapacitated domestic partner; (2) visitation rights for hospitalized domestic partners; (3) statutory protection under the "Law Against Discrimination" from various forms of discrimination based on domestic partnership status, such as employment, housing and credit discrimination; (4) an additional exemption from the personal income tax and the transfer inheritance tax on the same basis as a spouse; (5) health and pension benefits for domestic partners of State employees; and (6) health and retirement benefits for domestic partners of non-State employees if their employers elect to extend those rights.

The Act does not afford all of the same rights to domestic partners as the marriage laws give to a husband and wife. For instance, the Act does not require financial support or property sharing upon the termination of a domestic partnership; when the domestic partnership ceases, there is no "marital" property division or alimony requirement. Additionally, the Act does not give a surviving domestic partner the right to inherit from a deceased domestic partner in the absence of a will. Similar to marriage license requirements, the Act requires applicants seeking designation as domestic partners to obtain a "Certificate of Domestic Partnership." Unlike a marriage, however, there is no solemnization requirement (i.e., ceremonial exchanging of vows) before a domestic partnership is recognized. To receive a Certificate of Domestic Partnership, the couple must affirm that: (1) both persons have a common residence and are otherwise jointly responsible for each other's basic living expenses; (2) neither person is married, is a member of another domestic partnership nor has been a partner in a domestic partnership that was terminated less than 180 days prior; (3) neither person is related to the other; (4) both persons are either of the same sex or 62 years of age or older and not of the same sex; (5) both persons have chosen to share each other's lives in a committed relationship of mutual caring; and (6) both persons are at least 18 years of age.

Terminating a domestic partnership under the Act is similar to securing a divorce, requiring similar grounds for dissolution to those under marriage laws and application to Superior Court for dissolution. New Jersey joins four other states that presently accord a certain level of legal recognition to same-sex couples. Additional information concerning the Act, including registration instructions, is available from the New Jersey Department of Health and Senior Services at [www.state.nj.us/health/vital/dp\\_faq.shtml](http://www.state.nj.us/health/vital/dp_faq.shtml) and (866) 722-8218.