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Your Money Contributors

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3 Things Unmarried Couples Should Do To Protect Their Finances

By Gwynneth Anderson

While married couples enjoy a number of medical, legal and inheritance protections, there is a portion of the U.S. population that cannot do so.

As the definition of traditional relationships continues to expand and is redefined, new rights and benefits are changing to fit an altering social makeup. More couples nowadays are testing the domestic waters before committing to marriage -- or foregoing marriage altogether in favor of a more progressive approach to traditional unions.

Unfortunately, Federal law does not recognize them. The health insurance industry considers them high risk. The IRS penalizes them when more than \$13,000 in assets is transferred between them. For these couples, navigating taxes, parental rights, medical powers of attorney or asset designations can be a tricky minefield.

Yet with a little planning, the financial well-being and final wishes of domestic partnerships can remain in the hands of their long-term partners. Here are tools that all domestic partners must utilize to guarantee the same rights as their traditional married counterparts.

1. Protect Your Medical Rights

Execute a medical power of attorney /HIPAA release: In 1996, the Health Insurance Portability and Accountability Act (HIPAA) enacted strict rules regarding who can and cannot access a patient's medical records. This prevented people who were not spouses or blood relatives from obtaining any medical information on a patient, thus creating problems for the long-term, domestic partner. Having a signed medical power of attorney or a HIPAA privacy authorization form in place will tell

hospitals, doctors and immediate family members who really does have the authority to make those important medical decisions.

Establish a living will: A living will is different than a medical power of attorney in that it addresses specific end-of-life planning needs. Jean Dorrell, a certified estate planner and founder of Florida-based Senior Financial Security, recalls a client who had a stroke and was still coherent when the paramedics arrived. Her partner followed the ambulance to the hospital but by the time he made it there, she had succumbed to permanent brain damage and was no longer able to speak. Having a living will in this instance would have alerted the doctors to her medical wishes.

2. Protect Your Children

Assert paternal rights: A male in a domestic partnership who signs the Voluntary Declaration of Paternity (VDP) at his child's birth will immediately establish his legal rights as a father. "A signed VDP is important because it determines the division between a father's rights and his obligation," says David Pisarra, a Santa Monica-based divorce attorney and founder of Men's Family Law. By signing, the father can then travel with the child, access medical information, go to well-baby checkups and be listed as an emergency contact for schools. By not signing, the father gives up all legal



rights and custody of the child to the mother, although he can still be held liable for child-support payments.

Execute a power of attorney, living will and estate plan: If there is a car accident involving the parents, who will take care of the surviving child? Who will make the medical decisions for the mother or the father should they remain on life support? "These are things domestic partners must consider," advises Pisarra. "You need to handle this with a durable power of attorney, electing for life-sustaining measures (aka, a living will) and estate planning for your assets should one partner predecease the other."

And what if the surviving child is under 18 -- who will control the assets? "The simplest way is to leave the money to a trusted person who will take care of the funds until the child comes of age," advises Dorrell. For the more complex estates, she recommends listing certain restrictions in the trust for the child or partner managing the money, but reminds



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couples to make sure the beneficiary paperwork matches the trust designation. Otherwise, the trust will be overruled.

3. Protect Your Financial Assets

Fill out the beneficiary forms: Possibly the easiest and most frequently overlooked way to ensure partners receive assets is to complete a beneficiary designation. IRAs, 401(k) plans, annuities, life insurance -- and even checking accounts, savings accounts and certificates of deposit -- can have named beneficiaries. Beneficiary pages are so powerful they can even override a will.

Sign a Transfer on Death designation: Transfer on Death designations allow stock portfolio holdings to pass directly to the named beneficiary. Interestingly enough, a lesser known-benefit is that 13 U.S. states allow Transfers on Death to also pass on real property -- providing an inexpensive alternative to a trust. For example, Florida homeowners can simply list a Transfer on Death beneficiary on their house and "all the beneficiary has to do is provide a copy of the death certificate to the county to get the deed transferred into their name," says Dorrell.

Consider joint tenancy with rights of survivorship: For those who wonder just how well their financial paperwork is surviving the recent spate of bank mergers, "joint tenancy with right of survivorship" is a more secure route to go. "If you die, the other person listed on the account automatically owns that account. It does not go to probate," says Dorrell. "Even if you have a joint account with beneficiaries, both owners have to die first before the beneficiaries can inherit."

Sign a power of attorney: Domestic partners who own a business should also consider having a durable power of attorney that's effective in the event of their incapacity. "If you have assets in your name alone and you are unable to

transact business, you need to have someone with the authority to work with the bank or access the safe deposit box," says Elizabeth Poggi, an attorney with Buchanan, Ingersoll & Rooney, P.C. "A power of attorney can be as broad or as limited as you want, but you need to have one in place."

The Investing Answer:

Domestic partners should review and update their records every five years, especially if there has been a change in the relationship. Keep copies of the signed paperwork handy. As banks and insurance companies merge and change names, the first thing that generally happens is a purge of all the old institution's paperwork. "If they don't have it, and you don't have a copy at the time of your death, your estate will be considered intestate and will go to probate court -- not your partner," cautions Dorrell.

