DECLARATION OF DOMESTIC PARTNERSHIP AND TERMINATION OF DOMESTIC PARTNERSHIP ISSUES VITAL RECORDS FAQ's
07/15/09

1. What is the process for applying for a Declaration of Domestic Partnership?

- Partners who meet the criteria apply for a declaration of domestic partnership with the County Clerk in the county where they reside. They must provide necessary documentary proof and information.
- Five days after the application is made, the County Clerk issues the declaration to the couple. The County Clerk may, at his or her discretion and in accordance with established county policies, issue the declaration sooner, if an additional processing fee is received.
- The couple completes the declaration, signing it before a Notary, and submits the declaration to the Register of Deeds. The Register of Deeds records the declaration and forwards the original to the State Registrar of Vital Statistics. The domestic partnership is not effective until the declaration is filed at the Register of Deeds Office.
- If a couple needs to show proof of the domestic partnership (to obtain benefits), they may purchase certified copies of the declaration from the Register of Deeds or from the State Vital Records Office.

2. When may people apply to register as a domestic partnership?

- The first date that partners may apply is **Monday, August 3, 2009**. This is the first business which is on or after the 31st day after the new statute went into effect, so August 3rd is the first date clerks will be able to process application (Wis. Stat. § 770.07).
- In the meantime, the Vital Records Office, County Clerk Offices and Register of Deeds Offices are developing forms and preparing to handle questions about the registration process.
- Couples who are interested in applying may begin preparing for application by obtaining certified copies of their birth certificates and compiling any necessary documents or information.

3. Who may apply for domestic partnership?
Applicants must meet the following requirements:

- Both parties must be at least 18 years of age and must be competent (to enter into a legal contract such as a domestic partnership).
- Neither party may be married.
- Neither party can be currently in a legal domestic partnership with another party. (See the topic "What documents are needed to apply for a declaration of domestic partnership" for additional information on waiting periods between domestic partnerships.)
- The parties must share a common residence
- The parties must be of the same sex.
- The parties cannot be closer in relationship than second cousins (even if they are related by adoption or by half-blood).
  (Wis. Stat. § 770.05)

4. Where do you apply for domestic partnership?

- Applicants must apply in person at the County Clerk's office in the county in which one or both of the partners have resided for the last 30 days immediately prior to application.

5. What paperwork is involved?

- See Question 7 for documents that applicants must bring to show proof of identity, residency, and eligibility to register for domestic partnership.
- Partners will complete an application form at the County Clerk's office.
- When the County Clerk issues the declaration of domestic partnership (generally after five days), the partners sign the declaration in the presence of the County Clerk or Deputy County Clerk or another notary public.
- The **partners then file the completed declaration** with the **Register of Deeds** in the county that issued the declaration. There is no time limit for filing the declaration after it has been issued. However, **the domestic partnership does not go into effect until the date the declaration is accepted and filed at the Register of Deeds Office.**
- The partners can purchase certified copies of the declaration at the Register of Deeds Office to use as proof of the domestic partnership. Copies may also be purchased at the State Vital Records Office.

6. How much does it cost?

- The fee for applying for a declaration of domestic partnership is set by each county board. By law, it is the same fee that the county charges for issuing a license to marry. (See PDF County Domestic Partnership Documents Fee list).
- There is usually an extra charge (up to $10.00) for waiving the 5-day waiting period (waivers are granted at the discretion of the County Clerk).
- There is no charge for filing the completed declaration with the Register of Deeds Office.
- There is a fee for obtaining copies of the declaration. Certified copies of the declaration can be purchased from the Register of Deeds or from the State Vital Records Office. The fee is $20.00 for the first copy and $3.00 for each additional copy of the same declaration (ordered at the same time).

NOTE: Under vital records law, it is illegal for anyone besides the Register of Deeds or the State Vital Records Office to make copies of the declaration of domestic partnership or the certificate of termination of domestic partnership, including the partners themselves.

7. What documents are needed to apply for the declaration of domestic partnership (to establish the domestic partnership)?

Each applicant must bring in the following documents:

- **Certified copy of birth certificates.** In rare instances, if it would be impossible for an applicant to obtain a certified copy of his or her birth certificate, the County Clerk has the discretion to accept another form of identification (example: foreign passport or immigration document). NOTE: Applicants should apply for a copy of birth certificates far in advance of the date of application for the domestic partnership. Failure to apply in time for a copy of the birth certificate is not a sufficient reason for the County Clerk to waive this requirement.

NOTE: If an applicant was born outside of Wisconsin, the following website contains links to all U.S. vital records offices: http://www.cdc.gov/nchs/w2w.htm

NOTE: (Applicants cannot use a photocopy of a certified copy of a birth certificate or a hospital souvenir birth record. Neither of these is legally acceptable as a substitute for a true certified copy of a birth certificate.)

- **Current (non-expired) Photo Identification**.
- **Proof of residency.** If the photo ID does not contain the current address, the applicant may bring in a dated utility bill or government correspondence if it is addressed to the applicant (by name) with the applicant's street address (mail sent to a post office box doesn't fulfill this requirement).
- **Proof of how last domestic partnership or marriage ended.** If an applicant was in a prior legal domestic partnership in Wisconsin (filed under the provisions of the 2009 Domestic Partnership Law, Wis. Stat. chapter 770) or if an applicant was previously married, the applicant must supply documentary evidence of how the last legal domestic partnership or marriage ended.

  NOTE: For applicants who were married or if his or her spouse died outside of Wisconsin, the following website contains links to all U.S. vital records offices: http://www.cdc.gov/nchs/w2w.htm

- **Also, each applicant must provide his or Social Security Number** (if the applicant has a Social Security Number). This is a statutory requirement for all vital records. The Social Security Number may only be used in connection with Social Security Administration programs and for child support enforcement programs.

8. Is there a waiting period between the end of a "legal relationship" (domestic partnership or marriage) and the date a person can enter into a new one?

- There is a 90-day waiting period between the date the termination of domestic partnership is filed at the Register of Deeds Office and the date that a party can enter into a new domestic partnership.
- There is no waiting period between the death of a domestic partner and application for a declaration of domestic partnership.
- There is no waiting period between a divorce or annulment from a former spouse and application for a declaration of domestic partnership.
- There is no waiting period if the domestic partnership ended because of the subsequent marriage of one of the domestic partners.

9. How do you terminate a domestic partnership?

- Partners who want to terminate their Wisconsin domestic partnership must file a notice of termination of the domestic partnership in the same County Clerk office that issued the declaration of domestic partnership. This is true even if the partners no longer reside in that county.
- Both parties may sign the notice of termination and submit it to the County Clerk.
- If only one party signs the notice of termination, that partner needs to complete an affidavit that affirms that he or she either served the other partner with a summons or that he or she published an official public notice in the area where the partner was last known to be living.
- Upon receipt of the completed notice of termination (and affidavit, if required), and the appropriate fee, the County Clerk issues an "Original Certificate of Termination of Domestic Partnership" to the party filing the notice. Although there is no 5-day waiting period for the

County Clerk to issue the certificate of termination, the County Clerk may set a reasonable time frame for issuing the certificate of termination after the notification is filed..."

- The domestic partner who files the notice of termination is responsible for completing the certificate of termination and filing it with the Register of Deeds office in the same county that issued the certificate of termination.

10. When does the termination become effective?

- There is no time limit for filing the certificate of termination with the Register of Deeds Office.
- The termination of the domestic partnership does not go into effect until 90 days after the date the certificate of termination is accepted for filing in the Register of Deeds Office.

11. What if one of the partners chooses to get married?

- If one of the partners marries during the domestic partnership, the domestic partnership is terminated immediately (as of the date of the marriage).

12. Is there a fee for terminating a domestic partnership?

- The same fees apply for the termination of domestic partnership process (the fee for issuance of the certificate of termination is the same as the county fee for issuing a marriage license or a declaration of domestic partnership on the date the party files the notice of termination of the domestic partnership).

13. How does a party get certified copies of the certificate of termination?

- Certified copies of the certificate of termination can be purchased from the Register of Deeds or from the State Vital Records Office (the same copy fees apply: $20.00 for the first copy and $3.00 for each additional copy of the same certificate of termination ordered at the same time).

  NOTE: Under vital records law, it is illegal for anyone besides the Register of Deeds or the State Vital Records Office to make copies of the Original Certificate of Termination of a Domestic Partnership document, including the partners themselves.

14. If a couple is already registered as domestic partners (in another state or a local domestic partner registry in Wisconsin) or are married to each other (in another state) are they automatically transferred to the State's Domestic Partner Registry?

- No. Domestic partnership registrations from cities or counties will **not** be automatically transferred to the State Domestic Partner Registry within the Vital Records System. Likewise, partnerships registered in other states will not automatically be added to the Wisconsin Registry.
- Couples who want to register under the new Statewide Domestic Partnership program must follow the same process as described in question 1, above. The applicants should **not** list the prior local partnership registration when answering the question "Number of this domestic partnership."
- If the applicant is currently a party to a legal domestic partnership with a different partner-in another state, the applicant should review the laws of that state before entering into another domestic partnership in Wisconsin.

- If the applicant is currently registered in a "local" (city or county) domestic partnership registry with one partner, the applicant should seek legal advice before entering into a State-recognized domestic partnership with a different partner.
- Partners who married each other in another state can apply for domestic partnership status in Wisconsin. The partners should not declare their marital status as "legally married" at the time of application, because only unmarried persons may register a domestic partnership.

15. Who is developing the application and registration forms for the domestic partnership program?

- The State Vital Records Office, within the Department of Health Services, Division of Public Health is developing the forms for distribution so that they will be available at the County Clerk's office when the law takes effect.
- Domestic partnership and termination of domestic partnership documents (Declaration of Domestic Partnership and Original Certificate of Termination of a Domestic Partnership) are classified as vital records in the new law.

16. What rights does a domestic partner have to obtain vital records related to his or her domestic partner?

- Parties will have familial rights to obtain copies of their current domestic partners' vital records in the following cases:
    - Birth record of domestic partner
    - Death record of domestic partner
    - Prior marriage/divorce record of domestic partner
- To obtain certified copies of other types of records (example: birth records of a domestic partner's children), the domestic partner would require additional proof of direct and tangible interest in the record.