

*Marriage Equality New York is New York State's only organization solely dedicated to ensuring access for same-sex couples to civil marriage. Our mission is to secure the freedom and the right of same-sex couples to enter into legally-recognized civil marriage, having all the federal and state benefits and responsibilities which that entails.*

**Marriage is a powerful legal and social institution that protects and supports intimate family relationships by providing a unique set of rights, privileges and responsibilities.**

#### **DISPELLING SOME MYTHS ABOUT MARRIAGE FOR SAME-SEX COUPLES**

*Isn't gay marriage a "special right?"*

The term "gay marriage" implies that same-sex couples are asking for "special rights" or privileges that married couples do not have. Nothing could be farther from the truth. Gay men, lesbians and transgender people want full equality including all the same benefits and protections which civil marriage affords; the exact fundamental and basic rights heterosexual couples enjoy.

*Marriage has evolved throughout history.*

Right-wing moralizing to the contrary, "marriage" and "family" are not very traditional at all. For instance, Jewish law once required childless husbands to marry a second time, with or without divorcing the 1<sup>st</sup> wife. For its first 500 – 1000 years, the early Christian church considered marriage a tainted, earthly institution, something rendered unto Caesar, and didn't officially declare marriage a sacrament until 1215. In English and American law, women didn't have the right to be their children's guardians until the 19th century. While American states were battling for nearly 150 years over whether to recognize each others' divorces, Protestant denominations were roiled by the question of whether it was sinful to remarry divorced people whose ex-spouses were still alive. Marriage has always been a social battleground, its rules and borders shifting to suit each economy, each era, each class. (Submitted to Marriage Equality by E.J. Graff, author of "What Is Marriage For?")

*There are 1,049 legal rights and responsibilities that civil marriage affords.*

Although many same-sex couples are in long-term relationships, and undertake responsibilities toward one another just as married couples do, they are denied the vast array of legal, economic, and practical protections that married couples enjoy. Listed here are just a fraction of those benefits. Could you raise a family without these?

- Share government benefits as Social Security and Medicare;
- File joint tax returns and get special marriage or family exemptions;
- Joint parenting, adoption, foster care, custody and visitation;
- Obtain joint insurance policies for home, auto and family health coverage;
- Inherit automatically in the absence of a will;
- Make medical decisions on partner's behalf in the of illness;
- Choose a final resting place for a deceased partner;
- Take bereavement or sick leave to care for a partner or child;
- Obtain wrongful death benefits for a surviving partner and children.

*What about civil union or domestic partnership benefits?*

Domestic Partnerships or Civil Unions are a positive first step, but they are a SEPARATE AND UNEQUAL system and no substitute for civil marriage. Furthermore, no domestic partnership plan can provide the same 1,049 FEDERAL benefits, protections and responsibilities that marriage does, such as Immigration, Social Security benefits and many others. And, if you move beyond the plan's jurisdiction, you lose coverage.

#### **TRUE STORIES**

If the government said you had no right to make an emergency medical decision on behalf of a loved one, or that you could not adopt and care for your partner's child whom you love and help raise, how would that make you feel? What other challenges do you think you and your family might face? Unfortunately, many same-sex couples face this discrimination on a daily basis simply because they cannot legally marry.

- Sharon Kowalski and Karen Thompson, two schoolteachers, had shared their life and home for ten years. When a terrible car accident left Kowalski unable to speak and almost paralyzed, a terrible battle ensued. Kowalski's parents insisted that they, not Thompson, had the legal right to control their daughter's care. They put Kowalski in a nursing home and Thompson fought for seven years to bring her back to live in the home they shared.

- Samir, a college student in America, was partners with Kent, an American, for 4 years. Upon arriving from visiting relatives in Italy, Samir, not knowing his student visa had been improperly issued in the U.S., was detained by Immigration at JFK Airport. He was strip-searched, dressed in a prison jumpsuit and shackled to a bench overnight at the airport. He and Kent were not allowed to speak, and the next day, he was put on a plane to Rome. Over one year later, the men are still separated.

## **THE FACTS**

- ◆ Marriage is an important personal choice and a basic human right.
- ◆ The decision to marry should belong to the couple in love; the government should not have any say in the matter.
- ◆ Legally, religious and civil marriage are two separate institutions. Though many faiths do perform same-sex commitment ceremonies now, they have no *legal* recognition as civil marriage. Religions that do not approve of same-sex marriage would not be forced to perform them if they are recognized civilly.
- ◆ The state does not dictate which marriage any religion must perform or recognize, just as religions should not dictate who gets a civil marriage license from the state.
- ◆ ‘Traditional’ definitions of marriage are not good reasons for laws that discriminate against lesbians and gay men—just as laws no longer ban marriages between people of different races or define wives as the property of their husbands. Likewise, divorce laws have changed, and now all states recognize divorce without forcing couples to “go to Reno” to legally end their marriages.
- ◆ Committed lesbian and gay relationships are a reality. Allowing our relationships to share in civil marriage would not threaten or detract from non-gay marriages.

## **ECONOMIC DISADVANTAGES FACED BY SAME-SEX COUPLES**

- ✓ If we own a home before we meet our new life partner and later decide to transfer half to our partner, it is a gift which may be taxable.
- ✓ Our compensation package, when the value of fringe benefits is added in, is less than the compensation of a married person doing the same job, working the same hours, and receiving the same nominal pay. We have to pay income taxes on the value of the employer benefit to our partner, which a spouse avoids.
- ✓ Our life partner may have to fight to establish his/her right to buy insurance on our life, if the insurance company challenges the partner's insurable interest. The reason why partners might have to buy life insurance on the life of each other is because the estate is taxable and the survivor needs to have a source to pay those taxes without depleting the assets off of which the survivor must continue to live.
- ✓ We can be kicked out of our jointly owned home if a creditor of only one of us goes after the property, while the married spouse's interest in the property protects the home for the couple.
- ✓ When our partner dies, we have to prove our ownership of every item in the household or we can face a tax bill and even total loss of the items to the partner's family.
- ✓ The deductible expenses of the one cannot shelter the income of the other.
- ✓ Gay people pay into the state tax system for benefits such as child welfare even though in many states they are prevented from having custody of children, becoming a foster parent, or adopting children.
- ✓ If the owner of the homestead has to move permanently into a nursing home, the non-owning partner may have to leave the domicile they shared for decades to meet Medicaid's claims.
- ✓ We often have to pay more for ordinary transactions, such as renting a car or buying umbrella risk insurance.
- ✓ When our partner dies, we receive no death benefit or continuation of the decedent's pension.