

# Top 10 Estate Planning Recommendations for LGBT couples

Estate planning is far greater than just drawing up a will: it's a way to make decisions about all kinds of important personal and financial topics, from insurance to real estate to guardianship to financial planning and wealth management. Legal protections for Lesbian, Gay, Bisexual and Transgender (LGBT) couples in America changed dramatically since the June 26, 2015, Supreme Court ruling legalizing gay marriage in all 50 states; and by solidifying your plans now, you can be sure that both you and your partner or spouse is prepared for whatever happens down the road.

## The importance of protecting your rights

Whether married or in a domestic partnership, there are still important steps that LGBT couples and families need to take to plan for their future. Couples should develop an estate plan, including a will, to protect each other, their families, and their assets. To help you get started, here are ten important estate planning tips.

1 | **Make sure you have an up-to-date will.** A will allows you to decide what happens to your property after you die, and who will take care of your children or other dependents (if any) including pets. If you or your partner or spouse doesn't have a will, state law decides who

inherits your property and assets. For unmarried LGBT couples, this means your surviving partner won't get anything. So having a will, and a designated executor to put it into effect, is absolutely critical. An attorney can help you put this together.

2 | **Consider creating a trust.** A trust is a financial arrangement that arranges for the transfer of property either while you're alive (living trust) or after you die (testamentary trust). If you have small children, this can be a useful way to transfer your assets. A lawyer can help you decide if a trust makes sense for you.

3 | **Think about real estate.** If you own property, it's probably your biggest asset. If you're buying a house with your partner, consider how you want to own it, e.g., in equal or unequal shares. It's important to understand the different types of ownership choices:

Tenants in common gives both individuals a share in ownership of the property (house), but allows each individual to will their shares to someone else in the event of their death. A joint tenancy with rights of survivorship signifies that both individuals are owners; if one individual passes away, the other will automatically gain sole ownership, which grants ownership to only one person. If you already own a house (sole ownership) and want to put your partner's name on the title, it may be considered a gift. But if you're already married, it's not. Once again, before making any binding decisions, get sound legal advice.



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- 4 | **Don't shy away from a prenuptial agreement.** Yes, it's not particularly romantic, and some people feel it suggests a lack of trust. But marriage is more than an emotional commitment – it's also a financial and legal arrangement. Better to agree on the legal aspects of your marriage before you tie the knot, to avoid unexpected legal tangles later.
- 5 | **Consider whether a Domestic Partnership Agreement (DPA) might work for you.** If you're not married, or you're already married, a DPA might meet your needs. Like a prenuptial agreement, a DPA lets you document your intentions and expectations. It also allows you to identify separate and joint property and decide how you'll divide your property should you separate.
- 6 | **Look into estate tax issues.** Married LGBT couples are treated the same as heterosexual couples by the IRS. There may be state inheritance or estate taxes that you need to prepare for. Talk to your tax or legal advisor about the laws where you live, and how you can plan accordingly.
- 7 | **Think about protecting your loved ones with insurance.** Life insurance can be a useful tool in your estate planning, to help provide for your partner or spouse (and children, if applicable) and pay for final arrangements when you're gone. There are number of different options to fit your personal and financial needs. A financial professional can tell you more.
- 8 | **Designate a beneficiary for your retirement and other assets.** The beneficiary is the person who will receive your assets when you die, including retirement accounts (401Ks, IRAs, etc.) and life insurance policies. For your bank accounts, you can create a "payable on death" account, so the beneficiary won't have to go through probate court to collect the funds. Your financial professional or lawyer can help you make arrangements.
- 9 | **Plan for hospitalizations with advance directives.** Also called Living Wills or Health Care Powers of Attorney, advance directives name the person responsible for carrying out your health care wishes if you're unable. Federal law requires hospitals and other health care facilities to honor these documents. Without an advance directive, you could be prevented from participating in your partner's health care, or even from visiting each other in the hospital.
- 10 | **Get other documents in order: General Durable Power of Attorney, HIPAA Authorization and Designation of Agent.** These documents give you and your partner or spouse the authority to make decisions on each other's behalf, including funeral arrangements. In many states, your immediate family (which doesn't include your partner) has the legal right to make these decisions, even if it's not what your partner would have wanted.

For help with these ten topics and any other important legal and financial matters, talk with your tax and legal advisors, and a financial professional who has experience working with the LGBT community. While planning your estate may seem difficult, both emotionally and logistically, it's essential for ensuring that you and your partner can carry out each other's wishes without legal complications.

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