

Civil Marriage v. Civil Unions

What is marriage?

Marriage is a unique legal status conferred by and recognized by governments all over the world. It brings with it a host of reciprocal obligations, rights and protections. It is also a cultural institution. No other word has that power and no other status can provide that protection.

Married couples have 1,138 federal rights, protections and responsibilities such as:

- Social Security benefits upon death, disability or retirement of spouse, as well as benefits for minor children.
- Family and Medical Leave protections to care for a new child or a sick or injured family member
- Workers' Compensation protections for the family of a worker injured on the job
- Access to COBRA insurance benefits so the family doesn't lose health insurance when one spouse is laid off
- ERISA (Employee Retirement Income Security Act) protections such as the ability to leave a pension, other than Social Security, to your spouse
- Exemptions from penalties on IRA and pension rollovers
- Exemptions from estate taxes when a spouse dies
- Exemptions from federal income taxes on spouse's health insurance
- The right to visit a sick or injured loved one, have a say in life and death matters during hospitalization.

What is a civil union?

A civil union is a legal status granted by a state. The State of Vermont created civil unions in 2000. It provides legal protection to couples at the state law level, but omits federal protections, as well as the dignity, clarity, security and power of the word "marriage".

Civil unions are different from civil marriage and that difference has wide-ranging implications that make the two institutions unequal, such as:

Portability:

Marriages are respected state to state for all purposes but questions remain as to how civil unions will be treated in other states. The two appellate courts that have addressed the issue in Connecticut and Georgia have disregarded them based on the fact that their own states do not grant civil unions.

Federal Benefits:

According to a 1997 General Accounting Office report, civil marriage brings with it at least 1,049 legal protections and responsibilities from the federal government alone. Civil unions bring none of these critical legal protections.

Taxes and Public Benefits for the Family:

Because the federal government does not respect civil unions, a couple with a civil union will be in a kind of limbo with regard to governmental functions performed by both state and federal governments, such as taxation, pension protections, provision of insurance for families, and means-tested programs like Medicaid. Even when states try to provide legal protections, they may be foreclosed from doing so in joint federal/state programs.

Filling Out Forms:

Every day we fill out forms that ask us whether we are married, single, divorced or widowed. People joined in a civil union do not fit in any of those categories. People with civil unions should be able to identify themselves as a single family unit yet misrepresenting oneself on official documents can be considered fraud and can carry potential serious criminal penalties.

Separate and Unequal—Second Class Status:

Even if there were no substantive differences in the way the law treated marriages and civil unions, the fact that a civil union remains a separate status only for gay people represents real and powerful inequality. The United States Constitution requires legal equality for all. Including lesbian and gay couples within existing marriage laws is the fairest and simplest thing to do.

Ending a Civil Union:

If you are married, you can get divorced in any state in which you are a resident. But if states continue to disregard civil unions, there is no way to end the relationship other than establishing residency in Vermont and filing for dissolution there. This has already created problems for couples who now have no way to terminate their legal agreement.