

DOMESTIC PARTNERSHIPS: RIGHTS, RESPONSIBILITIES AND LIMITATIONS

by Heidi J. Gewertz

Abstract

This report provides an overview of current municipal domestic partnership laws, beginning with a general discussion of the definition of domestic partners and then examining the rights and responsibilities of such partnerships, using the City of San Francisco's ordinance as a model framework. In addition, the inherent limitations of legally defining a partnership on a municipal level rather than a state or federal level is examined, and the role of the courts in limiting or expanding the rights and responsibilities of persons in non-traditional relationships is briefly explored. Finally, a model ordinance is proposed.

The paper concludes that domestic partnership ordinances enacted by local governments (i.e. municipalities and counties) are narrow in scope due to the inherent limits on the authority of the grantor, and due to courts confirming repeatedly that only the state government has the power to determine civil status. Despite these limitations, local government domestic partner ordinances can be viewed as a first and important step in procuring the same rights for domestic partners as those rights afforded to married couples. Moreover, such local ordinances play an important role in the absence of greater protections afforded through state-recognized domestic partnership or same-sex marriage laws.