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Nine Ways Marriage Changes Your Legal Rights and Responsibilities

By Nicole K. Levy | January 21, 2019

Family Law Divorce

Divorce lawyer Nicole K. Levy explores 9 ways that marriage changes your rights and responsibilities under the law.



Marriage defines the critical moment in your life where *you* and another become an *us*. The marital bond is not just emotional; there are real legal consequences to getting married. [In a recent interview published on Vox](#), James J. Sexton, a divorce lawyer and author of *If You're In My Office, It's Already Too Late*, lamented the lack of a “one-page document” that educates “people about their rights and obligations when it comes to marriage.”

In the hope of enlightening the marrying public, I have taken on Sexton’s challenge and prepared a list of nine ways that marriage changes your legal standing. (Note: Being a Massachusetts practitioner, this blog is written from the perspective of an “equitable distribution” divorce state [rather than](#) a “community property” state.)

1. Acquiring Property: You Become an Us

One of the most important legal changes that occurs when you get married is the acquisition of “marital property”. Whether it is a house, boat, car, television, or just a coffee mug, any asset that is acquired by either spouse during the marriage may be treated as a marital property in a divorce. (Indeed, in Massachusetts and other equitable distribution states, even premarital property owned by one spouse can transform into marital property where [the Massachusetts divorce statute](#) provides that “the court may assign to either

husband or wife all or any part of the estate of the other”, without regard for when the property was acquired.)

Part of getting married involved relinquishing many of your rights to separate, individual property. Instead, much (if not all) of your property will each be owned by both of you. Should the marriage end in divorce, determine how property was acquired can be important because marital property will [equitably divided between spouses](#).

2. Sharing Retirement Benefits

Some of the property that you acquire during your marriage might not even look like property, like retirement accounts, stocks, and other financial assets. If those accounts were funded through during the marriage, those [retirement benefits are generally divided](#) between the parties in a divorce. (Again, in many equitable division states, even retirement assets acquired by one spouse prior to a marriage can be divided.)

The shared nature of retirement assets sometimes comes a shock to divorcing spouses, especially if a company is matching the contribution, or the gains made are attributed to both premarital and marital contributions, making division trickier in the event of a divorce. It is important for married couples to realize that the funds used for contributions and investments are generally considered marital.

Another important consideration for retirement assets is designating beneficiaries. Some state pensions have special rules requiring employees to name their spouse as beneficiaries under the plan. In other instances, a spouse must make the affirmative choice to change the beneficiary to their new spouse, otherwise another individual may receive the asset if the working spouse dies. In Massachusetts, Rule 411, the [Automatic Restraining Order](#), provides that after a Complaint for Divorce is served, the parties are bound by the following:

Neither party shall directly or indirectly change the beneficiary of any life insurance policy, pension or retirement plan, or pension or retirement investment account, except with the written consent of the other party or by order of the court.

However, if a working spouse changes the beneficiary on a retirement account prior to the filing of a divorce, this can significantly complicate matters if the working spouse dies before the divorce is complete.

3. Paying Taxes Together

Once you and your spouse are married, the government sees your marriage as the combination of two individuals into one entity. This change in status allows taxpayers to file as “married”, a change in tax status that provides many advantages. Although some commentators have noted that the new tax law, the Tax Cuts and Jobs Act (TCJA) contains a “[marriage penalty](#)” for very wealthy taxpayers, for the vast majority of Americans, filing married creates a wealth of tax benefits including:

- A doubling of the standard deduction to \$24,000
- The availability of [\\$2000 child tax credit for parents and step-parents](#)
- Lower tax brackets resulting in lower taxes

While it might sometimes make sense for spouses to file “married filing separately”, the tax rates for this filing are generally inferior to filing either individually (as an unmarried person) or filing married. Most of the time, filing joint tax returns will usually save some money. In particular, for couples where one spouse earns most of the income, the doubling of the standard deduction and other marriage-related benefits often reap immediate rewards.

Couples who are finalizing their divorces early in a year, such as January or February, often have to decide how they want to file for the previous tax year, as well as how they want to divide up any return or tax liability. If you are both W2 employees, filing married is often a “win-win”, with bigger refunds to go around. Of course, if one spouse is a contractor or [self-employed](#), the other spouse may be surprised to find him or herself suddenly needing to pay a substantial annual tax bill.

4. No Taxes on Most Gifts Between Spouses

Also on the tax front, spouses can generally give an unlimited amount of money or property to one another without paying taxes on the transfer. This, of course, follows the government’s perception of married couples as a single entity. There are exceptions, though, like if your spouse is not a U.S. citizen.

Of course, it bears mentioning that the “gift tax” is really just an extension of the estate tax. As of 2015, the federal estate tax only kicked in for individuals who gave gifts/inheritances [exceeding \\$5.43 million](#). In Massachusetts, the state’s estate tax kicks in after just a \$1 million inheritance, which includes the total value of all lifetime gifts given by the deceased individual that did not fall under an exception, such as gifting between spouses.

5. Inheritance Rights of Being Next of Kin

Upon getting married, spouses immediately become next of kin, replacing each spouse's parents and siblings as their closest relative. This means that spouses stand to receive the majority of each other's assets should either spouse pass away without a will. It also means that any inheritance received becomes a gift between spouses that is unlikely to be taxed. Of course, "next of kin" rights are primarily only an issue if a spouse dies without a will. If the deceased spouse did have a will, that instrument will control how most of the spouses are treated in the event of a death, regardless of marriage.

A major exception to this rule is the elective share rule, which prevents spouses from totally disinheriting their spouse. As noted in this [recent case](#), the share statute is complicated, and we will be blogging about it soon.

6. The Legal Rights and Responsibilities of Next of Kin

Being the next of kin does not come without its share of responsibilities, though. Spouses have the power and ability to make critical decisions on behalf of their incapacitated partner. In some cases, this can be a life or death choice in the hospital. However, there are also legal rights that vest in the recently married, including the ability to enforce a spouse's rights in court in certain circumstances, like through a wrongful death claim.

Couples are generally best served by conducting some basic [estate planning](#) after getting married. Legal instruments such as [health care proxies](#), [durable powers of attorney](#) and [wills](#) are best prepared *before* a crisis, when each spouse is in a position to make informed decisions about end-of-life medical care and other major issues.



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7. Government Benefits: Spouses Often Eligible Following Marriage

Spouses can also be entitled to receive [social security benefits](#), veterans, military, disability, and even Medicare benefits if their other half was receiving such benefits before his or her death. These government rights can extend past the date a spouse passes away, subject to a litany of often complex rules. For example, [Social Security survivor benefits](#) are payable to surviving spouse who meet a range of qualifications including age, the benefit status of the deceased spouse, the length of the marriage, and the surviving spouse's entitlement to his or her own SSA benefits. Even [divorced spouses](#) may be entitled to some surviving Social Security benefits if the marriage lasted more than ten years.

Under federal law, certain government benefits – such as Social Security benefits – cannot be divided as marital assets. Other benefits, such as military or government pensions, often can be divided as assets, subject to sometimes complex rules and regulations.

8. Insurance Benefits and Rights: Medical and Life Insurance Affected by Marriage

One of the most direct and constant benefits of being married, especially for single-income families, is the health insurance coverage that comes from a spouse's employment-based [medical insurance policy](#). Many employer-provided insurance policies cover the employee's spouse and children, as well as the employee. Out-of-pocket insurance coverage can be extremely pricey, especially with children.

Insurance benefits are not confined to health insurance. Upon marriage, existing life insurance policies may need to be updated to add a new spouse as the intended beneficiary. Indeed, a failure to name a new spouse as a life insurance beneficiary can result in death benefits being paid to other individuals if the spouse dies. (By the same token, spouses should take care to *change* their life insurance beneficiary after a divorce. Otherwise, the former spouse may collect the life insurance benefit if the policy-holder dies.)

Often during a divorce, the court will order spouses to maintain medical or life insurance policies if there are unemancipated children, child support and/or alimony obligation.

9. Spousal Support Rights and Obligations: Alimony is Real

Because a marriage involves two people becoming one unit, in the legal sense, there are also rights to support that slowly vest in spouses according to the length of the marriage. The law in Massachusetts recognizes that spouses begin to depend on one another for all sorts of support, including emotional, mental, physical, and financial, and that a separation is prone to leaving the dependent spouse in a difficult position. [Alimony](#) is often the answer and aims to both compensate a spouse's contributions to the marriage, both financial and non-financial, as well as ensure their financial stability until they can reasonably become self-sufficient after a divorce.

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Schedule a consultation with [Nicole K. Levy](#) today at (781) 253-2049 or send [her an email](#).

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