

## GAY DIVORCEE?

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“Gay Marriage”, once an oxymoron, has become the focal point of political and social debate across the land. Not so long ago, the main objection the sexual conservatives had to our coupling was that we were indiscriminately promiscuous and thus posed a threat to the stability of home, hearth and family. Now, it has been firmly established that large numbers of us aspire to none other than the stability of home, hearth and family. Despite all the controversy, Civil Unions, if not Gay Marriage itself, is a done deal - certainly within the foreseeable future. Not only are states incrementally moving forward with legislation, but developed countries through out the world are recognizing our unions.

What with all the brou ha-ha over gay marriage, what many of us may not be contemplating is Gay Divorce. Following the Civil Union Statute in Vermont as an example we can expect gay divorce to follow the same rules as heterosexual divorce. Many of us in the gay community came to an awareness of their gay identity only after escaping the trial by fire of divorcing their opposite gender spouse. However, I suspect that the overwhelming majority of us are virgins in the arena of legal marriage and divorce.

Most of us are familiar with the concept of alimony, and child support. As an attorney with a most romantic bent of heart, and thoroughly captivated by the concept of gay marriage: I feel none the less compelled to share with you a few of the hard facts of divorce.

Let's talk about alimony: If you have been in a relatively long term marriage (say over 5 years) and you make substantially more money than your spouse, you may be required to give your spouse some type of alimony, i.e., payments to compensate him or her for time spent married to you. Permanent alimony is just what it sounds like, permanent payments for the life of the spouse, unless she or he remarries. Rehabilitative alimony is awarded for specific time periods, months to years, in situations where it appears that after a period of school or other training your ex will be able to get “back on his or her feet” without any further help from you. Lump sum alimony is a “lump sum” award, to help out the poorer spouse, e.g., your spouse may be awarded the house, debt free, as a lump sum alimony award.

What about that 401K, IRA, and other tax deferred pension plan? If you are the more affluent spouse, the judge may award up to ½ of your tax deferred plan to your ex. Assets acquired in the course of the marriage are considered marital assets, and belong to both of you, regardless of whose name the asset may be held in. Bank accounts, brokerage accounts, real estate, even inheritances if they have been sufficiently commingled with marital assets - are all in the marital pot to be divided according to principles set down in law to fairly apportion assets when a couple ends

their marriage. And, by the way, if you are the more affluent of the pair, you will probably pay both your attorney and his or her attorney's fees, *and* provide support during the divorce, even if you are living in a one bedroom apartment while she sips cosmos by the pool at the marital manse.

While typically considered onerous by the more affluent of the spouses, divorce offers protection and respect for the value of non-monetary contributions of the less prosperous spouse, that is, his or her love, time and devotion to the marriage. An eye is put to the old concept of supporting someone in the style to which they have become accustomed. Its not enough that your children and spouse have a roof over their heads and food in their mouths, if you are eating caviar, maybe they should also have that option. This particularly pertains to child support provisions, which provide that when your financial situation changes, especially for the better, your child support obligations are subject to increases.

As an attorney I support divorce laws, and look forward to seeing them applied to our GLBT population that chooses to marry. For too many years, I have watched gay couples break up with absolutely no safety net for the less affluent half of the couple. It must be human nature upon a break up to become irrationally selfish, and to despise your newly estranged spouse (at least temporarily), just as I suspect that it is human nature that causes us to want to couple in the first place. Marriage and divorce are institutions that will be with us as long as humans inhabit the planet. I look forward to the day, not so long in the future, when the term "gay divorcee" will have come into its own.