

# LGBT ESTATE PLANNING IN NEVADA

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Estate planning can be beneficial to anyone, wealthy or not. Estate planning can be even more important for same-sex couples, especially those living in a state that does not recognize same-sex marriage. Marriage makes estate planning easier because many benefits are automatic for spouses. However, if a legal marriage is not a possibility, it is imperative that couples plan ahead, in order to ensure their partners and their families are protected in the event of their death. If you are currently facing these issues, but you are unsure what to do, consult with an estate planning attorney who is experienced in dealing with LGBT concerns. We can provide great advice to assist you in finding the protection strategies and estate planning tools needed to achieve your goals for the future, no matter what they may be.

## **ESTATE PLANNING ISSUES FACING SAME-SEX COUPLES**



The law is always changing, and even more so with regards to gay rights. The LGBT community will continue to face challenges in the area of estate planning, tax planning, and gift taxes, as the views of same-sex relationship continue to change and evolve in

each state and the country. We understand that some of the needs and concerns of the LGBT community are different from other families, especially in the area of estate planning. Our firm is sensitive to those needs and prepared to help you find the answers you need.

### **THE EFFECTS OF STATE AND FEDERAL LAWS**

State and federal laws play a critical role in establishing how couples can jointly own property. The laws also determine who will receive which assets when someone dies, how taxes should be calculated, and who can be given the power to make health care decisions for someone else, if they become incapacitated. Unfortunately, most of these laws only apply to couples who are legally married. For instance, married couples can visit each other in the hospital -- no questions asked. Married spouses also inherit from one another automatically, even without a will. Married couples also enjoy certain tax breaks that other citizens do not.



## **RECOGNITION OF SAME-SEX MARRIAGE**

While most states still do not recognize same-sex marriages, these significant benefits are not available to these couples. So, same-sex couples need to create an estate plan that sets out their intentions in these specific legal areas, in order to make their choices legally binding.



If you currently live in a state where you are considered legally married, in a domestic partnership or civil union, establishing an estate plan can still ensure your wishes are documented, regardless of

where you may be living at the time of your death, or who may be determining the legality of your partnership.

## **WHAT SHOULD WE DO?**

While you could try to establish an estate plan on your own, it would be very beneficial to consult an estate planning attorney who specializes in same-sex legal issues in your state. There are numerous laws that can affect same-sex couples. An experienced estate planning attorney can make sure you have all of your bases covered.

## **A LAST WILL AND TESTAMENT**



The last will and testament is the foundation of every estate plan. You must put in writing what you want to happen to your property upon your death. With a will, you can designate who you want to serve as your executor, as well as who

should inherit which property. Without a will, state law will ultimately decide who receives your property and, unless your partner is legally recognized as your spouse, these state statutes will not include your partner.

## **A DOMESTIC PARTNERSHIP AGREEMENT**

A simple way to document a couple's intentions with regard to their relationship is to create a domestic partnership agreement. This type of agreement is similar to a prenuptial agreement, in that it provides the terms for dividing your property if you and your partner separate, as well as how your property should be distributed upon your death. A domestic partnership agreement is enforceable in court, just like any other valid contract.

## **ADVANCE DIRECTIVES**

Another essential element to every estate plan is an advance directive. This can take the form of a living will or a power of attorney for health care. Advance directives allow you to appoint someone to be responsible for making decisions regarding your health care, in the event you are unable to do so on your own. Without an advance directive, your partner may not have any legal authority to make the more important decisions for you. He or she may not even be able to visit you in the hospital.

If you have questions regarding estate planning for the LGBT community, or any other estate planning needs, please contact Anderson, Dorn & Rader, Ltd., either [online](#) or by calling us at (775) 823-9455.

## About the Author



### **Bradley B. Anderson**

Prior to founding his own firm in 1995, Mr. Anderson served as a senior counsel for two major financial institutions and witnessed the often devastating effects of ineffective estate planning with many customers of those institutions. When he eventually decided to venture out on his own, this experience led him to focus exclusively on estate planning, providing his clients with a full range of basic and advanced planning options.

Mr. Anderson began his professional life as a teacher of mentally-challenged, visually impaired students. After four years as a special education teacher, Mr. Anderson returned to school to obtain his law degree and begin a second career. Upon finishing law school, he went to work for a civil litigation firm, spending five years handling litigation, probate and wills work. He then moved on to Wells Fargo Credit Corporation where he served as senior counsel. In 1990 he accepted a position with the First Interstate Bank Legal Division, where he had responsibility for several divisions, including the Trust Department. In 1995, he began his own practice as Bradley B Anderson, Attorney at Law. The firm has continued to grow into the premier estate planning law firm we see today.

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