

MICHELE ZAVOS LAW GROUP, PLLC  
E-Newsletter, Vol. 1, No. 2  
*Updates to the law in the DC Metro Area*

*Creating legal protections for you and the family you choose.*



MICHELE ZAVOS  
LAW GROUP, PLLC  
is a comprehensive  
family law practice  
that provides legal  
representation to all  
types of families.

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**Our Practice Areas:**

Adoptions of all types  
Estate planning,  
including Wills and  
Powers of Attorney  
Divorce & Dissolution  
Parenting, Donor &  
Partner Agreements  
Custody & Visitation  
Assisted Reproductive  
Technology  
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## Welcome to our firm's second E-Newsletter!

*The past few months have seen very significant changes in laws affecting same-sex couples in the Washington metropolitan area. These changes have implications for you, your family, and your friends. We have listed a summary of those changes below.*

### **DISTRICT OF COLUMBIA**

#### 1. *Marriage Equality in the District of Columbia*

- DC now recognizes any same-sex marriage performed outside of DC as a marriage within the District, although these marriages are still not recognized on the federal level.
- The Religious Freedom and Civil Marriage Equality Act has been introduced in the City Council to allow same-sex marriages to be performed in the District. This bill is expected to pass the City Council by the winter holidays, and will probably get through Congress early in 2010. If it survives court challenges, same-sex couples will be able to marry in the District of Columbia.

#### 2. *DC's Domestic Partnership law was greatly expanded in July of 2009*

A. Domestic partners are treated as spouses for tax purposes, and domestic partners can file joint DC tax returns

B. Domestic partners can hold property as tenants by the

*We can also make referrals for all other areas of law.*

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entirety

- Tenants by the Entirety is defined as property holders that have survivorship rights, meaning that when one owner dies, the other owner of the property owns the property outright, regardless of wills or estate challenges stating otherwise.
- This type of ownership of property had been previously reserved only to opposite sex couples that were married.

#### ***WHAT SHOULD YOU DO?***

- We recommend that any couple planning to be married outside of DC should FIRST register as Domestic Partners in DC. This will ensure that a couple will still be protected as Domestic Partners in the event that Congress elects to act and change DC's new laws recognizing same-sex marriages from other states.
- Couples who were married outside of DC or joined in a civil union outside of DC can now seek a divorce after separation. Our firm has represented individuals in two such divorces in the District. We can assist you in obtaining a divorce if you have been separated and unable to be divorced.
- Same-sex couples with significant wealth have the new advantage of the DC Marital Deduction, potentially saving thousands of dollars in DC Estate Taxes. Call our firm to update your estate planning needs.
- Owning real property as Tenants by the Entirety will provide you with protections from creditors. Call our firm if you would like to discuss changing the joint ownership of your property.

3. *DC has passed a new Parentage Act, which is one of the most far-reaching in the country.*

A. A child born in DC to Registered Domestic Partners will have both parents on birth certificate

- Both the Birth Mother and the Domestic Partner of Birth Mother will be listed on the birth certificate as parents if the child is born in DC
- Domestic Partnership Registration does not have to be filed before the conception of the child; only before the birth of the child.

B. If you are NOT in a Registered Domestic Partnership, and child is born in DC:

- Both the Birth Mother and the partner of the Birth Mother will be listed on the birth certificate as parents, IF:
  1. Both partners sign a Consent Form acknowledging that they both intend to parent the child born by artificial insemination.
  2. Consent Form is provided by the Registrar of DC Vital Records
  3. Consent Form may be signed even after the birth of the child

C. A sperm donor is generally NOT a parent of the child

- A donor of sperm to a person for insemination, other than the donor's spouse or domestic partner, is NOT a parent of a child thereby conceived, UNLESS the donor and the person agree in writing that said donor shall be a parent.

***WHAT SHOULD YOU DO?***

- Domestic Partners should STILL adopt the child, regardless of the birth certificate.
- The parent's name on the birth certificate only provides a presumption of parentage, whereas an adoption provides a clear judicial order that you are the parent of the child, and that each and every State and the Federal Government should recognize your status as the parent of the child.
- This is why our firm strongly recommends that a second-parent adoption still take place, even

though both same-sex parents will now be listed on the birth certificate.

- If you are planning to donate sperm so that someone can become pregnant, or you are using a known sperm donor to become pregnant, please contact us to advise you of the new law.

#### 4. *Changes in DC Adoption Law*

##### A. Waiver of Investigation requirement for Domestic Partners and same-sex married couples

- The home study investigation requirement can be waived by the Court if the prospective adoptive parent is the registered Domestic Partner of the parent, or if the partners have been married or joined in civil union in another state outside of the District.
- The nonlegal parent will still have to obtain an FBI clearance and criminal checks from every jurisdiction lived in, worked in, or where there was substantial contact for the last five (5) years.

## **MARYLAND**

### 1. *Domestic Partners of State Employees Will Receive Benefits*

- Domestic Partners and dependent children of same-sex partners are able to receive health benefits and life insurance benefits.
- The in-vitro fertilization benefit, however, will not be available to same-sex partners of state employees.

### 2. *Domestic Partners are Exempted from Paying Some State Inheritance Tax*

- Inheritance tax applies to any bequest of more than \$1,000 to someone who is not a close family member.
- If a domestic partner owns the primary residential property as a joint tenant with the deceased

partner, the surviving partner is exempt from paying the inheritance tax on the equity in the property.

3. *Estate Tax Exemptions (State and Federal) Are Not Applicable to Same-Sex Marriages or Domestic Partnerships*

- Opposite-sex married couples are able to transfer assets to a spouse without incurring a state or federal estate tax.
- Domestic Partners and Same-Sex married couples are ineligible for this benefit, and will face a state estate tax if the deceased's property is valued at more than \$1 million, and a federal estate tax if the property is valued at more than \$3.5 million.

4. *De Facto Parentage*

- The Maryland Court of Appeals recently issued an opinion in 2009, *Kahlor v. Marks*, that makes it extremely difficult for a parent who has no formal legal relationship to a child to prove de facto parentage.

**WHAT SHOULD YOU DO?**

- We STRONGLY recommend that anyone raising a child with a partner obtain a second-parent adoption if at all possible.

**VIRGINIA**

1. *A Child Born to Same-Sex Parents Can Have Both Parents on Birth Certificate*

- If both parties of a same-sex couple are the legal parents of a child born in Virginia or initially adopted in Virginia after a foreign adoption, both parties can be listed on the birth certificate as "Parent 1" and "Parent 2." Virginia birth certificates now do not designate "Mother" and "Father," but rather "Parent 1" and "Parent 2."

- Currently this birth certificate update only applies to adoptive parents who have obtained a joint adoption or second-parent adoption outside of Virginia of a child born in Virginia or initially adopted in Virginia after a foreign adoption.

## 2. *De Facto Parentage*

- The Supreme Court of Virginia also recently issued an opinion on de facto parentage, *Stadter v. Siperko*, which makes it extremely difficult for a parent who has no formal legal relationship to a child to prove that the parent is, in fact, a parent of the child.

### **WHAT SHOULD YOU DO?**

- We STRONGLY recommend that anyone raising a child with a partner obtain a second-parent adoption if at all possible, or at least execute a Co-Parenting Agreement and other planning documents.

Interested in learning more about the legal services offered by The MICHELE ZAVOS LAW GROUP, PLLC? Please visit us on the web at <http://www.zavoslawgroup.com>

### **FIRM NOTES:**

- **Michele Zavos** has been named as an "Angel in Adoption" by Congresswoman Eleanor Holmes Norton and the Congressional Coalition on Adoption Institute. Michele is the only Angel chosen by Congresswoman Norton from Washington D.C., and is one of 172 individual Angels named by members of Congress from all 50 states this year.
- **Michele** testified before the D.C. City Council on October 26th on the subject of same-sex marriage equality. Email Sarah Coats, [scoats@zavoslawgroup.com](mailto:scoats@zavoslawgroup.com), if you would like a copy of her testimony.
- Our firm is sponsoring the 24th Annual Winter Family Concert, taking place on Saturday,

December 5th at 1:00pm at the Takoma Park/Silver Spring Performing Arts Center, hosted by Grammy award winners **Cathy Fink** and **Marcy Marxer**. Special guest this year is Scottish Fiddle Champion, **Bonnie Rideout**. We are offering free tickets to our clients, their families, and friends. See the following link for additional details: <http://cathymarcy.com/blog/?p=196>. Please email Sarah Coats at [scoats@zavoslawgroup.com](mailto:scoats@zavoslawgroup.com) if you are interested in attending as a guest of the firm.

- **Emily Russell** and **Heather McCabe** are no longer with the firm. We wish both of them well in their future endeavors.
- **Mike Callahan**, our former Paralegal, has left the firm to attend law school in Seattle, Washington. Mike also recently announced his engagement, and we wish him the best in his marriage and his law school career.
- **Tara Steinnerd**, who hails from Texas, has joined our firm as a law school graduate from Catholic University. Tara is anxiously awaiting her bar examination results so she will be an Associate with the firm and appear in Court!
- **Sarah Coats** has joined the firm as our Paralegal. Sarah holds a Master's degree from Boston University as well as two undergraduate degrees from Kansas State University. Sarah has quickly established herself as an essential part of the firm.

**Please stop by and visit us!**

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