Living Together Contracts

Should I read this?

Yes, if you are part of a Washington couple that cannot or chooses not to marry or be registered domestic partners. The law generally says nothing about if/how you will share your property/debts/other responsibilities.

You can draft a **living together contract (LTC)** (domestic partnership agreement) to organize and document your relationship. It spells out your contractual legal rights and responsibilities to each other. It can help you

- Clarify property ownership.
- Divide your property and debt if your relationship ends.

> ❖ You should work with an experienced family law attorney familiar with these issues when drafting such an agreement.

What is a "Living Together Contract" (LTC)?

It is a contract between partners in a committed relationship who are not married or in a state-registered domestic partnership. It spells out how you will share:

- Property.
- Debt.
- Other responsibilities within the relationship.

In an LTC, you write down agreed expectations/understandings about the relationship.

Do I need an LTC?

It depends. Its main purpose is to show how you will own property and divide debts. It is good:

- For a long-term committed relationship.
- Where there are financial differences between you and your partner. (**Examples**: one earns much more than the other or one entered the relationship with lots of debt.)
- If you are planning to mix your assets or share expenses.

> ❖ **You may not need an LTC** in a casual relationship where you do not share your money/income.

You may not have many assets. You may plan to keep your finances separate. An LTC can still help you show how you plan to share day-to-day expenses and responsibilities.

What if we are an elderly couple?

In Washington, if one of you is 62 or older, you can register with the state as domestic partners.

We have registered as domestic partners. Do we need an LTC?

No. Registered domestic partners in Washington have almost all the same rights and responsibilities under state law as married spouses.

> ❖ If you and your partner plan to move out of Washington, get an LTC. Many other states do not legally recognize Washington registered domestic partnerships.

When should we draft an LTC?

Do it early on. This may seem uncomfortable and unnecessary, but it is easier to do at the start than when your relationship is strained, and might be ending.

What should we put in an LTC?

It can cover any/every aspect of your finances and the division of responsibility within your relationship. You can limit it to a few key issues, like buying a new house or other large expense.

What should our LTC address?

Any **income** either of you earn while living together. Is your salary your income alone or will you share it with your partner? If you will share, will it belong equally to both of you? What about income from other sources?

All the **property and assets** you own together, including:

- Property you each owned before your relationship and before you started living together.
- Inheritances/gifts one/both partners got during the relationship.
- Property bought during the relationship. You should further divide this property into categories, such as:
    - Property one partner bought that you plan to own separately.
    - Property you bought jointly and plan to own 50/50.
    - Property you bought jointly and plan to own according to your contribution. **Example**: You buy a microwave together for $100. You contributed $75. Your partner contributed $25. Relative ownership would be 75% by you and 25% by your partner.
    - Property one of you bought; the other contributed to it later. **Example**: Your partner buys a house with his/her savings or inheritance. You agree to contribute a certain amount of time/labor/resources to improving the house. Your LTC should state your understanding about each person's interest in the house. Will your partner stay the sole owner? Will your labor build "sweat equity" in the house?

Debts and expenses, including:

- Debts or other financial obligations (examples: child support, car payments, credit card payments) one partner incurred before your relationship and before you started living together.
- Debts one partner incurred individually during the relationship.
- Debts incurred jointly during the relationship.

> ❖ Your LTC should say who is responsible for what part of any debts during the relationship.

Bank Accounts – whether you will keep separate bank accounts or put all your money into one joint account.

❖ If you open a joint account, either of you can withdraw all the funds from the account without the other's knowledge/consent. Think about whether you trust your partner with your money and think alike about spending/saving BEFORE opening a joint account.

Credit cards – your LTC should say:

- If you plan to hold credit card accounts individually or jointly.
- Which of you is responsible for which expenses/charges.

Each partner to a joint credit card account is personally responsible for all charges incurred on the card. **Example**: Your partner runs up a bill of $1,000 without telling you. The credit card company can hold you responsible for repaying the entire amount, even though you did not make or authorize the purchases.

General expenses - including:

- Who will pay which **living expenses** (utilities, groceries, homeowners/rental insurance)?
- Who will pay what **personal expenses** (medical/dental, car insurance, and clothing)?
- If you live in a rental apartment/house, your LTC can state your understanding about the rental. Decide if both names will appear on the lease; how you will divide responsibility for rent and any repairs; and who will keep the rental if you break up.

❖ Before one of you moves into the other's rental, check the lease/rental agreement. It usually requires you to notify your landlord before another person can move in. It may let the landlord demand more rent or security deposit. It may even authorize the landlord to end the lease.

Should our agreement say what happens if we break up?

Yes. This is probably its main purpose. Each section should have language explaining how you would divide your assets/debts in case of a break-up. **Examples**:

- How will you divide joint bank accounts?
- How will you divide the charges on joint credit cards?

This will save confusion and disagreement.

It should also explain how you plan to handle disagreements about matters your LTC addresses. The court process might cost thousands of dollars and take months/years. Your LTC could include a provision stating you agree to use an alternative dispute resolution mechanism, like mediation. Mediation: Should I Use It has more info.

Is our agreement legal?

Yes, if both of you sign and date it. If it covers real estate, you should also have it notarized.

Once you both have signed it, you both need a signed copy. In Washington, photocopied signatures on LTC's are as effective as original signatures.

We do not have an LTC. We are breaking up. Can we go to court?

Yes. The court must first find you are in a "marriage-like relationship" (or "committed intimate relationship) before deciding how to divide your property/debts.

> ❖ Filing a court action is expensive and can take many months.

Can we change our LTC?

Yes. Your changed LTC should make clear that:

- It reflects everything you have agreed to.
- It replaces all earlier agreements.

Sample language: "This agreement contains the entire understanding between us regarding the matters addressed here. It can only be modified in writing signed by both parties." Then one partner cannot later claim you both verbally agreed to change the contract's terms.

If you do both decide to change some part of the agreement, **put the change in writing and sign it as soon as possible**. Do not just verbally agree to a change. This will create confusion and possible disputes later.

Any change you make to your LTC must say whether it replaces the whole agreement, or just parts. With big changes, you should probably start over with a new written agreement. You can copy anything from the original into the new one.

What should our LTC <u>not</u> say?

Do not include discuss your sexual relationship or sexual responsibilities.

Example 1: You both have agreed you will do the dishes every night in exchange for sexual favors on Sunday mornings. Do not put that in your written agreement. A reviewing court could void (cancel) your entire agreement if you include any language it sees as an exchange of sex for some other benefit.

Example 2: Do not include any requirement that your partner be "faithful" to you. A court may void your agreement.

Can we put in the agreement who will clean the house and take the kids to school?

Protect your privacy. Use a separate LTC for personal issues.

Do not put your financial and personal arrangements in one contract. If you fight about how to divide your assets or other financial obligations, you may need to file your agreement in court. Everything becomes public record. Anyone can review it.

> ❖ If you go back to court over a financial provision in your LTC, the personal obligation parts of your contract might distract or confuse the court.

How else can I give my partner access to my finances?

You can execute a "Power of Attorney for Finances" giving your partner access to your income and assets (bank accounts, stock certificates, property deeds, and so on). Then your partner can, as your "attorney in fact," conduct financial matters on your behalf with third parties, such as your bank, mortgage lender, utility company, and so on. Like an LTC, a Power of Attorney can cover all, one, or a few financial matters.

Your Power of Attorney must say when it is effective (when it works) and when you have revoked (canceled) it. **Examples**:

- Your Power of Attorney is effective immediately with no expiration date.
- Your Power of Attorney is effective only when you are incapacitated.
- It is only to be effective for a year or two.

The law allows third parties (other people, like bank or store employees) to rely on your partner's actions/decisions acting under a Power of Attorney. You will be bound by whatever your partner does while acting under your Power of Attorney. Think carefully how about much power to give your partner.

Do not use a Power of Attorney in a short-term or uncommitted relationship, even if you have been together for years. You could instead have one or more joint bank accounts for paying your joint expenses.

❖ Talk with a lawyer about your goals and what paperwork to use.

Are there tax consequences to sharing my assets with my partner?

It might have a major effect on your taxes, even if you do not use an LTC. Work with an experienced lawyer to figure out the best way for tax purposes to buy/hold/transfer your property.

Does it affect public benefits if we share assets?

Yes. It definitely affects some benefits (TANF). It may also affect others (SSI and SSDI).

Where can I get more info?

Legal Voice's publication called Questions and Answers regarding Washington State's Registered Domestic Partnership Law has more info. You can find it and others at www.washingtonlawhelp.org, including:

- Washington Property Law for Unmarried Couples Who Are Separating
- Filing a Complaint to Divide Property and Debts of an Unmarried Couple
- Mediation: Should I Use It?

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