What's Love Got to do With It: When Unmarried Couples Live Like Married Couples

BY LYNETTE PACZKOWSKI • NOVEMBER 23, 2020

The pandemic may be delaying weddings, but people are still moving forward living their lives together – and making some unfortunate financial decisions. Unfortunate because they are not protected by laws that would protect married individuals in a divorce. Although marriage rates have hit historic lows, people continue to date, enter committed relationships, move in together, and make life decisions as if they were a married couple. This includes opening joint bank accounts and buying property together. These actions, while normal and commonplace, can expose the individuals to serious risk if the relationship sours.

When a marriage ends, there are statutes, case law, and Court Rules that protect the parties. For example, the so-called "automatic restraining order" prevents either party from spending or transferring any marital assets once a divorce is filed and served other than as necessary to pay things like reasonable living expenses and legal fees. It applies to all assets, including joint bank accounts. Unmarried couples, however, do not have the same protections, and the parties' respective contributions to a joint bank account could be at risk. Additionally, Massachusetts law provides that both parties to a marriage walk away with an equitable share of the "marital estate" (essentially, the combined assets of the couple). When an unmarried couple splits, however, there are no such protections or guarantees.

That does not mean that unmarried couples are without options. While suggesting a "no-nuptial" or cohabitation agreement to your partner may not feel like the most romantic of gestures, it may be a necessary conversation to help mitigate the inherent risks of these situations. Similar to a pre-nuptial agreement, this type of legal document can spell out what happens in the event of a break-up.

For example, many unmarried couples who purchase a home together take title to the property in their joint names. A no-nup or cohabitation agreement can set forth the manner in which the property interests are handled in the event of a breakup, such as identifying which party will get the option to stay in the property and the terms upon which he or she can buy the other out. In the absence of such an agreement, the parties could be left trying to reach an agreement on these issues at a time when emotions are high on the heels of a breakup. If they are unable to agree, they are likely to find themselves in Court, litigating the matter through a Petition to Partition, with a sale of the property to a third party the most likely outcome.

Unmarried couples who purchase property together should also carefully consider the mortgage. If the parties co-signed for the mortgage, merely agreeing to remove one party's name from title to the property without also addressing refinance of the property is not enough.

Even if you've already opened joint accounts, purchased property, co-signed loans, etc., with your unmarried partner

©2026 Bowditch & Dewey LLP. All Rights Reserved.

without an “if we break up” agreement in place, it’s not too late to have those conversations and put it in writing now. In addition to the items addressed above, these types of agreements can help protect the assets each person brought into the relationship and address what happens to assets acquired jointly during the relationship.

Few people go into a relationship planning for it to end someday; we want to believe in true love that lasts forever. Experience tells us that is not always the case, however, and having these conversations before it is too late can save you a world of problems later.

©2026 Bowditch & Dewey LLP. All Rights Reserved.