

Legal Rights Gained from Marriage in Wisconsin

Getting married in Wisconsin gives spouses many important legal rights and protections. These rights affect finances, property, decision-making, and benefits at both the state and federal levels. Below, we explain key rights that come with marriage in Wisconsin.

Property Rights and Division of Assets

Wisconsin is a community property state. This means that most property and income obtained during the marriage belongs equally to both spouses during the marriage, regardless of who earned the money or whose name is on the title.

Wisconsin law gives spouses a different yet related set of rights when ending their marriage. In Wisconsin divorces, all property owned by either spouse—except for gifts or inherited assets—is generally presumed to be divided equally, even if the spouse owned it before the marriage. However, courts don't always divide things 50/50. They may consider factors like how long the marriage lasted and each spouse's income. See our article [What criteria do the courts use when dividing property in a divorce?](#) for more information.

Spouses can change how property is owned and managed during the marriage, and divided in the case of a divorce, by creating a marital property agreement (aka a prenup or postnup), which lets them put in place different terms than those set by state law.

Inheritance Rights

If a married person dies without a will, the surviving spouse automatically inherits most or all of their property. The amount they receive depends on if the deceased spouse had children from a previous relationship.

If a spouse writes a will but leaves their spouse out of it, the surviving spouse can still claim a share of the estate - they cannot be completely disinherited.

Additionally, federal law protects a surviving spouse's rights to receive survivor benefits from their deceased spouse's pension unless the surviving spouse has signed a waiver.

Medical Decision-Making and Medical Records

Under Wisconsin law, a spouse is considered a default healthcare agent. This means if a spouse is unconscious or unable to communicate, the other spouse can make medical decisions on their behalf even if they don't have a healthcare power of attorney document.

Spouses also have access to each other's medical records under the Health Insurance Portability and Accountability Act (HIPAA). HIPAA allows healthcare providers to share medical information with a spouse unless the patient has requested otherwise.

Without a healthcare power of attorney document, an unmarried partner cannot access medical records or make emergency healthcare decisions.

Tax Benefits

Marriage gives couples tax advantages at both the state and federal levels. Both Wisconsin and federal law let spouses file joint tax returns, which can lead to lower tax rates and larger deductions. Additionally, federal law provides an unlimited marital deduction, meaning one spouse can transfer an unlimited amount of assets to the other without paying federal estate or gift taxes. Certain tax credits, such as the Earned Income Tax Credit (EITC) and child tax credits, may be higher for married couples.

Spousal Maintenance (Alimony)

If a couple divorces, one spouse may have the right to get financial support (maintenance) from the other, depending on things like income and length of the marriage. The court decides whether support is necessary and for how long. See our article on [spousal maintenance](#) for more information.

Social Security

A spouse can receive Social Security benefits based on their partner's work history which can be especially helpful if one spouse earned significantly less during their lifetime. If one spouse worked and paid into Social Security, the other spouse can receive retirement benefits based on their earnings—even if they never worked themselves. If a spouse dies, the surviving partner may also qualify for Social Security survivor benefits. Additionally, if a marriage lasted at least ten years, a divorced spouse may still be able to receive benefits based on their former spouse's earnings.

Health Insurance

A married person can often be covered under their spouse's health insurance plan. Spouses are eligible for health insurance benefits through each other's employer-sponsored plans. If a spouse loses their job, they may be able to continue their health coverage through their partner's employer-based insurance for a limited time.

Immigration Benefits

Marriage can provide immigration advantages for non-U.S. citizens. A U.S. citizen or lawful permanent resident can sponsor their spouse for a green card. This allows the non-citizen spouse to live and work in the United States.

Protection from Testifying Against a Spouse

For most legal proceedings, Wisconsin law forbids someone from being forced to testify to private conversations with their spouse.

Conclusion

Marriage provides many legal rights and protections in Wisconsin, covering areas like property, medical decisions, financial support, and taxes. Understanding these rights can help couples make informed decisions about their future. If you are considering marriage or have questions about your rights as a married person, it may be helpful to speak with a family law attorney to fully understand how the law applies to your specific situation.

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