

The Changing Definition of the Family for Employee Benefits

PAUL OLSEN

IBM's decision to extend benefits to the partners of its gay and lesbian employees has focused new attention on the issues of workplace equality and the changing definition of the family for purposes of employee benefits.

Behavioral and demographic changes document significant shifts in American households and, subsequently, the definition of family. Blended families, later marriages, delayed childbearing, middle-aged couples caring for elderly parents and children (the "sandwich generation"), and gay men and lesbians in committed relationships all contribute to a diverse workforce with a variety of benefit needs.

SOCIETAL CHANGES

According to the U.S. Census Bureau, nearly 3.7 million households are made up of unmarried heterosexual couples. (Statistics regarding the number of same-sex partner households have not been accurately tracked). The attainment of domestic partner benefits remains a critical issue for gay men, lesbians, and many unmarried heterosexual couples. While accurate statistics regarding the prevalence of domestic partner benefits do not exist, the struggle for domestic partner benefits has been successful at many Vermont employers including Ben & Jerry's Homemade, Blue Cross Blue Shield of Vermont, Champlain College, City of Burlington, Fletcher Allen Health Care, Gardener's Supply Company, Middlebury College, Planned Parenthood, State of Vermont, Town of Middlebury, and UVM.

DOMESTIC PARTNER BENEFITS

Domestic partner benefits are benefits made available to couples and their children who are

Sorrell Responds to Lawsuit

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town clerk had properly refused the marriage license because, in the office's interpretation, the Vermont legislature had prohibited same-gender marriages.

There have been 22 years since the 1975 opinion during which the legislature could have said the opinion was wrong, but it hasn't, according to the Attorney General.

"Although Vermont legislative sessions in the last 20-plus years have affirmatively granted rights to gay Vermonters against discrimination on a range of areas including housing, employment and access to commercial credit, it has not stated specifically [anything] which is contrary to the opinion that was issued 20-some years ago" on same-gender marriage, said Sorrell.

Another point of interest in the state's case, according to Sorrell, is an equal rights amendment that was proposed to the Vermont constitution in the 1980's. Sorrell pointed out that Hawaii, whose supreme court "seems poised to say that there is a right under the Hawaii constitution to same gender marriage," has such an equal rights provision. Vermont voters, however, specifically turned down the proposed amendment to the Vermont constitution some ten years ago.

"I don't think gay marriage was the issue that was most directly addressed when people were discussing the merits of the equal rights amendment in the '80s, but it at least gives some view of what Vermonters were thinking much more recently than 1793 when the Vermont constitution was enacted," Sorrell said.

Given his role to defend the presumed constitutionality of legislative enactments, Sorrell said that he and his staff will "be in the court saying that we don't believe the framers [of the Vermont constitution] intended it, the constitution hasn't been amended in the interim and the legislature hasn't affirmatively granted the right. Now if the court finds a right under the constitution for same-gender marriage, although not specifically granted, but in a general grant of equal rights under the Vermont constitution, then that's what the role of the court is all about."

It is still too early to know how much this lawsuit will cost the state, Sorrell said, or how long before a firm decision will be made since there are several routes the case could take, depending upon whether or not live testimony is required in a trial court. Sorrell said that no matter what happens at the trial court level, it is likely that there will be an appeal to the Vermont supreme court.

"It's possible that the Vermont supreme court [will have] heard the case and made a final decision for Vermont purposes as of roughly a year from today. It's probably equally likely that three years from today this matter is still going through the courts," he said.

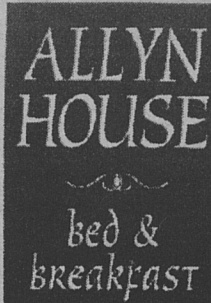
He anticipated that the direction of the case will become clearer after a status conference in December or January. Sorrell said that no matter how long the lawsuit takes, he wants to see it fully and fairly addressed. "I think it's a fair question. It deserves to be fairly litigated," he said.

not legally married but who have a substantial commitment to each other. Domestic partner benefits may include health, dental and life insurance, family and bereavement leave, use of facilities, discounts, and invitations to workplace events. Some employers provide benefits only to same-sex

partners on the theory that opposite-sex partners can legally get married. Other employers, out of a sense of fairness, provide domestic partner benefits to both gay and straight employees.

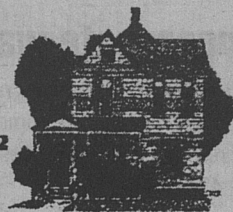
Domestic partnership policies define relationships that qualify for benefits.

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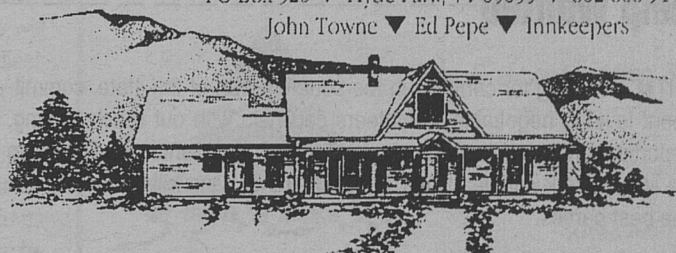
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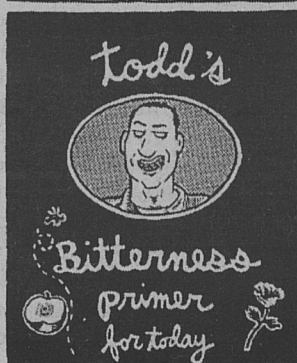


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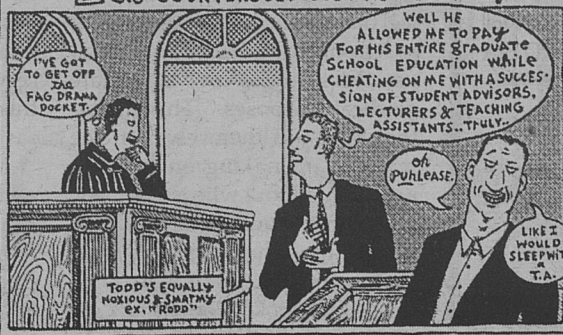
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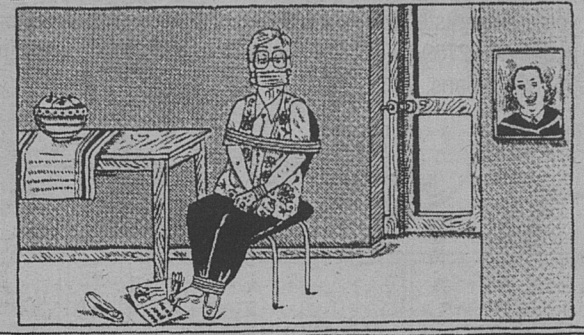
1 Files SUIT REGULARLY AGAINST EX BOYFRIENDS.



2 IS COUNTERSUED JUST AS REGULARLY.



3 FORBIDS MOM FROM SENDING EX BIRTHDAY GREETING.



4 FINDS OUT THE SNEAKY OL' WITCH (TODD'S TERM, NOT MINE) SENT IT ANYWAY...



5 PLANS SHOWY DINNER PARTY HOPING THOSE HE DIDN'T INVITE WILL NOTICE THE EXCLUSION...



6 ENDURES SAME DINNER PARTY LISTENING TO LENGTHY AND HEARTFELT TESTIMONIALS BY PEOPLE HE DID INVITE ABOUT PEOPLE HE DIDN'T



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