

# **NOTICE TO THE BAR**

## **Procedures for Termination of Domestic Partnerships**

Directive # 9-04

Questions or comments may be directed to (609) 984-4228

To: Assignment Judges

From: Richard J. Williams

Subject: Procedures for Termination of Domestic Partnerships

Date: August 31, 2004

### **Introduction**

The Domestic Partnership Act (L. 2003, c. 246, codified at N.J.S.A. 26:8A-1 et seq.) was signed into law on January 12, 2004 and became effective July 10, 2004. This statute permits same sex couples or opposite sex couples over age 62 to establish a domestic partnership by filing an Affidavit of Domestic Partnership at the local registrar's office.

Under the statute, terminations of domestic partnership are to be handled in the Superior Court on application by either party to the partnership using essentially the same statutory grounds as marital dissolutions. This Directive sets out the procedures to be used for such applications. A new section of the Dissolution Operations Manual incorporating the substance of this Directive will be distributed separately.

### **General**

The procedures set forth in this directive were developed by the AOC's Family Practice Division in consultation with the Conferences of Family Presiding Judges and Family Division Managers.

The Domestic Partnership Act provides that an application or complaint for a termination of a domestic partnership shall have the same fee as a dissolution matter. The causes of action for the termination of a domestic partnership are substantially similar to the causes of action for divorce. The Act provides that the partners are jointly responsible for each other's basic living expenses during the domestic partnership, but a domestic partner shall not be liable for the debts of the other partner contracted before establishment of the domestic partnership, or contracted by the other partner in his own name during the domestic partnership. The statute specifically provides that the court is not required to make an equitable distribution of property acquired by one party during the domestic partnership. The statute provides that parties to a domestic partnership may enter into an agreement that modifies the rights and obligations set forth in the statute, except as to the requirements for entering into a domestic partnership.

By [Order dated July 22, 2004, the Supreme Court](#) relaxed the following Rules of Court, effective immediately, so as to apply the rules relating to dissolution matters to terminations of domestic partnerships: Rules 5:4-1 ("Process"), 5:4-2 ("Complaint"), 5:4-3 ("Answer, Acknowledgement, Appearance"), 5:5-1 ("Discovery"), 5:5-2 ("Case Information Statement"), 5:5-4 ("Motions in Family Practice"), 5:7-1 ("Venue"), and 4:43 ("Default").

### **Complaint Process**

The initial application for the termination of a domestic partnership must be by complaint, captioned in the Chancery Division, Family Part, of the county of venue.

The application must include:

- A statement of essential facts constituting the basis of the relief sought. The causes of action are listed in the statute.
- The street address or, if none, the post box office address of each party or a statement that a current address is not known with the last known address.
- A statement of essential facts to establish jurisdiction and venue.
- A statement of any previous court actions between the parties.
- An affidavit of insurance pursuant to R.5:4-2(f).
- The date and place where the domestic partnership or other civil union was granted or registered.
- A request to terminate the domestic partnership.
- A statement of whether joint property needs to be divided.

The fee for filing a Termination of Domestic Partnership Complaint is to be the same filing fee as Dissolution complaints, which at present is \$250.00. A complaint accompanied by either a Motion or an Order to Show Cause also requires the additional motion fee of \$30.00. The fee waiver procedure is the same as for dissolution cases.

Family Division staff must docket a complaint for termination of a domestic partnership as one of the following case types:

- TDP-Termination of Domestic Partnership
- ODP-Out-of-State Termination of Domestic Partnership

A Termination of Domestic Partnership case must have at least one of the following relief codes entered into FACTS in order to process the case:

- 400 -- Termination of Domestic Partnership
- 401 -- Partition of Property

Other relief allowable under dissolution may be used in terminations of domestic partnerships when requested by the parties.

Where individuals with a registered domestic partnership wish to apply to the court for relief without terminating the domestic partnership, such as support, separate maintenance or partition of property, the party must file the appropriate complaint under the Dissolution docket (FM) and pay the appropriate fee, with the relevant rules being applicable.

Where a party in a registered Domestic Partnership is seeking child support, custody or parenting time (i.e., relief relating to minor children) without seeking termination of the partnership, he or she may file a non-dissolution (FD) complaint.

## **Deficient Pleadings**

If a pleading submitted is not an original or is deficient for one of the reasons set forth below, Family Division must return the documents(s) advising the filer that the documents have been "received but not filed (date)." Pursuant to R. 1:5-6(c), the notice should inform the filer that if the document is resubmitted with the deficiency corrected and/or the correct filing fee remitted within (10) days of the "received" date, the filing will be deemed to have been made on the stamped receipt date.

Rule 1:5-6(c) sets the following filing deficiency bases:

- No fee
- Insufficient fee
- No affidavit of insurance
- Unsigned document

## **Notification to State Registrar of Termination of a Domestic Partnership**

The statute requires the court to notify the State Registrar of the termination of a domestic partnership. To that end, Family Division staff must complete the [Notice of Termination of Domestic Partnership form \(attached\)](#) and fax it to the State Registrar for each termination, retaining copies of the Notice and proof of faxing in the court's case file.

## **Post-Judgment Applications**

When the court receives a post-judgment motion regarding a Termination of Domestic Partnership, Family Division staff must process that motion in accordance with the court rules and procedures applicable to dissolution post-judgment motions.

## **Questions**

Please contact Assistant Director Harry T. Cassidy, Family Practice, at (609)984-4228, with any questions concerning this Directive or terminations of domestic partnerships generally.

R.J.W.