

HOW DOES SAME-SEX DIVORCE WORKS IN NEW YORK?

On July 24, 2011, the New York Marriage Equality Act passed, making New York the sixth state legalizing and issuing marriage licenses for same-sex couples. Despite having the same legal rights as traditional marriages, same-sex divorce lawyers are seeing some common pitfalls when it comes to the divorce court for same-sex unions.

Because same-sex unions were recently legally recognized, many couples whose relationships spanned years prior to their legal marriage may find divorce more complicated.

THE SAME YET DIFFERENT

When it comes to New York's equitable distributions laws, marital assets (acquired during the marriage) will be divided equitably between the couple.

SAME-SEX MARITAL ASSET DIVISION

For same-sex couples who have been together before their official marriage, division can be more tricky.

CHILD CUSTODY AND SAME-SEX DIVORCE

The same complications can hold true when it comes to child custody.

Typically, before same-sex marriage became legal, only one party was the legal adoptive parent of a child. When a couple seeks a divorce, custody arrangements can become complicated if the matter goes to court.

We believe that when a couple can come together to make or negotiate decisions outside the courtroom they are much better off than those who end up litigating.

NON-CONTESTED DIVORCE AND MEDIATION

A well-crafted pre-nuptial or post-nuptial agreement can avoid many issues.

At the law offices of Juan Luciano Divorce Lawyer, we strive to advise and guide our same-sex clients through the emotional waters of divorce.

GETTING EXPERIENCED ADVICE

Same-sex unions often requires the skill and finesse of an experienced same-sex divorce lawyer to understand the implications and offer options.

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JUAN LUCIANO
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Divorce Attorney Juan Luciano Discusses How Same-Sex Divorces Work in New York

April 02, 2021

Manhattan, New York - April 02, 2021 - PRESSADVANTAGE -

New York City, NY - For same-sex couples in New York, July 24, 2011, was a day to celebrate. It was the day that the New York Marriage Equality Act passed, making New York the sixth state legalizing and issuing marriage licenses for same-sex couples. But like any other couples in the throes of marriage, it was not immediately foreseeable what divorce would look like when some of these couples decided to go their separate ways. Juan Luciano, Esq., a New York City-based same-sex divorce lawyer now understands that, despite the same legal rights, same-sex divorce may have more limitations than a traditional one.

?Many of these couples who went on to marry have spent many years together, making a life, acquiring assets, adopting children. These long-term relationships had years in the making, well before they were given the legal right to marry,? Mr. Luciano explained. ?New York laws set out very specific rights for married couples who wish to divorce. But these all center around the term of the marriage. Marital assets acquired during the marriage. Children conceived during the marriage. For many same-sex couples, the marriage?s legal duration is just a small window within the larger context of their relationship. So how does that impact the equitable distribution of assets? How does the court determine custody if one parent is the only legal adoptive parent or the biological parent as in many of these cases??

Once a divorce makes it to court, the judge will have much discretion in these matters, and for some partners, the decision may not go in their favor given the current laws on the books. Even though they are the same laws applied to traditional marriages, divorce in same-sex matters can be complicated, not only concerning asset distribution and child custody but also in financial matters and spousal support. The longer the marriage, the more weight the courts give to the lower-earning spouse. But there comes an issue when a relationship that has lasted for decades will only be considered in terms of the span of the actual marriage which may be just a few short years.

Since same-sex marriage equality is still relatively new, it is impossible to know how the court will handle these types of cases. With only the current laws in place, the outcome can vary widely.

“We always advise clients that they are better off if they can come to some decisions between themselves outside the courtroom. Once the matter goes to court, it then becomes the judge’s decision, and there is no way of knowing which way that can go. When a couple can come to the negotiating table or to mediation with an open mind, they may be better off than litigating,” Mr. Luciano said. “Mediation still works within the framework of the law, but it encourages collaboration between the parties. In the end, it may be the best way to strike an agreement that suits both individuals and be fairer in the end.”

Juan Luciano is an experienced same-sex divorce lawyer practicing in New York City. To learn more about him and his practice, go to his website at <https://divorcelawfirmnyc.com/how-does-same-sex-divorce-work-in-new-york/>

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As New York City attorneys in family law, we are tasked with navigating couples and their children through these emotional times, while ensuring their legal rights and long-term best interests are protected.

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