

A Problem Same-Sex Couples May Not Have Considered

by Judy L. Burger

Many couples rushed at the chance to get married when Massachusetts passed a law allowing same-sex marriages back in 2004. From all over the country, couples flew to Massachusetts, staying only long enough to get married before returning to their home states. Unfortunately, just like many heterosexual marriages, things don't always work out and many same-sex partners have decided to go their separate ways. This is where some same-sex couples are running into a problem.

If the state where a same-sex couple resides still does not recognize same-sex marriages, then the couple cannot get divorced. The obvious rationale is you can't get divorced if you are not legally married.

In order to get legally divorced, a same-sex couple must seek a divorce in a state where the union is recognized. Most if not all states require residency for a minimum period of time before you can seek a divorce.

So, if a couple weds in Massachusetts but lives in Mississippi and they later decide to call it quits, they are typically stuck in the legal union, at least until they devise a solution to the lack of jurisdiction problem so they can get divorced in a same-sex marriage state.

Thankfully, California provides an option for same-sex couples who got married in California but now live in another state.

Same-sex married couples who got married in California but now live in another state that does not recognize same-sex marriages can file for divorced in California, despite California's standard residency requirements for divorce.

If you need assistance getting divorced from your same-sex spouse, contact us to learn more about the filing requirements and limits on the court's jurisdiction.