



Financial Planning for Unmarried Couples

An Increasingly Common, Uncommon Financial Planning Scenario

Kim and Matt have been unmarried partners for nearly 15 years. They have one child together, and Matt has two children from a previous marriage. Since they've been together, the couple's finances have become interwoven. Both are relatively high earners, and Kim recently received a sizeable inheritance from her mother, who the couple cared for together for many years.

Kim and Matt know they need an estate plan; the pandemic has served as a stark reminder of its importance. But as parents and professionals, they have very little time. They also suffer from approach avoidance: They recognize their situation is complicated, and they are tired of the subtle (or not-so-subtle) suggestion that they should marry to avoid undesired outcomes. Matt's previous marriage ended poorly, and both Kim and Matt are happy with their current arrangement.



It is now more common to have cohabitated with an unmarried partner than to have been married.¹

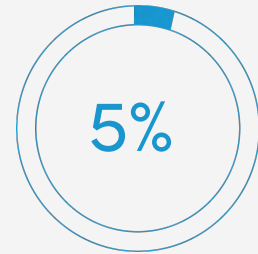
35%

of all
unmarried
parents live
with a partner²

Approximately 5% of
children live with two
unmarried parents³
(In 2007, 2.9% of children lived
with two unmarried parents)



17% of children live in
households with half siblings³



¹ Graf, Niki. "Key findings on marriage and cohabitation in the U.S." Pew Research Center, 6 November 2019, <https://www.pewresearch.org/fact-tank/2019/11/06/key-findings-on-marriage-and-cohabitation-in-the-u-s/>, retrieved 22 February 2022.

² Livingston, Gretchen. "The Changing Profile of Unmarried Parents." Pew Research Center, 25 April 2018, <https://www.pewresearch.org/social-trends/2018/04/25/the-changing-profile-of-unmarried-parents/#:~:text=Since%201997%2C%20the%20first%20year,under%2014%20million%20in%201997>, retrieved 22 February 2022. ³

"Census Bureau Releases New Report on Living Arrangements of Children." United States Census Bureau, 3 February 2022, <https://www.census.gov/newsroom/press-releases/2022/living-arrangements-of-children.html>, retrieved 22 February 2022.

Planning Pitfalls for Unmarried Couples

Despite the growing percentage of unmarried couples, current laws governing financial and estate planning do not afford the same protection to unmarried partners as they do married couples. And without a legally binding agreement, a judge cannot enforce spoken — or inferred — wishes.

In Kim and Matt's situation, potential consequences include the inability to allocate assets among their children as intended; a large, unexpected tax bill, without adequate liquidity to cover it; and leaving each other cutoff from accounts needed to fund their family's living expenses and the goals they have for their children (e.g., debt-free college and weddings).

Planning Ahead

Frances Nolan, attorney and co-founder of boutique family law firm Nolan Byers, P.C., has advice for couples wishing to avoid these unintended consequences: Stay ahead of them.

"Any party to a transaction involving shared assets, such as real estate, cars and investment accounts, should consult a lawyer. When you don't have the benefit of marriage, you become subject to issues related to asset titling and legal ownership," Nolan explains.

"For example, you may decide to buy a house with your partner in your 20s and because he has better credit than you title the property and the debt in your partner's name alone. Fast forward 10 years, and you have contributed more money than him to the loan — perhaps because he's now making less money than you or even stopped working altogether — but you've built no credit in your name and if the relationship unexpectedly ends, you have no legal rights to the property."

"You never know how life will unfold. Without careful scenario analysis and planning, you remain vulnerable," Nolan adds.

Nolan also believes financial planning for unmarried couples doesn't need to be viewed individualistically. "Married or unmarried, openly communicating about finances, and the unspoken contracts that tend to exist in relationships, generally leads to healthier relationships over the long run," she explains.

A PLANNING FRAMEWORK FOR UNMARRIED COUPLES

As a certified Collaborative lawyer, Nolan uses a newer, multidisciplinary approach to help couples think creatively and constructively about dispute resolution. For unmarried couples, she recommends the following:

- **Consult a family law attorney**

Seeking advice from an attorney who specializes in divorce might seem like an oxymoron when you don't plan to marry. But unmarried couples need to resolve many of the same issues that married spouses face during a divorce (e.g., dividing assets and debt). A family law attorney can also help guide you through the complicated emotional dynamics that come into play in reconciling your finances with your relationship. Also, depending on your situation — and the state in which you live — you may need a cohabitation agreement. A family law attorney can help you review your options for this agreement, which covers issues involving property, debts, inheritances, other estate planning considerations and health care decisions.

- **Collaborate as a team**

Traditional approaches to prenuptial and divorce agreements have limitations, Nolan says. She advocates for a less common framework called “collaborative law.” Under this framework, a couple does not separately prepare agreements with their respective attorneys. Instead, they come together with their attorneys for one or more four-way meetings in which they openly communicate and address their priorities and concerns. As part of this process, the couple can also agree to include additional third-party professionals, such as accountants and psychologists.

While no such process formally exists for unmarried couples, Nolan believes couples could informally follow one. A good place to start, she suggests, is with a financial advisor. A financial advisor can look across a couple’s entire financial picture, identify other advisors to bring into the planning conversation and serve as quarterback as solutions are identified and implemented.

- **Look for advisors with relevant experience**

While marriage rates have fallen, marriage is still the norm and governing laws are written with married couples in mind. As such, Nolan suggests looking for advisors who have relevant experience, a creative mindset and a supportive attitude to help you navigate this hurdle.

QUESTIONS FOR UNMARRIED COUPLES TO CONSIDER WITH THEIR ADVISORS:

Could you benefit from a cohabitation agreement?

What are your expectations for your assets in the event of death or disability?

What are the tax implications of your wealth transfer goals?

Are your account titles and beneficiary designations consistent with these expectations?

What are your wishes related to end-of-life health care?

How much would losing one of your incomes impact your surviving partner and children?

While the legal and financial planning environment continues to favor married couples, unmarried couples can — and should — achieve optimal outcomes for fulfilling their intentions. As highlighted by Nolan, a good place to start is with open communication, the right team of advisors and a collaborative framework. If you need help fortifying your plan with your loved one, please reach out to us.



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