

A Look At Wisconsin's Concealed Carry Law

By James S. Swiderski

On November 1, 2011, Wisconsin became the 49th state in the U.S. to allow the lawful carrying of concealed weapons. The law presents both challenges and opportunities for Wisconsin employers and business owners.

The Wisconsin Department of Justice is required to issue a concealed carry license to any applicant who is a Wisconsin resident at least 21 years old, passes a background check, and meets certain other statutory requirements including proving he or she has taken a qualifying training class. A "weapon" is defined under the law as "a handgun, an electric weapon [such as a stun gun], ...a knife other than a switchblade knife..., or a billy club." Section 175.60(1)(j), Wis. Stats. Generally speaking, a weapon is considered concealed if it is out of plain view sight. Licensed individuals are permitted to carry concealed weapons anywhere within the State of Wisconsin except where prohibited including police stations, courthouses, and beyond security checkpoints in airports. The penalty for violating the concealed carry prohibitions is a fine of \$500, up to thirty (30) days in prison, or both.

Employers in Wisconsin can prohibit their employees who are licensed to carry concealed weapons from

doing so in the course of their employment with the employer. At the same time, such employers can not prohibit their licensed employees from carrying a concealed weapon or ammunition in the employee's car, even if the employee must use the vehicle in the course of his or her employment, or the vehicle is driven or parked on the employer's property, including a parking lot.

Similarly, Wisconsin property and business owners can prohibit their guests and invitees from carrying concealed weapons on property they own or lease. In order to do so, the owner or occupant of a property must post a sign that is at least 5 x 7 inches and is located either in a prominent place near all of the entrances to the part of the building to which the restriction applies or near all probable access points to the grounds to which the restriction applies. Separate rules govern the posting of signs prohibiting carrying concealed weapons on land of 40 acres or more. While the law does not require that specific language be used in or on the sign, at a minimum, a sign should inform individuals that concealed weapons or firearms are prohibited on the premises.

The presumption under the Wisconsin concealed carry law is that employers and

property owners will choose to allow their employees and guests to carry concealed weapons in the workplace and on their premises. In return for allowing such weapons, a Wisconsin employer or property owner who does not prohibit the concealed carry of weapons on property owned or occupied by such employer or owner "is immune from any liability arising from its decision" to allow such weapons. Sections 175.60(21)(b)-(c), Wis. Stats. This broad statutory immunity from liability is not afforded to those who prohibit the carrying of concealed weapons on their premises.

In order to permit the concealed carry of weapons on property one owns or occupies, he or she need not do anything. However, to prohibit the concealed carry of weapons on property, one must determine where signs are required and post them. Employers in Wisconsin who wish to prohibit their employees from carrying concealed weapons in the workplace and in the course of their employment with the employer should have a weapons policy crafted for the employer's handbook forbidding the possession or carrying of such weapons, notify their employees of such policy, and consistently enforce the policy.

WBB



James S. Swiderski
Business Law, Real
Estate, Employment Law
jss@wbb-law.com
414-270-2536

INSIDE

Why Do I Need Life Insurance?	2
Wisconsin's Domestic Partnership Act	3
At the Firm...	4

Why Do I Need Life Insurance?

By Keith R. Butler



Keith R. Butler

**Business, Real Estate Law,
and Estate Planning**
krb@wbb-law.com
414-270-2532

The most selfless purchase a person can make is buying a life insurance policy on his or her own life. Unless you plan to cash it in at some point, which is rarely the motivation for acquiring the policy, by definition you will never enjoy any benefits of the purchase, other than the warm and fuzzy feelings that accompany knowing that you have provided for your loved ones in the event of your untimely demise.

Life insurance can be an estate planner's best friend. Alas, many folks (mostly old timers) "don't believe in life insurance." Well, I suppose there can be a variety of reasons for that, but life insurance can help solve problems in obvious and non-obvious ways. In this article, I will examine various ways of using life insurance as a tool to solve a wide variety of problems.

First, foremost, and most obviously, life insurance provides financial protection to an individual's family. This is especially true for the primary income earner. In the event of the death of the family breadwinner, it would be unfortunate, to put it mildly, if the surviving spouse had to cope with the anxiety of having to figure out how to replace lost income, or more likely scale back lifestyle, while dealing with emotional devastation.

Similarly, life insurance can be used to protect a business through procurement

of "key man" insurance. If a business, especially a small company, loses an employee crucial to its productivity, there will be some down time as a search for a successor is conducted. Revenue may suffer for a while. Key man insurance can help the business maintain its viability until a successor can be found and fully integrated into the operations.

Another use in the business context is to fund buy/sell agreements. If there are two or more owners of a business, even if it is family owned, the shareholders should have an agreement addressing what happens in the event of the death of a shareholder (in addition to other triggering events). Life insurance, owned either by the company or the other shareholder(s), is a great way to fund a buyout. When a shareholder dies, the company or the remaining shareholder(s) use the insurance proceeds to purchase the stock from the family of the deceased. As a result, the company is now owned by the surviving shareholder(s) without having to come up with cash for the purchase, and the family of the deceased has a readymade buyer, paying cash, for the stock.

Life insurance helps with many more sophisticated estate planning techniques. Probably the easiest and most frequent method of passing assets to the younger generation

without paying gift or estate tax is use of an irrevocable life insurance trust. Typically, if an individual owns life insurance, the policy is subject to estate tax on the full death benefit, as opposed to just the cash value. But this only applies if the deceased is the *owner* of the policy. The way to avoid this taxation is to create an irrevocable trust, which will be the policy owner, with the grantor retaining no control over the assets or beneficial provisions. The grantor will make annual gifts to the trust in an amount to pay the premiums, and these contributions will qualify for the annual exclusion from gift taxes (\$13,000 this year).

Life insurance can also be used in the estate planning context to equalize shares, or to assure that a child of a prior marriage receives an inheritance in the event his or her parent dies prior to the current spouse. Life insurance (held personally or in an irrevocable trust) can be payable to the children of the prior marriage, and avoid any possibility that the new spouse will disinherit those children in favor of his or her own.

With the many uses of life insurance and flexibility of products available, everyone should believe in life insurance. It is often an estate planner's best friend.

WBB

Wisconsin's Domestic Partnership Act

By Susan J. Marguet

Wisconsin's Domestic Partnership Act went into effect on August 3, 2009, resulting in thousands of partners registering in the State of Wisconsin. The Act creates two distinct types of domestic partnership and affects a myriad of rights including real estate, employment, inheritance and probate, and health-related matters.

The first type of domestic partnership, under Chapter 770 of the Wisconsin Statutes, permits unmarried same-sex domestic partners who share the same residence to declare their status as partners. Individuals may obtain a declaration of domestic partnership from the county clerk and record it with the register of deeds. The registration is forwarded to the state registrar of vital statistics.

The other type of domestic partnership, under Section 40.51(2m) of the Wisconsin Statutes, is a "limited purpose domestic partnership," available only to employees of the State of Wisconsin. Unlike the other type of partnership, there is no requirement that the partners be of the same sex. Partners must consider themselves members of the other's immediate family and agree to be responsible for each other's basic living expenses. Section 40.02(21d), Wis. Stats. The employee submits an affidavit to the employer affirming the relationship meets these requirements. Benefits such as family

health insurance coverage and state group life insurance, as well as state retirement benefits, are available to state employee domestic partners.

Property acquired in the names of same-sex partners is joint tenancy property, unless a contrary intent is evidenced in the document of title, instrument of transfer, or bill of sale. Section 700.19(2m), Wis. Stats. Transfers of real estate interests between same-sex domestic partners are exempt from the real estate transfer fee. Section 77.25 (8n), Wis. Stats. Employees who are same-sex domestic partners or state limited purpose partners covered by the Wisconsin Family and Medical Leave Act have the same rights to take leave to care for his/her domestic partner as married employees. Section 103.10((1)(ar)), Wis. Stats.

Surviving same-sex domestic partners may avail themselves of many of the same intestacy rights, rights to a family allowance and support, and summary probate procedures that surviving spouses may utilize. See generally Chapters 852, 859, 861, 862, 867, Wis. Stats. Same-sex domestic partners have other rights including the right to maintain wrongful death actions, Sections 895.04(2) and 895.04(6), Wis. Stats.; make claims for unpaid wages, Sections 109.03(3), Wis. Stats.; and receive death benefits also avail-

able to spouses of crime victims, police officers, and firefighters. Sections 102.475, 949.01(2), and 949.06(1m), Wis. Stats.

Same-sex partners may visit one another in health-care facilities, Chapter 50, Wis. Stats., and review each other's health care records. Section 146.81(5), Wis. Stats. They also may access treatment records relating to mental illness, developmental disability, alcohol and drug abuse in certain situations. Section 51.30(4), Wis. Stats. Domestic partners may admit their incapacitated partners to health-care facilities, Section 50.06, Wis. Stats., and survivors can consent to organ donations and authorize autopsies. Sections 157.05 and 157.06, Wis. Stats.

Although many other rights are conferred upon domestic partners, they still do not provide all the legal incidents of marriage, and indeed, spouses are granted countless additional rights, benefits, and responsibilities. *Julaine Appleing et al. v. James E. Doyle, et al.*, Dane County, Wisconsin, Circuit Court Case No. 10-CV-4434. Domestic partners who are contemplating registering their status should become familiar with these differences. Keeping one's estate plan, health care authorizations, real estate and other documents up to date is always advisable. This is particularly true in light of these new laws.

WBB



Susan J. Marguet
Business Law, Real
Estate, Litigation
sjm@wbb-law.com
262-646-1524



WEISS BERZOWSKI BRADY
LLP

Milwaukee Office

700 N. Water St., Ste. 1400
Milwaukee, WI 53202
P: (414) 276-5800
F: (414) 276-0458

Delafield Office

400-D Genesee St.
Delafield, WI 53018
P: (262) 646-5812
F: (262) 646-3340

All Business.

www.wbb-law.com

The WBB Reporter is a Weiss Berzowski Brady LLP publication. The newsletter is for general information purposes only and should not be construed as legal advice. Consult an attorney for interpretation and application of the law.

Subscription Information: To subscribe to the print or to the electronic version of *The WBB Reporter* send an email to reporter@wbb-law.com, go to our website at www.wbb-law.com or call 414-270-2559.

Comments? We'd like to hear from you. Please send an email to the editor: Megan Wiseman at reporter@wbb-law.com.

AT THE FIRM...

In our last issue, we mentioned an event co-sponsored with the MMAC's China Business Council. Close on the heels of that exciting program, Weiss Berzowski Brady co-sponsored a panel discussion on Chinese and American business cultures. The event, held October 27th, featured a panel of four—including our own **Charles Stone**—and was co-sponsored by Marquette University.

Robert B. Teuber was recently appointed to the State Bar of Wisconsin's Continuing Legal Education Committee.

Another year has come and gone in the blink of an eye. It seems like only yesterday we were planning our exciting array of events for 2011 and already we have dates fixed for next year's Conferences/Seminars. 2012 will bring the 30th Annual Tax and Business Seminar, with its array of topical and timely issues. We hope that you enjoyed the programs we had to offer this year and welcome feedback and/or suggestions for future events. Have you a topic you'd love to hear us delve into? Let us know! Send an email or phone call our way if you've a topic to suggest for inclusion in this coming year's programming. Please contact Megan Wiseman, 414-270-2559 (mkw@wbb-law.com)

2012 Schedule of Events

REAL ESTATE CONFERENCE April 18, 2012

To be held at the
Westmoor Country Club at
400 South Moorland Road,
Brookfield.

ESTATE PLANNING CONFERENCE June 5, 2012

30TH ANNUAL TAX & BUSINESS SEMINAR September 26, 2012

EMPLOYMENT LAW CONFERENCE October 17, 2012

To be held at the Wisconsin Club at
900 W. Wisconsin Ave., Milwaukee.

Please check our website
(wbb-law.com) for more event
information.