

RAISING THE BAR

A DECATO LAW OFFICE NEWSLETTER

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VALENTINE'S DAY....A TIME FOR LOVE AND FINANCE
(OR THE LOVE OF FINANCE)



February 14th, as many of you may know, is Valentine's Day. The origin of this romantic holiday is shrouded in mystery, but it was probably named after St. Valentine, an early Christian martyr. How early? Possibly as early as 270 A.D. Over the centuries, St. Valentine became one of the most popular saints during the Middle Ages. It is speculated that the actual day, February 14, was not the day he was martyred (put to death) by the not so romantic Romans, no offense to the romantic Italians, but rather the early Christian church wanted to "christianize" a pagan feast known as Lupercalia.¹ In any event, the holiday has become a time for lovers of all ages, to celebrate the romance they have, or hope to have with their partner.

How are romance and the law intertwined? Well, in countless ways:

1) Marriage 2) Divorce 3) Property rights 4) Adoption 5) Estates and estate planning 6) Privilege of not testifying against your spouse concerning marital communication 7) Receipt of social security benefits 8) Medicare/medicaid benefits. 9) Many other ways, which I am sure many of you can list.

In this newsletter I am going to briefly discuss social security benefits. Why? I have reached an age where social security benefits are available, should I choose to accept.

I am going to discuss three scenarios where social security benefits impact your spouse, who I hope is still your Valentine, or was at the time of their death.² First, take the case of a wife³ whose husband has died. At age sixty, if she has not remarried, she can collect Widows' Benefits.

¹Source: History.com

²Source: AARP Magazine.

³Wife is for illustration only. A husband is also eligible for 'widows' benefits.'

If she were to remarry before age sixty she would not be able to collect Widows' Benefits. If however, she remarries after age sixty she can collect the benefits based on her deceased husband's earnings, or benefits based upon her current husband's benefits, whichever is higher. Now, in the interest of "romance", should a prospective marriage be based upon receipt of a Widows' Benefit? Not wishing to be stoned or flogged, (on the eve of Valentine's Day), I will leave that decision to your discretion.

Second, a question often arises about the right of a divorced spouse to collect social security benefits based upon the earnings of a former spouse. If a couple were married for at least ten years, divorced for at least two years and the spouse who wishes to collect is at least sixty-two and has not remarried (there is the romance angle again), he/she can collect benefits based upon the earnings of the former spouse, or his/her own earnings, whichever is higher. The election by the former spouse will not reduce the benefits that the higher earning spouse is receiving. Furthermore, it does not matter how many "exes" (even if they live in Texas) there may be. This might explain why some couples over the age of sixty-two might choose to cohabit and not marry. Good luck explaining that to the grandchildren!

Finally, the non-romantic question remains, what happens when you turn sixty-two and are eligible for social security benefits? Should you continue to work or collect benefits? Well, you can collect and continue to work, but your social security benefits will be reduced if you exceed \$14,160.00 (2009 figure). For every two dollars over that number, your benefit will be reduced by one dollar. That will happen until you reach your full retirement year (sixty-six for the baby boomers). At that time it is one dollar for every three dollar over the limit. The 2009 limit is \$37,680.00. After becoming sixty-six (for baby boomers), you may earn any amount.

What to do? Well, consider your finances and romantic possibilities and make your decision.

