

Common Law Marriage

Information provided by Colorado Department of Health and Environment Center for Health and Environmental Information and Statistics, which can be contacted at 303-692-2088.

Legal & Binding

Colorado has recognized common law marriage as legal and binding since 1877 and is 1 of 12 states to do so. A common law marriage is established when the parties mutually consent to be husband and wife. Common law marriage does not require any license, ceremony or documentation to be legal. Parties to a common law marriage are entitled to all rights, privileges and responsibilities of a legal and binding marriage. If the parties need documentation of a marriage, it is recommended that they file a signed, notarized affidavit, attesting to the marriage, with the County Clerk and Recorder in the county where they reside. This affidavit will be filed as a document, not as a marriage record (sample affidavit follows). Only legal divorce or death of 1 of the parties may terminate common law marriage.

Requirements

The following are the only 2 requirements for common law marriage:

- The parties are free to enter into a marriage. Neither is married to another person.
- Both parties are of legal age (18). If either party is between the ages of 16 and 18, they shall have obtained appropriate parental or guardian consent.

Evidence of Common Law Marriage

The following are examples of evidence of a common law marriage:

- The parties hold themselves out to the public as husband and wife
- Maintenance of a joint checking and/or savings account
- Joint ownership of property
- Mutual financial support
- Filing of joint income tax returns
- Registration as husband and wife on applications, leases, contracts, registers, etc.
- Use of the man's last name by the woman

Time Requirement

The only time requirement necessary is time enough reasonably to establish these circumstances. Periods of cohabitation, without the aforementioned, do not constitute a common law marriage.

**STATE OF COLORADO
AFFIDAVIT OF COMMON LAW MARRIAGE**

We, the undersigned, attest to the following facts:

1. We are at least 18 year of age. If between the ages of 16 and 18, we have obtained proper parental or guardian consent.
2. There is no legal impediment to our marriage, including, but not limited to, a prior marriage of either party that has not been legally terminated by death or divorce.
3. We are married to each other and understand that a common law marriage holds all the rights, privileges and responsibilities of a lawful marriage. We understand that only death or divorce may terminate this marriage.

Signature of Husband

Signature of Wife

Print Husband's Name

Print Wife's Name

Address: _____

Address: _____

Sworn before me this _____ day of _____, 20____

Notary Public

My commission expires: _____