

Common Law Marriage in California

Every so often, we'll receive a call from someone in a "common law marriage" situation who is looking to split from their partner and need assistance with property matters or support. It usually starts out like this:

"So, how long have the two of you been married?"

"Well, we never had an officiated wedding ceremony and didn't apply for a license with the state, so I guess we're not legally married. But we live together in the home that we purchased jointly 20 years ago...and our family and friends consider us married. We also have joint bank accounts, credit cards, and 2 kids."

A common law marriage usually consists of a couple that considers themselves married and exhibit the typical characteristics associate with a marriage – cohabitation, joint finances and financial accounts, children, etc. However, they never went through an officiated ceremony or registered with the state of residence. In California, recognition of common law marriages ended over 100 years ago. One thing to remember: As with a lot of areas in family law, there are exceptions.

California Recognizes Common Law Marriage in Certain Situations

A formal marriage cannot be created in California by a couple's verbal consent or cohabitation. The key phrase regarding the law against common law marriage is, "in California". This means that if a man and woman live in California and feel they have created a common law marriage, California family law courts aren't likely to recognize it.

A Major Exception

California law declares that if a marriage is valid based on the laws of a different location such as another state or foreign country, where the marriage occurred, then California will recognize the marriage. Assume that a couple lived in another state or territory where common law marriage was recognized, and they were officially considered married. The couple later decides to move to California. In general, family law courts could recognize their marriage as official in this state.

US States that Recognize Common Law Marriage

At the time of this article, the following US states recognize common law marriage:

- Alabama,

- Colorado,
- Iowa,
- Kansas,
- Montana,
- Rhode Island,
- South Carolina,
- Texas,
- Utah,
- Washington DC

Each of the states will have its own requirements in order for a couple to have a valid common law marriage such as minimum ages (usually 18), and cohabitation minimums – living together for at least 3 years, etc.

The “potential” for recognition needs to be mentioned because it isn’t guaranteed. If there’s a dispute between a couple which results in one party considering themselves married while the other does not, it becomes an issue.

How or why would this come up?

Think of a situation where the couple is splitting up, and one party wants to obtain spousal support from the other. In order to guarantee some sort of support income, that party will push in the direction of the relationship being considered a legal marriage. The party that would potentially be the paying other would likely argue that they aren’t married in order to minimize the chances of being ordered to pay support. In that scenario, the court has the task of figuring out if there was a common law marriage under the laws of the state or country that the couple moved from.

Based on the information in this article, you may still have questions or need clarification on whether or not your situation would be considered a legal marriage here in California. Feel free to [contact us with the details of your situation](#).