

What A Common Law Marriage Does To Your Estate Plan

Common law marriage is still in practice in Alabama ,Colorado, The District of Columbia, Iowa, Kansas, Montana, New Hampshire, Oklahoma, Rhode Island, South Carolina, Texas, and Utah and should be factored into your estate plan if you live in any of these states and it applies. An estate plan is planning for who will get your assets when you die and the existence of a marital union can have a huge impact on your estate plan. There does not have to be a formal marriage ceremony or marriage license to have a one recognized as one. A marriage that is considered common by the law can have implications on an estate plan in many ways.

When there is no will in place the South Carolina Intestate Succession laws govern where your assets will go. The existence of a common law marriage really depends on evidence that the couple cohabitated for a year and if they held themselves out as married. This means evidence and arguments determine whether the surviving member of the possible marriage gets no assets or all or half of the assets. Evidence of the possible marriage and not the intent of the parties determine where the assets will go. A long time live in partner of twenty years may be left with nothing because there was no evidence of the marriage or the girlfriend or boyfriend of a year may get everything because they jokingly told a neighbor they were married one time.

It is better to formalize the marriage or put in writing that there is no marriage to prevent any misunderstandings of the existence or not of a marriage that will be considered common law. It is even a better idea to make your intentions of where you want assets to go known by making a will. It is a good idea to know the status of your relationships before you make your estate plan or go with the state issued default intestate plan. You can state in writing that you do not intend to be married if you do not wish for there to be a common marriage in place. You can also formalize a marriage that may or may not qualify to be a marriage by getting a marriage license and making it official through the state. taking either of these steps will help clarify your marital status and put it into your hands and take it out of the hands of a probate court to make the decision for you and your significant other.

Evan Guthrie is licensed to practice law throughout the state of South Carolina. For further information visit his website at <http://www.ekglaw.com>. Evan Guthrie Law Firm 164 Market Street Suite 362 Charleston SC 29401 843-926-3813