

What to Know about Common Law Marriage in Colorado

The face of marriage is changing. More and more committed couples are delaying marriage to jump-start careers or simply juggle the economic impacts of a recession. With the stigma once associated with cohabitation a relic of the past, many couples are choosing to live together, committed yet single.

But with any relationship, married or otherwise, sometimes things do not work out as planned. And when non-married couples who have had children together, jointly purchased homes, shared debt, and made future plans find themselves facing a “divorce,” the process of separating their lives often requires legal intervention.

First, for those couples to find remedy in the courts as they seek to separate, their relationship must be recognized as a “common law marriage.” Only 11 states, including Colorado, recognize common law marriages, but in each state, the requirements for meeting that designation differ.

What is a Common Law Marriage?

In Colorado, a common law marriage can be defined as a marriage between a man and a woman that is based on the couple’s agreement to have a marital relationship and not based on a formal ceremony or other legal formality.

There are numerous factors, however, that must exist for a relationship to be recognized as a common law marriage. Simply because a couple has lived together for a period of time does not mean they meet the requirements. In some situations, a couple can cohabit for 10, 15, even 20 years and still not be considered married under common law. So how is a common law marriage determined in Colorado? Couples seeking common law designation must meet the following basic criteria, although the court will also look at other aspects of the relationship:

1. Holding themselves out as husband and wife;
2. Consenting to the marriage;
3. Cohabitation; and
4. Having the reputation in the community as being married.

Dissolving a Common Law Marriage in Colorado

So how do you deal with separation if you are common law married? Do just agree to go your separate ways and that is that?

As with all aspects of family and divorce law, it is not that simple.

Because—for all intents and purposes—you are legally married even without an official marriage certificate, you will need to follow the same divorce process as a legally

married couple. You may still be responsible for spousal maintenance (alimony), child custody, and dividing property.

As a common law married couple, you have the same rights and privileges as a traditionally married couple—as well as the same responsibilities—as long as you meet the requirements for your union to be considered common law. In addition to sorting through all of the obligations that you held together as a couple, you also are unable to remarry until the divorce is finalized.

Conclusion

Many couples believe that avoiding the legal marriage designation makes things simpler. But in the end, should things not work out as you and your partner had hoped and dreamed, you may find yourself facing the same complicated (and unfortunately, contentious) path to separation as a traditionally married couple.

Contact Glen Goldman for more information at 303-414-5442.

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