

# **Common Law Marriage in Colorado**

A common law marriage in Colorado is valid for all purposes, the same as a ceremonial marriage. Only death or divorce can terminate it.

The common law elements of a valid marriage\* are that the couples:

- (1) are free to contract a valid ceremonial marriage (they are not already married to someone else),
- (2) hold themselves out as married,
- (3) consent to the marriage,
- (4) live together, and
- (5) have the reputation in the community as being married.

The single most important element under the common law is the mutual consent of a couple presently to be married. All the rest were considered evidence of this consent or exchange of promises. No time requirement exists other than the time necessary to establish these circumstances. When proof of common law marriage is required, such as by an insurance company, a signed affidavit can be presented.

Common law marriage is a term used to describe a marriage that has not complied with the statutory requirements most states have enacted as necessary for a ceremonial marriage. The name came from the fact that these marriages were recognized as valid under the common law of England. In 1877, the United States Supreme Court stated, in an action that questioned the validity of a nonceremonial marriage, that marriages that were valid under common law were still valid unless the state passed a statute specifically forbidding them. *Meisher v. Moore, 96 U.S. 76 (1877)*. Since the Colorado legislature has never enacted such a statute, Colorado is part of the minority of states that recognize the validity of common-law marriages.

If you desire a legal opinion relating to a specific situation, you should consult your own attorney.

If desired, you can record your Common Law Marriage Affidavit at a Colorado County Clerk & Recorder's Office for a small fee (usually \$11.00). This allows for a *permanent* record to be kept at the Clerk's Office, but note it is also *public* record. A benefit of having your Common Law Marriage Affidavit recorded is the ability to order certified copies from the Clerk & Recorder's Office at any time.

**Source: [www.coloradoattorneygeneral.gov](http://www.coloradoattorneygeneral.gov)**

\*Statutes can change, so be sure to perform research or speak with an attorney for updated information.

# 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.

Do not sign until in the presence of a Notary Public with valid photo identification.

\_\_\_\_\_  
Party One Signature

\_\_\_\_\_  
Party Two Signature

\_\_\_\_\_  
Party One Printed Name

\_\_\_\_\_  
Party Two Printed Name

Address: \_\_\_\_\_ Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

State of Colorado

County of \_\_\_\_\_

Sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_