Common Law Marriage FAQ
Learn what it is and where it's recognized.

What is common law marriage?
In a handful of states (listed below), heterosexual couples can become legally married without a license or ceremony. This type of marriage is called a common law marriage. Contrary to popular belief, a common law marriage is not created when two people simply live together for a certain number of years. In order to have a valid common law marriage, the couple must do all of the following:

- live together for a significant period of time (not defined in any state)
- hold themselves out as a married couple -- typically this means using the same last name, referring to the other as "my husband" or "my wife" and filing a joint tax return, and
- intend to be married.

When a common law marriage exists, the spouses receive the same legal treatment given to formally married couples, including the requirement that they go through a legal divorce to end the marriage.

Which states recognize common law marriage?
Common law marriage is recognized only in the following states:

Alabama
Colorado
District of Columbia
Iowa
Kansas
Montana
New Hampshire (for inheritance purposes only)

Oklahoma
Pennsylvania
Rhode Island
South Carolina
Texas
Utah

Common-law Marriage

Although a license and ceremony generally are required, some states still recognize what is known as a "common-law" marriage. In this type of "marriage," which was more common in frontier times, a man and woman who have lived together for a certain period of time and who hold themselves to be husband and wife are considered to be married even without a license and a formal ceremony. Because a common-law marriage is not formally recorded, the couple, if challenged, may have to prove the existence of their marriage contract. They may have to prove that they live together as man and wife and present themselves to the public as a married couple. Where recognized, a common-law marriage is as valid as a typical marriage.

Eleven states and the District of Columbia currently recognize common-law marriages. Each of these jurisdictions has unique requirements for common-law marriage.

- **Alabama**
  The requirements for a common-law marriage are: (1) capacity; (2) an agreement to be husband and wife; and (3) consummation of the marital relationship.

- **Colorado**
  A common-law marriage may be established by proving cohabitation and a reputation of being married.

- **District of Columbia**
  The requirements for a common-law marriage are: (1) an express, present intent to be married and (2) cohabitation.

- **Iowa**
  The requirements for a common-law marriage are: (1) intent and agreement to be married; (2) continuous cohabitation; and (3) public declarations that the parties are husband and wife.

- **Kansas**
  For a man and woman to form a common-law marriage, they must: (1) have the mental capacity to marry; (2) agree to be married at the present time; and (3) represent to the public that they are married.

- **Montana**
  The requirements for a common-law marriage are: (1) capacity to consent to the marriage; (2) an agreement to be married; (3) cohabitation; and (4) a reputation of being married.

- **Oklahoma**
  To establish a common-law marriage, a man and woman must (1) be competent; (2) agree to enter into a marriage relationship; and (3) cohabit.

- **Pennsylvania**
  A common-law marriage may be established if a man and woman exchange words that indicate that they intend to be married at the present time.

- **Rhode Island**
  The requirements for a common-law marriage are: (1) serious intent to be married and (2) conduct that leads to a reasonable belief in the community that the man and woman are married.

- **South Carolina**
  A common-law marriage is established if a man and woman intend for others to believe they are married.

- **Texas**
  A man and woman who want to establish a common-law marriage must sign a form provided by the county clerk. In addition, they must (1) agree to be married, (2) cohabit, and (3) represent to others that they are married.

- **Utah**
  For a common-law marriage, a man and woman must (1) be capable of giving consent and getting married; (2) cohabit; and (3) have a reputation of being husband and wife.