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Common interests: Real estate property in co law marriage



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You're in a marriage. And *you* walked down the aisle. And *you* get a marriage license, too. But Oprah Winfrey and Stedman Graham chose none of the above, and they're still going strong since 1986. Call it dating. Call it common law marriage. Or, just call it two people in love.

Contrary to popular belief, not everyone wants their end relationship goal to be marriage. Some have made that companionship last without walking down the aisle. Goldie Hawn and Kurt Russell have been together for 30 years, and the two didn't **decide to get married** until this year. Although Tim Robbins and Susan Sarandon parted after being together for **23 years**, Sarandon is following in the same pattern for the past six years strong with a new beau.

But from a legal standpoint, how do relationships like these work when it comes to spousal rights?

First off, each state has made its decision on whether it will honor common law marriage.

States that [allow common law marriage](#) include:

- Colorado
- Iowa
- Kansas
- Montana
- New Hampshire
- South Carolina
- Texas
- Utah

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States that will still honor common law marriage before it was locally abolished:

- Florida (1968)

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- Florida (1968)
- Georgia (1997)
- Indiana (1958)
- Ohio (1991)
- Pennsylvania (2005)

The remaining states not mentioned do not honor common law marriage.

While opinions may vary on the reasons to get married, there are some financial benefits that are affected on a state-by-state basis. One of them is health insurance. Even if the couple moves from a state where common law marriage is legal to a state where it is not honored, the latter state would still have to honor the first state's decision, per The Full Faith and Credit clause of the U.S. Constitution. This means there is potential for not only insurance for dependents that the couple may have together but potentially spousal coverage per the Patient Protection and Affordable Care Act.

However, real estate property, executors and other asset rights may vary. Common law couples will want to discuss how they plan to acquire real estate. If one partner buys real estate and is the only one listed on the deed, the other partner will have no legal rights to

estate and is the only one listed on the deed, the other partner will have no legal rights to the property.

A common law couple may want to consider purchasing property as joint tenants with the right of survivorship. This way the deceased partner's interest in the real estate would pass to the surviving partner.

Typically, a common law couple cannot purchase personal property jointly. The couple may want to consider drafting a will that conveys the personal assets of the deceased partner to the surviving partner. Or, the parties could consider putting both real and personal property into a trust for the benefit of the surviving partner.

A real estate or estate planning attorney can advise a common law couple on legal strategies that will protect the parties joint interest in real or personal property.

Have more questions about how to transfer real estate to a significant other? Contact [J. Paye & Associates](#) today.

Shamontiel L. Vaughn contributed to this blog. Find out more about her at [Shamontiel.com](#).

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