

COMMON LAW MARRIAGE DISCLOSURE AND AFFIDAVIT

Common law marriage is a valid form of marriage in the state of South Carolina. However, a common law marriage does not require a marriage certificate or a ceremony. In order to be common law married in South Carolina the following requirements must be met: 1) both parties must be legally free to marry (not already married to someone else and not related to each other); 2) both parties must be at least 16 years of age; 3) there must be an agreement and intent between a man and a woman to be married, no ceremony required (not currently applicable to same-sex couples); 4) the parties must cohabit or live together (there is no set minimum time limit; technically, one day of cohabitation could be sufficient); and 5) both parties must hold out to the public that they are married (examples include, but are not limited to, filing joint tax returns, telling people they are married, and providing insurance coverage for the other party).

There are consequences to a South Carolina common law marriage, including but not limited to the following: 1) common law marriage carries the same rights and obligations as a formal marriage, including spousal support and inheritance rights; 2) there is no common law divorce; you must go through the formal divorce process; and 3) children are legitimated if parents are married (common law or otherwise) at the time child was conceived or born or anytime thereafter.

If you believe you are common law married in South Carolina and would like to claim your common-law spouse as your dependant, please have both parties to the marriage fill out the affidavit following.

STATE OF SOUTH CAROLINA
COUNTY OF _____

)
)
)

**AFFIDAVIT OF
COMMON LAW MARRIAGE**

PERSONALLY APPEARED BEFORE ME, _____ and

_____, who being sworn, states as follows:

1. We are legally free to be married to each other (neither party is married to someone else).
2. We are at least 16 years of age and mentally competent to consent to a contract.
3. We are not of the same sex
4. We are not related by blood or adoption.
5. We reside together.
6. We have agreed to be married and it is our intent to be married to each other.
7. We are holding ourselves out to the public that we are husband and wife.

Signed under the penalty of perjury this ____ day of _____, 20__.

Employee Signature

Spouse's Signature

Subscribed and sworn to before me by both parties this ____ day of _____, 20__.

Notary Public
[Seal]

My Commission Expires: _____