



Common Law Couples by Jodi Wyman

Moving in with your significant other can be a happy step in the relationship, but it comes with serious legal implications.

In most areas of law you will be treated as if you are a legally married couple after a certain period of time. There is no one time period after which you are the same as legally married, although many people believe it is after six months. The definitions are different in the various laws. As well, having a child together can shorten the time period before you are considered equivalent to married.

In Manitoba, you now have the option of registering your common-law union with Vital Statistics, and your rights and obligations will take effect right away.

After a couple has lived together for more than three years, they fall under the Family Property Act if they split up, or if one of the two people die. Assets and debts acquired during the relationship, even if they are only in one person's name, have to be accounted for and shared equally. This is true of most employment pensions as well. The Pension

Benefits Act says you have to live together for three years before the pension will be shareable, or only one year if you have a child together.

If you or your partner have children and blended family is created, there could soon be child support obligations for the step-parent.

If one partner is financially dependent upon the other or had an economic disadvantage from the relationship, they can claim for spousal support after a separation.

Any Will you have could be affected. If you have lived together for more than three years, your common-law spouse is entitled to an accounting of one half your estate (as if you were splitting up) even if you left different instructions in the Will. Where there are also children from a prior relationship, special care must be taken in drafting the Will.

If you do not have a Will but cohabited for three years, your common-law spouse is entitled to a claim against your estate and to be in charge of administering the

estate. The time period is shortened to one year if you have a child together.

If your new common-law spouse moves into your home, they will have Homestead Act rights after three years. You would not be allowed to sell or mortgage your home without their consent. Also, in the event of your death your spouse has the right to live in your home for the rest of their natural lives. Your beneficiaries could not sell the house until the common-law partner moves out.

The definition of "common-law partner" in law also includes a same-sex couple.

It is important to talk to your lawyer about the implications of your particular situation, sooner than later. The only way to opt out of all this legislation is to enter into a Cohabitation Agreement, which would set out what you would like to happen in the event of a separation or the death of one party. It may seem cynical and an unnecessary cost, but it can save you great time, stress and expense later.