

AFFIDAVIT OF COMMON LAW MARRIAGE

(Employee) name _____

Common Law Spouse's name _____

The concept of common law marriage is recognized by some states. Typically, the necessary elements are co-habitation, declaration of marriage, and evidence that both parties in the relationship hold themselves out as married to the public.

Couples claiming common law marriage should be aware that there is no such thing as a common law divorce. However, a common law spouse may be entitled to distribution of property, support, and/or maintenance.

You have requested that The University of Alabama in Huntsville (UAH) consider the common law spouse that you listed above as a spouse for the following purpose(s): _____. In order for UAH to determine eligibility for such purpose(s), please answer the following questions and provide the following documentation.

***Effective January 1, 2017 the State of Alabama will no longer recognize common law marriages, unless such marriages were legally entered into on or before December 31, 2016. Any person who knowingly, and with intent to defraud or deceive the State of Alabama, gives false, incomplete or misleading information on this affidavit may be subject to disciplinary action, up to and including termination, as well as any remedies available under law.**

1. Is there any legal impediment to your marriage, including but not limited to, a prior marriage of either party that has not been legally terminated by death or divorce?

Yes No

2. Are you living in a spousal relationship exclusive of all others?

Yes No

a. Indicate the date you entered into your common law marriage ____/____/____ (month/day/year).

b. In what State did you reside on that date? _____

3. Are you presented and known throughout your community as a married couple?

Yes No

4. Did you file your last income tax return indicating that you were married?

Yes No

5. Do you have real property or personal property titled jointly that specifically notes a spousal interest (i.e. owned as married, spouses, or as husband and wife jointly)?

Yes No

6. Do you have joint checking and/or savings accounts?

Yes

No

If you answered "Yes" to any question 4-6, please provide copies of the supporting documentation described below (Note: you may blacken out any financial information):

The first page of your Federal Tax Return for the most recent tax year, and one of the following:

- A copy of an auto registration or title, deed or property tax statement evidencing joint ownership of any real or personal property; or
- Evidence of a checking and/or savings account held jointly by you and your Common Law Spouse within past (12) months; or
- A joint household bill or lease.

7. The following children have been born to me or my lawful spouse and we hereby acknowledge such children to be our lawful issue (list names and birth dates).

Name _____ Date of Birth _____

Name _____ Date of Birth _____

Name _____ Date of Birth _____

I hereby certify that the above listed information is true and correct.

Employee Name (please print)

Signature of Employee

Date

Common Law Spouse's Name (please print)

Signature of Common Law Spouse

Date

Subscribed and sworn to before me this _____ day of _____, 20_____.

(SEAL)

Notary
My commission expires:

_____, 20_____

STATES THAT RECOGNIZE COMMON-LAW MARRIAGE

<u>STATE</u>	<u>RECOGNIZED</u>	<u>AUTHORITY</u>
ALABAMA	Yes	<i>Ex parte A.M.E.</i> , 144 So. 3d 392 (Ala. Civ. App. 2014). <i>Mickle v. State</i> , 21 So. 66 (Ala. 1896).
COLORADO	Yes	Colo. Rev. Stat. § 14-2-109.5
DISTRICT OF COLUMBIA	Yes	<i>Dickey v. Office of Personnel Management</i> , 419 F.3d 1336, 1339 (Fed. Cir. 2005).
FLORIDA	If entered before Jan. 1, 1968	Fla. Stat. § 741.211
GEORGIA	If entered before Jan. 1, 1997	Ga. Code Ann. § 19-3-1.1
IDAHO	If entered before Jan. 1, 1996	Idaho Code Ann. § 32-301, 303
INDIANA	If entered before Jan. 1, 1958	Ind. Code Ann. § 31-11-8-5
IOWA	Yes	<i>In re Estate of Stodola</i> , 519 N.W.2d 97 (Iowa App. 1994).
KANSAS	Yes	Kan. Stat. Ann. §§23-2502, 23-2714
MONTANA	Yes	MCA § 40-1-403, -311
NEW HAMPSHIRE	For inheritance purposes only	N.H. Stat. § 457:39
OHIO	If entered before Oct. 1, 1991	Ohio Re. Code Ann. § 3105.12(B)(1) – (3)(c)
OKLAHOMA	Yes	Oklahoma's statute (Okla. Stat. Tit. 43, § 4) requires couples to get a marriage license; however, case law has upheld common law marriages in the state. <i>Brooks v. Sanders</i> , 190 O.3d 357, 360 n.7 (Okla. Civ. App. 2008) (“Oklahoma recognizes that there are two forms of marriage: ceremonial and common-law”); <i>Standefer v. Standefer</i> , 26 P.3d 104 (Okla. 2001).
PENNSYLVANIA	If entered before Jan. 1, 2005	23 Pa. C.S. § 1103
RHODE ISLAND	Yes	<i>Zarkova v. Gaudreau</i> , 45 A.3d 1282 (RI 2012).
SOUTH CAROLINA	Yes	S.C. Code Ann. § 20-1-360
TEXAS	Yes	Tex. Family Code § 2.401-.402
UTAH	Yes	Utah Code § 30-1-4.5

*Reported as of July 1, 2016.