

Lehigh County Law Library Pathfinder

This PATHFINDER is not intended to be legal advice. If you need legal advice or assistance drafting legal documents, you must hire a private attorney. Law Library staff **cannot** assist you in drafting legal documents.

COMMON-LAW MARRIAGE

Legislation banned the contracting of new common-law marriages in Pennsylvania after January 1, 2005.

- **23 Pa. C. S. A. § 1103, Common-law marriage, reads as follows:**

No common-law marriage contracted after January 1, 2005, shall be valid. Nothing in this part shall be deemed or taken to render any common-law marriage otherwise lawful and contracted on or before January 1, 2005, invalid.

Credits, 1990, Dec. 19, P.L. 1240, No. 260, § 2, effective in 90 days. Amended 2004, Nov. 23, P.L. 954, No. 144, § 1, effective Jan. 24, 2005.

- The Commonwealth Court of Pennsylvania ruled that it does not recognize common-law marriage as a valid marriage in *PNC Bank Corp. v. W.C.A.B. (Stamos)*, 831 A2d 1269 (Pa. Cmwlth. 2003.)
- Couples married under common law before 2005 may still file for a divorce in Pennsylvania.

More can be learned about common-law marriage in the following sources:

- **Black's Law Dictionary, 12th Edition**, defines Common-Law Marriage as:
 - A marriage that takes legal effect, without license or ceremony, when two people capable of marrying live together as husband and wife, intend to be married, and hold themselves out to others as a married couple.
 - Today a common law-marriage, which is the full equivalent of a ceremonial marriage, is authorized in 11 states and in the District of Columbia. If a common-law marriage is established in a state that recognizes such marriages, other states, even those that do not authorize common-law marriage, must give full faith and credit to the marriage.
 - A common-law marriage can be dissolved only by annulment, divorce, or death.
- **For Common-Law Marriage in general, see:**
 - Summary of Pennsylvania Jurisprudence, 2d. Family Law, 15 § 1:22 et seq. (KFP 195.S85)
 - Pennsylvania Law Encyclopedia, Second Edition. Volume 26, Husband and Wife §5 (KFP 66 .P4 2nd)
 - Pennsylvania Family Law Practice and Procedure, Seventh Edition. West's Pennsylvania Practice Series. Volume 17 § 1.2. (KFP 80.W47)
- **For Proof of Common-Law Marriage, see:**
 - The familiar misconception that a couple must cohabit (live together) for seven years in order to be married under common law is false. There is no minimum time needed.
 - To learn about **proving the existence of a common-law marriage**, see, Summary of Pennsylvania Jurisprudence, 2d. Family Law, 15 § 1:28 (2d ed.)