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In this pamphlet series:

[Bankruptcy](#)

[Being a Witness](#)

[Business Organizations
in Minnesota](#)

[Careers in the Law](#)

[Child Abuse](#)

[Divorce in Minnesota](#)

[Getting Married in
Minnesota](#)

[Helping Your Lawyer
Help You](#)

[Patents, Trademarks &
Copyrights](#)

[Probate in Minnesota](#)

[Security Interests in
Minnesota](#)

[Selecting a Lawyer](#)

[Vulnerable Adults and
Minnesota Law](#)

[Wills in Minnesota](#)

Getting Married in Minnesota

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Establishing a marriage relationship requires certain formalities in Minnesota. Once married, a spouse acquires certain rights. This pamphlet summarizes generally the requirements for a valid marriage and some of the legal consequences of marriage.

What are the legal requirements for getting married in Minnesota?

The circumstances under which a man and a woman may be considered married are different in each state. Unless validly married in another state, Minnesota residents must obtain a marriage license from the district court, complete the appropriate forms, and have their marriage vows solemnized by an authorized official in the presence of at least two witnesses.

Are there restrictions on who may marry?

Any unmarried man and woman age 18 or older may obtain a license. It is necessary to provide proof of age and proof of termination of any previous marriage by either death or divorce. A person who is 16 or 17 must have the consent of a parent, guardian or the judge of juvenile court. A person younger than 16 needs the written consent of a parent or guardian and the consent of a juvenile court judge. Certain relatives may not marry each other. No direct ancestor or descendent may marry. Brothers and sisters, aunts and nephews, and uncles and nieces and first cousins may not marry each other.

Where do I get a marriage license?

Application for the license is made to the clerk of court of any county. Presently the fee is **\$80** [Note: The marriage license fee for parties who have completed at least 12 hours of premarital education is \$20. To qualify for this reduced fee, the parties must submit a signed and dated statement from the person who provided the premarital education. The law specifies who is qualified to provide the premarital education and some of the topics that must be covered.]

State law provides a waiting period of five (5) working days between the time of application and the actual issuance of the license. This waiting period may be waived by a county or district judge in "extraordinary" circumstances. Once the license is issued it may be used anywhere in Minnesota during the following six months.

Is there a waiting period once a couple obtains a marriage license?

No. Once you obtain the actual license you are free to get married immediately.

Is a blood test required?

No blood test is required in Minnesota.

What about name change?

Each party may designate a new name on the application for a license, effective upon the marriage. The surname need not be the same for both parties or the same as either pre-marriage name.

If you do choose to change your name when you marry, remember to notify the Department of Motor Vehicles, your nearest Social Security office, voter registration office, and other places which will need to correct their records and/or issue new documents to you with your new name.

What if I have been married before?

If you were previously married, you will be asked to show proof that your previous marriage has been legally dissolved. Such proof may be legal documents granting your dissolution (divorce) or the death certificate of your former spouse. If these documents cannot be located, the marriage license can still be obtained if you state the month, year and location of the dissolution of the marriage.

Who may perform a marriage ceremony?

The officials authorized to solemnize marriages include judges, clerks of court, and licensed or ordained ministers, priests or rabbis. In some counties, court commissioners are authorized to officiate at marriage ceremonies. There are also special provisions for recognizing the marriage ceremonies between members of various religious groups such as the Bahai, Hindu, Quaker and American Indians.

How do the rights of a married person differ from someone who is single?

Spouses have the obligation to support each other. Generally speaking, a spouse is liable for necessities (such as food and clothing) furnished to the other spouse and for household articles and supplies furnished to the family home. Each spouse is entitled to obtain credit or borrow individually in his or her own name, or spouses may jointly incur debt. Upon getting married, however, one does not become liable for obligations that their spouse incurred prior to the marriage.

Spouses cannot contract with each other concerning their real estate. This means that a deed of real property from one spouse to another is not valid unless it is a deed to create a joint interest between them. Also, the signature of both spouses is necessary in order to effectively convey or mortgage the real property owned by either spouse.

A spouse is entitled to receive a certain amount of property from a deceased spouse. Presently, this includes a life estate in the homestead (that is, the right to use the home for life) owned by the deceased spouse, the death benefit from any employer pension and profit sharing or retirement plan, up to \$6,000 in household goods, \$3,000 in other personal property, and a share in other property of the deceased spouse. The amount of that share depends on whether the deceased spouse has children, the number of the children and whether the deceased made a will intentionally disinheriting the spouse.

What if we move from Minnesota to another state?

Laws concerning the rights of married persons to control their property vary from state to state. The laws of each state apply to residents of that state and to property acquired during the marriage while a resident.

Does Minnesota recognize 'common law' marriages?

Minnesota does not recognize "common law" marriages between Minnesota residents. In order for a common law marriage to exist, the parties must hold themselves out as husband wife to everyone. If a couple enters a common law marriage in a state that recognizes such relationships and then moves to Minnesota, their marriage would be considered valid in Minnesota.

What is the difference between living together and common law marriage?

In a common law marriage, the parties present themselves as husband and wife to everyone. By contrast, the couple who lives together disavows the husband-wife relationship, and there are ordinarily no financial obligations or rights stemming from such a relationship. In states that recognize common law marriages, maintenance (or alimony) and child support may be obtained, as well as a division of property if the marriage is dissolved.

Without solemnization of a marriage by license and ceremony, a couple who co-habits will not be considered married.

Is there anything that can be done to change the effect of state law?

A couple may contract with each other concerning their marital rights by entering into a premarital agreement (sometimes called a prenuptial agreement or an antenuptial contract) prior to marriage. Such a contract should be entered into only after legal advice and full disclosure of assets.

The premarital agreement defines the rights and benefits that will exist during the marriage and after (in the event of divorce). Without such a contract, state law defines the rights and benefits of marriage. A premarital agreement allows people to make their own rules rather than relying on the default rules provided by the state. Premarital agreements often specify how property will be divided and whether spousal maintenance (alimony) will be paid in the event of a divorce, and the agreement may set out the couple's intentions about distributing property after one of them dies. This is especially useful for second marriages when one or both spouses want to preserve property for children or grandchildren from a previous marriage.

A premarital agreement must be in writing to be legally binding. In general, a written premarital agreement is legally binding as long as it is reasonable, fair and entered into voluntarily and without fraud. A premarital agreement is not binding if a person is unfairly induced to enter into the agreement or did so under extreme emotional pressure. If a court finds the contract outrageous, unconscionable or deceptive, it may be disregarded; a court also may refuse to enforce sections of a premarital agreement if those sections violate public policy.

What does it mean if a marriage is annulled?

If you get an annulment, the judge will say that, legally, your marriage never existed. You will be able to remarry any time after the judge grants the annulment. Marriage may be annulled if you were induced to marry by force, duress, or fraud, or if either spouse is under the age of consent, physically incapacitated, or mentally ill at the time of the marriage. Most people, however, do not qualify for an annulment.