

The law and unmarried couples

There is no common-law marriage in Oregon. If you live with someone—no matter how long—it does not give you the rights of a married person.

The issues that commonly concern unmarried couples are:

- the right to inherit property of the other person
- how to establish joint property interests, particularly if there is a dispute
- whether one partner will be able to care for and make health decisions if the other becomes ill
- the right to support if the relationship ends, visitation with children

Inheritance

If you are in a relationship and want your significant other to have your property when you die, you have to execute a will which states this. No matter how unfair it seems, your significant other will have no right to your non-joint property unless you have made him or her a beneficiary in your will.

Property arrangements

If you don't have a formal arrangement, a court will be left to figure out your and your partner's intent in any dispute over property. The better solution is to have a clear written agreement that states what property you intend to acquire and what portion of ownership you each have. Some property can be held jointly, such as a bank account, a car, investments, stocks or a house. A separate agreement may be necessary to clarify the ratio of ownership if it is not specified in the title. A written agreement is vital if one of the parties makes a contribution in the form of services to the other party, while the other actually pays for the property. Without an agreement it may be impossible to prove there was an arrangement to share the property being purchased. Some forms of joint ownership can also specify a right of survivorship. This means that if one owner dies, his or her share is automatically transferred to the survivor, and there is no need to refer to a will or go through probate.

Health-care decisions

To make sure your significant other will participate in health care decisions for you, you must execute a written instrument while you are still competent. This states that you wish him or her to be the first choice for your guardian and conservator should you become incapacitated. (While your nomination is not binding on the court, it is usually followed.) As guardian, your partner can make decisions about your personal living situation and medical treatment. As your conservator, he or she can manage your property and assets. You should also have an Advanced Directive done, with your partner designated as your first choice

for the power of attorney over your health-care decisions.

Spousal support

Unless you were legally married, there is no right to support merely because you lived with someone. If there was some agreement that one person would stay home and do housekeeping while the other worked and supported both of them, a written contract reciting this, and providing for a short-term amount of compensation in the event of a separation, would be the only possibility of remuneration. Without very clear evidence of a valid written agreement, services will be presumed to be a gift. (An agreement will not be legal if the only thing given in exchange for support is sexual favors.)

Children

If the couple has children, paternity can be established at no cost through the district attorney's office as part of an action to establish child support, or by the joint filing an affidavit of paternity with the vital-statistics department. The right to visitation and a visitation schedule must then be set up through another proceeding that will require the assistance of a private attorney. (The parties can voluntarily arrange visitation at any time.) If a child is not the biological offspring of both partners, but has developed a close relationship with the non-parent over the prior 6 months to a year, the non-parent will have *psychological parent rights* and can also petition the court for visitation rights. In some cases, he or she may also be able to seek and receive custody of the child.

Validity of untraditional marriages

Marriages solemnized in some form not recognized in Oregon—such as common law marriages valid in another state—are still recognized by Oregon if the parties were legally married under the laws of the jurisdiction they lived in before moving to Oregon. The problem is proving what the law of the other jurisdiction was and whether all requirements of that law were met! It would still be safer to have a written agreement or other evidence of the way the couple wants their property rights divided rather than to rely on proving an obscure form of a marriage after there is a problem.



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