

Oklahoma recognizes common law marriages, but only with proof

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1. An actual and mutual agreement between the spouses to be husband and wife.
2. A permanent relationship.
3. An exclusive relationship.
4. Proved by cohabitation as man and wife.
5. The parties to the marriage must hold themselves out publicly as husband and wife. Although Oklahoma Statute §43-7 "Solemnization of marriages" implies that marriage can only exist by way of formal, witnessed ceremony by a judge or

religious authority and must be filed with the court clerk, the Oklahoma Supreme Court affirmed the validity of common law marriage when it ruled in 2001, in *Standefer v. Standefer*, that a common law marriage is formed when “the minds of the parties meet in consent at the same time,” and that factors 2-5 are merely evidence to be weighed in considering whether an actual or mutual agreement to be husband and wife was established. In the event a common law marriage is disputed, the party wishing to establish the existence of a common law marriage carries the burden of proving it using clear and convincing evidence.

For legal practitioners, some things that can bolster the establishment would be filing of taxes jointly, having joint checking and savings accounts, and holding each other out to be husband and wife by, for example, presenting and/or introducing themselves to other people in the community, such as friends, family, church, peers, etc., as being married to each other. Again, these are not dispositive, but they are contributing factors in helping establish element 1, above, which is an actual and mutual agreement between the spouses to be husband and wife.

For people concerned with establishing common law marriage, the Court of Civil Appeals cleared some things up when it held that infidelity or non-exclusivity does not cancel a marriage or preclude existence of common law marriage, and a spouse’s failure to assert themselves as husband or wife on several occasions does not stop that spouse from claiming existence of common law marriage.