

LGBT Common Law Marriage

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By Megan Smith

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Pennsylvania was one of the few states that continued to recognize common-law marriage. Although common law marriage in Pennsylvania was abolished in 2005, it continues to be recognized retroactively, meaning that a common law marriage entered into prior to 2005 is still recognized in Pennsylvania. Thus, in the event of a termination of the relationship, parties to a common law marriage may go through the divorce process and are entitled to the same rights and benefits as parties who were formally wed.

In 2017, a Pennsylvania Superior Court case confirmed that same-sex couples who entered into a common law marriage prior to 2005 are also entitled to the same rights and benefits accruing as a result of the marriage. This allows same-sex couples to gain rights they would otherwise not have due to the fact that same-sex marriage was not recognized in Pennsylvania until May 20, 2014, when marriage equality was achieved. These rights and benefits include but are not limited to equitable distribution of assets, interim support during the divorce process, alimony, and social security survivor benefits. All of these rights and benefits are fact-sensitive and vary in each case, which is why it is important to seek a family law attorney to discuss whether the facts of a specific case would qualify as common law marriage and/or what rights and benefits are applicable.

For more information on this topic, please contact Megan Smith at msmith@offitkurman.com.