

## Rights of Cohabitants: People Who Live Together but are not Married



### There are legal benefits to being married.

There are specific laws that judges use to help determine what happens when a marriage ends.

**Children:** The judge will decide who will have custody of any children, who will pay child support, and what visitation rights each spouse will have. Paternity is automatic: Ohio law considers all children born during a marriage to be father by the husband unless shown otherwise.

**Property:** Everything bought by the couple during the marriage is considered “marital property.” When the marriage ends, all “marital property” is divided equally between the parties.

**When one spouse dies:** When there is no will and one spouse dies, Ohio law says that the spouse who is still living will get most of their spouse’s property.

**Other legal benefits:** Most married couples have the following benefits as well that are not given to unmarried people who live together:

- Special advantages under Federal and State tax laws
- Pension benefits
- Workers’ compensation benefits
- The right not to be forced to testify against one another in court



### What are the rights of people who live together but are not married?

People who live together without getting married have few legal rights in Ohio. The rights include:

**Protection against domestic violence:** If your live-in partner abuses you or threatens to abuse you, Ohio’s domestic violence laws will protect you. If your partner is abusing you, he or she can be arrested by the police or ordered by a judge to stay away from you, your children, and your home. To get a court order requiring your abusive partner to stay away from you, call your legal aid office or local domestic violence shelter as soon as possible.

**Paternity and parenting time:** If you and your live-in partner have children in common, the unmarried mother is deemed the sole residential parent and legal custodian of the children until a court issues a custody order. The father can establish paternity and request custody or parenting time from the court.

**Child support:** If you and your live-in partner have children in common and one of you takes the children when you separate, the other parent is still required to pay child support whether or not you are married. Contact your local Child Support Enforcement Agency for help with collecting this money.



## Common Law Marriages

Common law marriages are no longer recognized in Ohio. However, if you were living together on or before October 10, 1991, you may argue that you have a common law marriage.

If you established a valid common law marriage under the laws of another state and then moved to Ohio, courts in Ohio will recognize that marriage as valid even if it does not meet the requirements under Ohio law.



## How can I gain rights similar to those of married couples?

Doing some of the following things can help you control what happens when your relationship ends, when one person gets sick, or when one person dies.

1. Create a written "cohabitation agreement" that describes:
  - Property and debts that each of you had in your name when you began living together
  - Who owns and manages what property
  - Who contributes support and income to a relationship and in what amounts
  - Money arrangements during the time you live together (who pays what debts, who pays for health and medical care, who pays for insurance, and other similar things)
2. Decide who will own what property. If you decide that you want to share all property bought during the relationship, put the title of all property (including land, houses, and cars) in both of your names.
3. If your live-in partner is not the biological parent of your children, you and your partner may make him or her the adoptive parent by getting a legal adoption decree for any minor children. Without a legal adoption, your live-in partner will not have any right to continue a relationship with any minor children.
4. If your live-in partner is the father of your children, have him sign an acknowledgment of paternity when the child is born or go to court to have him declared the father.
5. Write a will giving your property to your partner upon death.
6. Write a Durable Power of Attorney for Health Care that lets your partner make decisions about your health care in case you get too sick to make those decisions for yourself.

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