

ASK THE EXPERT

THE PROBLEM:

I'm considering living with a woman I've been dating. If I don't want to marry but do want to live with this woman in New York State or Florida, at what point in time would each of those states consider us married?

THE EXPERT:

Sandra M. Radna, Esq., Attorney, Radna & Androsiglio, LLP, 110 Wall Street, 11th Floor, New York, NY

THE RULES:

Common Law Marriage is where a couple, after living together and holding themselves out as husband and wife, are deemed to be married even though there was no marriage license or wedding ceremony. A legal action would be needed to dissolve a legal "common law marriage".

THE STRATEGY:

Is the creation of a Common Law Marriage permitted in the States of New York or Florida?

HOW IT WORKS:

Only certain states recognize common law marriage. Presently those states are: Alabama, Colorado, District of Columbia, Iowa, Kansas, Montana, New Hampshire (for inheritance only), Oklahoma, Pennsylvania, Rhode Island, South Carolina, Texas and Utah.

The states of New York and Florida do not recognize common law marriage. Even if you live together in New York or Florida as husband and wife, if you were not *legally* married, you will not acquire marital rights and responsibilities.

However, if a valid common law marriage was created in another state where common law marriages are recognized, both New York and Florida will recognize the marriage and the parties will have the legal rights of a legally married couple. A legal action is necessary to dissolve a legal "common law marriage" created in another state which is subsequently recognized in New York or Florida.

THE RESULTS:

If you wish to be married in New York or Florida, you would need to do so legally by obtaining a marriage license and having a wedding ceremony. If you simply wish to live with the woman that you have been dating, but do not wish to be married, in New York and Florida you may do so without the arrangement becoming a common law marriage and no legal action would be necessary to end the relationship. Be aware that a valid, legal marriage is required to receive inheritance, social security benefits or pension plans from your partner.