

The Rights of Cohabitants: People Who Live Together but Are Not Married



What rights do I have living with my partner?

People who live together but do not get married do have some rights, including:

- **Protection against domestic violence:** Ohio law protects live-in partners from abuse. If your partner abuses you, they can be arrested by the police. You can also receive a Civil Protection Order from a court ordering your abuser to stay away from you, your children, and your residence. For help with a Civil Protection Order call Southeastern Ohio Legal Services or Legal Aid Society of Columbus. The office's contact information is on the second page.
- **Paternity and parenting time:** If you have a child with your live-in partner, the unmarried mother is considered the sole residential parent and legal custodian of the child, even after paternity is established. Once paternity is proven, unmarried parents have equal standing to seek custody and parenting time with the Court.
- **Child support:** If you and your live-in partner have a child and you separate, the parent who does not primarily care for the child must still pay child support. Contact your local Child Support Enforcement Agency for help in collecting child support.



Am I common law married?

Ohio no longer recognizes common law marriages. However, if you were living with a partner on or before October 10, 1991, in Ohio, you may argue you have a common law marriage with all the benefits and advantages of being married.

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.



What are the benefits of being married?

Benefits if Either Partner Dies: If a spouse dies without a Will, Ohio law provides the living spouse their late spouse's property. This is not true when an unmarried partner passes without a Will. Typically property will pass to a blood/marriage relative; this is called "intestate."

Benefits If You Separate: If you and your partner separate, Ohio law chooses what will happen and supplies court mechanisms for situations like property division and custody.

- **Children:** When parties are married paternity is automatic. Ohio Law considers all children born during a marriage to be the child of both parents unless shown otherwise. When parents end their marriage, the Court will decide who will have custody of any children; who will pay child support and how much; and what parenting time rights each parent will have.
- **Property:** Typically, everything obtained during a marriage is considered "marital property." When a marriage ends, all marital property is divided "equitably" between the

parties.

- **Other Benefits:** Most married couples also have more benefits such as: federal and state tax advantages; pension benefits; worker's compensation benefits; and the right to not be forced to testify against one another in court.



How can I obtain similar rights to a married couple without getting married?

Doing some or all of the following can help you have rights should your relationship end, one person gets sick, or one person dies.

1. **Cohabitation Agreement:** Create a written and signed "cohabitation agreement" that describes: (1) property and debts that each of you had in your name when you began living together; (2) who owns and manages what property; (3) who contributes support and income to the relationship and in what amounts; and (4) money arrangements during the time you live together (such as who pays what debts, who pays for medical care, etc.). You may need to update this agreement throughout the relationship.
2. **Titled Property:** Decide who will own purchased property and place it in that person's name. If you want to share property bought during the relationship, title the property in both of your names. This is especially important for land, houses, and car.
3. **Adoption:** If your live-in partner has a child and you are not the biological parent, you may want to file for a legal adoption. Without a legal adoption, you will have no rights to continue a relationship with the child if you and your partner separate.
4. **Paternity:** If your live-in partner is the biological other parent of your child, have them sign an acknowledgement of paternity when the child is born or go to court to have them declared the other parent.
5. **Will:** Write, or have made, a Will that gives your partner your property upon your death. Without a Will, your biological family members are likely to receive your property.
6. **Durable Power of Attorney:** Write, or have made, 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 yourself. Without it, your family members likely have the right to make decisions about your health care.

The information on this flyer is not legal advice.

**If you are seeking representation or legal advice, please contact LASC or SEOLS.
An attorney-client relationship does not exist between you and LASC or SEOLS.**

Contact for Services: Intake line: 1-844-302-1800

www.columbuslegalaid.org

www.seols.org

LASC provides services in Central Ohio and has offices in Columbus and Marion.

SEOLS provides services in thirty-four counties in Southeastern Ohio and has offices in Athens, Chillicothe, New Philadelphia, Newark, Portsmouth, and Steubenville