

When does a couple become Common-law?

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Publication Date: February 14, 2025

A “common-law” relationship is often a hot topic amongst friends and family, as the general public is aware that certain rights and obligations can flow from a couple becoming common-law. However, there is significant misunderstanding about when a couple actually *becomes* common-law. This arises from the various definitions of “common-law” throughout provincial legislation and policy, as a couple can become common-law at different times for different purposes.

In this article, we will discuss when a couple becomes common-law in terms of family law considerations, specifically relating to family property division, child support, and spousal support.

1. Family Property

The most common reason people may become concerned about when they, with their partner, qualify as “common-law” is because they are worried about their assets. Most people are aware that once you reside as a couple together for a certain period of time, your partner may become entitled to the value of assets you own (and vice versa). This is family property division, which is something that occurs when a couple separates if they are common-law or married. The legislation in Manitoba that governs family property division of common-law partners or married spouses is *The Family Property Act*, and it defines a “common-law partner” as (1) someone with whom you have registered a common-law relationship with Vital Statistics, or (2) someone with whom you have lived together with in a conjugal relationship with for a period of at least three years.

2. Support

The other reason people may become concerned about their common-law status is for reasons of support, namely child and spousal support. The legislation that governs these aspects of a relationship is *The Family Law Act*, and it defines “common-law partner” as (1) someone with whom you have registered a common-law relationship with Vital Statistics, or (2) someone with whom you have lived together with in a conjugal relationship for a period of at least three years, **or** a period of at least one year if you share a child together.

3. Defining “Conjugal” Relationship

Something that comes up in both definitions of common-law is the aspect of a “conjugal” relationship. To be considered living together in a conjugal relationship requires that the relationship has certain aspects. The list of aspects or criterion is considered globally, meaning if you do not “check all the boxes” it does not necessarily mean your relationship would not be considered conjugal. Some examples of the criteria are (1) your living arrangements, (2) your sexual and personal behavior with one another, (3) the way you and your partner deal with household duties, (4) the way you and your partner represent your relationship to your friends and family, and (5) how you and your partner financially support one another.

While there are other considerations for when a couple becomes common-law (for example, relating to tax consequences with the Canada Revenue Agency), the above is a general outline for when a couple is considered common-law for family law reasons. It is important to be aware of the timelines for your personal life or those of your friends and family, as there are clear and substantial obligations that can arise once you are common-law with your partner. Understanding when those may come into play can help individuals protect their interests and be aware of their rights going forward.

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