Marriage

The Missouri Bar

Requirements for a Valid Marriage

A marriage causes many legal consequences that affect a couple's future life together, including: filing tax returns, employment-related benefit pro- grams, the legal right to inherit assets if your spouse dies and, if there is a divorce, issues of support, maintenance (formerly called alimony), child custody and division of property.

When you decide to marry, both of you must go to the local county courthouse to obtain a marriage license well before the actual date of the ceremony. You should call the local county courthouse before going to obtain the marriage license to find out the fee (many counties require cash). You must take with you a form of identification, such as a driver's license. After applying for your license, there is a short waiting period before you can pick up your license at the courthouse. You must get married within 30 days of the date the license is issued. Missouri does not require blood tests. The actual marriage may be solemnized by any clergyman, either active or retired, who is in good standing with any church or synagogue in the state of Missouri or by a judge of a court of record other than a municipal or city judge.

There are laws in Missouri that place restrictions on certain marriages with regard to mental capacity, age and gender. Same-sex marriages are unconstitutional in Missouri and are not valid under Missouri law even if the parties were married in a state that does allow same-sex marriage.

In addition, if you married your spouse under any pretense of fraud or coercion, the marriage may not be valid and the law may treat the marriage as if it never existed. There are certain factual requirements that must be met prior to individuals entering into marriage, such as age and voluntary consent.

The minimum age one can enter into a valid marriage without parental consent is 18. Teenagers between the ages of 15 and 18 may marry, provided the teenager obtains consent of either a parent or guardian. The parent or guardian must consent to the marriage in person or in writing, stating the residence of the person giving such consent, and this writing must be signed and sworn to before an officer authorized to administer oaths. A person under age 15 must obtain a court order prior to getting married.

If you live with another person of the opposite gender for a certain amount of years, some states recognize that as a "common law marriage," but Missouri does not. However, if you have such a marriage recognized by another state, Missouri will recognize it as a valid marriage.

Support

Both parents have a legal duty to financially support their children. The husband and wife, generally speaking, have a financial duty to support one another, depending upon the circumstances of the marriage. In the event of a divorce, a court will determine the parties' obligations to support children or the other spouse. Parents do not have any legal obligation to support their children financially after their children marry.

Do You Need to Change Beneficiaries?

You may wish to designate your spouse as beneficiary of your life insurance and other assets for which you may designate a beneficiary. You should speak with your insurance agent or employer regarding any changes in beneficiaries. Designating your spouse as beneficiary of tax-deferred in- vestments, such as 401(k)s, IRAs, Keoghs, tax-deferred annuities, etc., may allow your spouse to continue to defer the income tax on those accounts if they roll the proceeds over into an IRA account of their own in the event of your untimely death.

Property Ownership After Marriage

If you own property before your marriage, you may wish to consult a lawyer prior to your marriage about that property. If you add your new spouse's name to the property, it is likely that your spouse would be entitled to a portion of that property in the event of a divorce. You may even desire to discuss a prenupial agreement with the lawyer to set forth how your property would be divided in the event of a divorce.

Any property that is purchased after the marriage, regardless of how it is titled, is presumed to be marital property. In the event of a divorce, courts look at the source of funds and other factors to determine how property is divided; however, the general rule to follow is that any income or assets that are generated during a marriage are marital property and subject to an approximate 50 percent net division at the time of divorce.

You Have a New Heir

When you marry, each of you becomes the heir of the other. As soon as you have children, they also beome your heirs.

Having a will is a good idea, even if you don't have much property. If you have children, the only way you can leave all your property to your husband or wife is to have a will that states your wishes. If you don't have a will, you will have no say in how property is divided. If your will excludes your spouse and children, Missouri law provides that, despite this exclusion, your spouse and children have certain rights to your estate that may be enforced after your death. If you have children, your will can designate who should care for them if you and your spouse both die.

Changing Your Name

A bride may take her husband's last name, retain her own surname or hyphenate both her own surname and her husband's surname. Example: Mary Smith marries Jack Jones. She may wish to be known as Mary Jones, Mary Smith or Mary Smith-Jones. Likewise, a bride who wishes to take her husband's last name may retain her given middle name or use her own surname as a middle name.

If you take a new name, you should tell:

The federal government for your Social Security records. You employer can help with this.

Your employer and your spouse's employer. It will make a difference in your income tax.

The city hall if you have moved and want to vote in the next election.

The bride should notify the auto license office within 10 days after the wedding. They will make her a new license for a small charge.

If, at the time of your marriage, you do not take your spouse's name and later change your mind, you can file a petition for change of name with the court.

Buying on Time/Use of Credit

Marriage creates many new financial obligations. The Missouri Bar has a pamphlet entitled "Buying On Time" that will assist you in understanding the cost of buying cars, furniture, appliances or other household goods on credit.

Buying a Home

If you plan to buy a home, you may want a lawyer to help you:

- write your offer to buy
- check the title
- check the contract before you sign it.

The Missouri Bar has a free pamphlet entitled "Buying a Home," It may answer some questions you have about buying your own home.

Keeping Records

You need to keep in a safe place:

- your insurance policies
- your marriage certificate
- your birth certificate
- church certificates
- your contracts
- your children's birth certificates

If You Need Help Finding a Lawyer

The Missouri Bar offers a free Lawyer Search function, located at MissouriLawyersHelp.org. Those seeking representation can use the tool to locate lawyers by practice area, geographic location, and spoken language. The Missouri Bar or the Office of Chief Disciplinary Counsel cannot pro- vide legal advice or refer you to an attorney, but select local bar associations in Missouri offer assistance in finding representation. If you would like a referral to an attorney in the St. Louis area, call (314) 621-6681. For a referral to an attorney in the Springfield or Greene County area, call (417) 831-2783.

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