

### **How do I get married in Montana?**

There are three ways to get married in Montana. The most common is ceremonial marriage. To do this you need a marriage license from your county Clerk of the District Court. The 2008 fee is \$53 (in cash). The license is in effect as soon as you get it, and works for up to 180 days. Someone authorized by the state must perform the marriage. The marriage needs at least two witnesses.

You can also get married by common law or by declaration of marriage. These are both described later in this brochure.

### **Who needs a blood test to get married?**

A woman must get a blood test for rubella sometime before getting married. She must do this unless she is excused by law (such as by the rubella waiver, found on the license application.). The results of the test must be available to show the Clerk of Court when getting the marriage license. Men do not need blood tests.

### **How old must I be to get married?**

You must be at least 16 years old. If you are 16 or 17, the law requires consent of your parents or a judge, as well as pre-marriage counseling. If you are 18, you are legally an adult and do not need consent.

### **How long do I have to live in Montana to get married here?**

There is no residency requirement in Montana for getting a marriage license.

### **How do I get married by declaration?**

The woman must get the medical certificate for ceremonial marriage. Then the couple must file a written declaration. This must be signed by both husband and wife and filed with the local Clerk of District Court. Contact your local Clerk of Court for more information. The fee for this is \$53 (in cash).

### **How do I get married by common law in Montana?**

You and your partner must do all of the following:

- Be of legal age, and you are not married to someone else at the time;
- Make your home together living as husband and wife;
- Hold yourselves out in public as married, by telling others (friends, family, or employers, for example) that you are married; and
- Agree with your partner at a specific day and time that you are married

(Make a note of the date; it is important).

If you don't do all of these things, you might not have a common law marriage. Living together, even for a long time, does not create a common law marriage. Important property, support and inheritance rights, and benefits such as insurance, social security, and worker's compensation all depend upon whether or not you are married.

If you are married by common law, you will need a divorce to end the marriage. This is no different than if you had been married by ceremony or by declaration. If you have a question about whether or not you are married by common law you must talk to a lawyer. Each common case depends on its own facts, and a lawyer will need to help sort out the details.

## **Before our marriage, should my intended spouse and I consider getting a written agreement about our future property and/or support rights?**

If either or both of you have valuable property or have children from other marriages, you should consider such an agreement. This is called a "prenuptial" or "antenuptial" agreement. These agreements set the amount of property or support a spouse will receive in the event of the other's death or a divorce. They must be very carefully prepared in order to be valid. Both parties will need a lawyer for this.

## **How do I get more help?**

Montana Legal Services Association (MLSA) provides free civil legal help to low-income people. Contact us to see if you qualify:

- Apply anytime online at [mtlsa.org](http://mtlsa.org);
- Call our Helpline at 1-800-666-6899 (Helpline hours are limited).

## **What help can I find at MLSA?**

- Legal advice and representation;
- Referrals to volunteer attorneys and other providers;
- Self-help clinics and materials.

## **[www.MontanaLawHelp.org](http://www.MontanaLawHelp.org)**

Need legal information or forms? Visit [www.MontanaLawHelp.org](http://www.MontanaLawHelp.org).

Can't find what you want? Use LiveHelp. Click on the LiveHelp picture and get help finding the information you need.

## **[www.MTLSA.org](http://www.MTLSA.org)**

Find copies of all our brochures online. They are all available for free download!

This pamphlet is meant to give basic legal information, not legal advice about your problem. The law changes often and each case is different. We recommend you talk to an attorney about your legal problem.

# **Montana Legal Services Association**

## **Families and Kids:**

### **Getting Married**



*Providing, protecting, and enhancing access to justice.*

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