Immigrants, Marriage, and Divorce in Minnesota

Am I legally married or divorced?

Marriage and divorce are personal between two people, but there are laws about what is considered legally married or divorced. Whether or not someone is married in the eyes of the government depends on the laws of each country. Each state in the United States and each country in the world has its own rules about how to get married or divorced.

In many countries, the marriage has to be registered or licensed through the government. In other countries, the government is not involved in the marriage process. If you were married according to the laws of the country or state where the marriage happened, then you are legally married even if you move to another country or state.

If you were divorced according to the laws of the country or state where the divorce happened, then you are legally divorced.

What does immigration consider a legal marriage or divorce?

Under U.S. immigration law, if you got married before coming to the United States, and your marriage is valid where it happened, then your marriage should be recognized in the United States.

For example: If the country where you got married says that a religious ceremony is a valid marriage and you have a religious ceremony, then the U.S. will likely accept the marriage.

In the U.S. you can only have 1 spouse at a time. Even if it was legal to have more than 1 spouse at a time (polygamy) where you were married, the U.S. does not recognize that. Only the first spouse is legal in the U.S.

Note: If immigration considers you married, then you are also seen as married for purposes of Minnesota and United States law.

What is a legal marriage or divorce in the United States?

In the United States, a marriage is legal when you apply with the government and have a ceremony that follows certain rules.

In Minnesota you apply for a marriage license with the county. After getting the license, you have to be married by an authorized person. Then you get your marriage certificate from the county.

If you get married by an authorized person, following the rules of your religion but DID NOT get a license, you might not be legally married in Minnesota.

Generally, a divorce is not valid unless the couple goes to court. Papers are filed with the court and typically the couple must meet with a judge. The judge then signs a form that says you are divorced.

Because each state has different laws, the marriage or divorce must follow the laws of the state where the ceremony or divorce happened.

Why does it matter if I am legally married or divorced?

It matters for filing taxes or filling out any forms that ask if you are married. You can't say you are married if the state doesn't recognize your marriage. It is also important if you decide to get divorced from your spouse.

A legal marriage matters for inheriting property. If your spouse dies without a will, you automatically inherit their belongings and property. If you are not married you might not have any right to the property, even if you were with that person a long time.

Custody of children can depend on if the parents were legally married when the children were born. In Minnesota, if the parents are not married when a child is born, only the birth mother has custody of the child, unless a court order says differently.

If you are not sure you are legally married under the laws of Minnesota, talk to a lawyer before filing taxes or filling out forms that list you as married.

How do I get legally married in Minnesota?

In order to be legally married in Minnesota you must follow certain rules. You need to:

- be at least 18 years old
- be able to make decisions for yourself
- apply for and get a marriage license
- be married by someone authorized to perform marriages.

Note: Minnesota does not recognize marriages involving a minor who traveled out of state to get married.

After all the rules are met, you get a marriage certificate.

See our fact sheet *Marriage in Minnesota*.

Some states have laws that say 2 people are married if they have lived together for a certain period of time. These are often called common law marriages. Minnesota **does not** have common law marriages and doesn't recognize them. If you have lived together for many years and represent yourself as married, be careful! You are not married under Minnesota law until you follow Minnesota's laws for a marriage license and ceremony.

Do I need to get legally divorced?

If your marriage was legal where it took place, then it is recognized by the U.S. as a legal marriage. If you want to get divorced, you have to get divorced legally.

If you got married **in** Minnesota and followed the rules of your religion or culture but did not get a marriage license, then your marriage is not legal. You **don't** have to go to court to get a divorce because you are not seen as being legally married by the state.

How do I get legally divorced?

In order to get legally divorced in Minnesota you must go to the district court in the county where you live. Fill out a formal document called a Petition. The Petition says that there has been an "irretrievable breakdown" of the marriage. This means that you believe your marriage can't be saved.

Since Minnesota has no-fault divorce, you do not have to prove that you or your spouse was at fault for the marriage not working.

If you want to ask for a divorce in Minnesota, you must have lived in Minnesota for 180 days. You have to file divorce papers with the court in the county where you or your spouse live.

Fact Sheets are legal information NOT legal advice. See a lawyer for advice.
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