

Common-law marriage? Not in Kansas if bill succeeds

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Bo Rader File photo

A proposal in the Kansas House would get rid of common-law marriage starting in July.

A common-law marriage occurs when two people agree to marry without a formal ceremony or marriage license.

Common-law marriages entered into before July 1 would still be valid if HB 2101 were signed into law.

Common law marriage has existed in Kansas since the 1800s, when “ministers were scarce and when it was socially unacceptable to live together without the benefit of marriage,” said Charley Harris, a Wichita attorney in family law.

“Times have changed,” Harris said, adding that Kansas is one of [eight states](#) that still recognize common-law marriage.

Harris and others said the lack of documentation leads to murky proceedings if couples decide they want a divorce.

“You can do it yourself but you can’t undo it yourself,” Harris said.

Sedgwick County Judge Eric Commer said common-law marriages can lead to “fiction or fraud” for tax or insurance purposes.

“It is appropriate at this stage in our culture to change it,” Commer said.

Kansas Funeral Directors Association executive director Pam Scott said a spouse’s death can complicate the intent of a common-law marriage since only one spouse is still living.

“Someone is saying they’re a common-law spouse, but then their other family members are saying, ‘Well, no, they were never married,’ ” Scott said. “When family members disagree, the funeral service has to be put on hold while it’s determined whether a common-law marriage exists.”

“It puts a lot of stress on surviving family members when there is a dispute and their loved one is waiting burial or cremation,” she added.

Ron Nelson, an Overland Park family law attorney, is married to his wife through a common-law marriage. He opposed the bill.

“We want to encourage marriage, not discourage marriage,” he said. “There is absolutely no way that you can publicize the abolition of common-law marriage and reach everyone.”



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