

Opinion No. 43-4302

May 27, 1943

BY: EDWARD P. CHASE, Attorney General

TO: Miss Lois S. McVey, Supervisor, Child Welfare Services, Department of Public Welfare, Santa Fe, New Mexico

We have your letter of May 27, 1943, in which you ask an opinion of this office concerning whether or not common law marriages are recognized in the State of New Mexico.

The Supreme Court of the State of New Mexico, in the case of *In Re Gabaldon's Estate*, 38 N.M. 392, 34 P. 2d 672, held that there could be no common law marriages formed under the laws of the State of New Mexico. However, I wish to point out that while it is necessary to have a ceremonial marriage in New Mexico in order to have a valid marriage created under the laws of this state, nevertheless, if the parties you have in mind have lived in states other than New Mexico where a common law marriage is recognized, it is possible that they would be considered to have been legally married in such state. and under the fundamental law, such marriage would be recognized in New Mexico.

Hoping that the above is of some benefit to you, I remain

By HARRY L. BIGBEE,

Asst. Atty. General