



AMERICAN  
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# AMERICAN PHOTO

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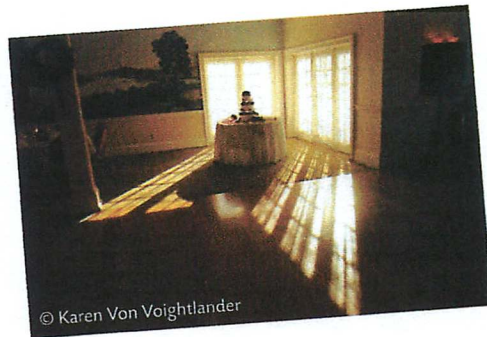
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WEDDING and PORTRAIT GUIDE

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A Special Supplement To American PHOTO

# PROTECT YOUR PICTURES

## ARE YOUR PHOTOGRAPHS COPYRIGHTED? ARE YOU SURE?

Copyright law is a dynamic field, and the law has changed a lot since you may have learned the basics. Here's quick review of current law about duration, protection and registration.

### DURATION

For works created after 1978, copyright protection lasts for 70 years after the death of the author. When copyright protection expires, the work moves into the public domain, which means anyone can use it for free.

### COPYRIGHT PROTECTION

A copyright is a bundle of five exclusive rights:

- The right to reproduce the work
- The right to make derivative works
- The right of distribution
- The right to perform the work
- The right of public display

To qualify for copyright protection a work must be *original*, it must be an *expression* of an idea and it must be "*fixed*" in a tangible medium (paper, film, digital camera, etc.). Ideas or concepts cannot be copyrighted. Protection begins as soon as the expression is fixed. You don't have to use a copyright notice on your images created after 1989 to have copyright protection, but it's a good idea because it lets the world know you claim copyright ownership of the work. If you are going to use a copyright notice, it must consist of all three elements in the following order:

1. The actual word "copyright," the abbreviation Copr. or the symbol ©. If your work is distributed internationally, you should use the © symbol. No other words or phrases are legally sufficient.
2. The year of first publication.
3. The full or legal name of the owner of the copyright. For example: ©2005 Michelle Bogre.

Selling a print or even giving someone your negatives doesn't legally transfer the copyright. A transfer of rights must be in writing. However, it is likely that the person buying your wedding photographs may think that buying prints means she "owns" the right to reproduce them, so make it clear in your contract that you retain the copyright to the images.

### COPYRIGHT REGISTRATION

You do not have to register your copyright to have protection, but registration confers substantial benefits. You must register your image to sue someone for infringement, and if you have registered the image in a timely fashion, you could be eligible

for statutory damages up to \$30,000 to \$150,000 per infringement, plus your attorney's fees, if you prevail in an infringement suit. "Timely registration" means you registered the work before it was infringed or you registered the work within three months of the date of first publication.

Since you don't know which images might be infringed, it is a good habit to register all your important photographs before they are published. Registration costs \$30 per image or per submission. You can register a group of unpublished images as a collection, paying one \$30 fee, if you've created all the work, the work is assembled in an orderly form such as on one CD or on one contact sheet, and the collection is given one title. To be safe, you should only register work as a collection if it has been created in the same year. Once an image is published, it is a good idea to register that image again under its own title.

You will find all the registration forms and instructions on the Copyright Office's website, [www.copyright.gov](http://www.copyright.gov) or you can call the Copyright Office's 24-hour Forms and Publications Hotline (202.707.9100). Fill out form VA for photographs. There are both long and short forms. The short form VA requires minimal information and takes a few minutes to fill out. Use the short form if:

1. You are the living author who is the sole author and owner of the copyright. (It is possible for you to be the author but not the copyright owner, if you have assigned your copyright to someone else.) You can't use this form if the copyright is jointly owned or is owned by a business organization.
2. The work is new and does not contain material that has been previously published or registered.
3. The work is not an anonymous work, which is defined by copyright law as being the work of an author who does not use his real name or does not want to reveal his identity on the registration application.

Finally, I must dispel a myth. The "poor man's copyright," does not substitute for registration. This myth goes something like this: you put your created piece—photograph, novel, song cassette—in an envelope, mail it to yourself and leave that envelope unopened until the day you need it in court. The sealed envelope may have some evidentiary value but it *does not* substitute for copyright registration. Pay the \$30 to register your work. ~

Michelle Bogre