



Name of Country and Jurisdiction:  
**Florida, United States**

- 1. What forms of legally recognized relationships are available?
- 2. What are the requirements to be able to enter into the above relationships?
- 3. Differences between marriage and civil unions and how the two sets of laws interact.
- 4. What kinds of pre-existing relationships make you ineligible to enter each kind of relationship?
- 5. When a couple comes to Florida, is their pre-existing relationship recognized? If not, is there any formalized avenue for obtaining recognition?
- 6. How can each form of relationship be dissolved? What is the residency requirement or other link to Florida for an authority to grant a divorce/ dissolution?



**1. What forms of legally recognized relationships are available?**



LEGAL RECOGNITION FOR OPPOSITE-SEX COUPLE	GEOGRAPHY	LAW	AVAILABLE TO SAME-SEX COUPLE?
Marriage	Florida	Fla. Const. art. I, § 27; Fla. Stat. §§ 741.01–741.212  <i>Obergefell v. Hodges</i> , 576 U.S. _____ (2015)	Yes <sup>1</sup>
Domestic partnership	Broward, Miami-Dade, Leon, Monroe, Orange, Palm Beach, Pinellas, and Volusia Counties; more than 30 cities and towns across the state, such as the City of Sarasota	Local ordinances	Yes

<sup>1</sup> On August 21, 2014, a Florida district court struck down on federal constitutional grounds Florida’s state constitutional amendment (art. I, § 27) and statutory provisions (Fla. Stat. §§ 741.01, 741.212) limiting marriage to one man and one woman. *Brenner v. Scott*, 999 F. Supp. 2d 1278 (N.D. Fla. 2014). Marriage licenses began to be issued to same-sex couples on January 6, 2015, after the stay placed on the *Brenner* decision expired and Florida’s attorney general decided not to challenge the issuance of those licenses.

On June 26, 2015, the United States Supreme Court issued a decision in four consolidated cases from the Sixth Circuit Court of Appeals under the name *Obergefell v. Hodges*, 576 U.S. \_\_\_\_\_ (2015), regarding same-sex

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marriage. The appeals arose from federal district court decisions in Michigan, Kentucky, Ohio, and Tennessee, which struck down as unconstitutional laws that denied the 14 petitioners the right to marry or refused to give full recognition to marriages lawfully performed in another state. The laws at issue in those states defined marriage as a union between one man and one woman. The Sixth Circuit had reversed those decisions (in *DeBoer v. Snyder*, 772 F.3d 388 (6th Cir. 2014)), holding that a state had no constitutional obligation to allow same-sex marriages or to recognize those performed in another state. In a 5-4 majority opinion, the U.S. Supreme Court held that the Fourteenth Amendment requires a state to license marriages between same-sex couples and to recognize lawfully performed same-sex marriages from another state. The Court held that the right to marry is protected under both the Due Process Clause and the Equal Protection Clause of the Fourteenth Amendment. Because the Court found that state laws at issue burden the liberty and abridge the equality of same-sex couples, they must be struck down.

Although Florida’s constitutional and statutory same-sex marriage bans remain on the books—state House and Senate bills proposing to amend those statutory provisions to apply to same-sex couples died in committee on April 28 and May 1, 2015, respectively—the bans are unconstitutional under *Obergefell*.

**Q**

**2. What are the requirements to be able to enter into the above relationships?**

**A**

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	<ol style="list-style-type: none"> <li>1) Statement in writing, signed by both parties, which specifies whether the parties, separately or together, have completed a premarital preparation course.</li> <li>2) Statement that verifies that both parties have obtained and read or otherwise accessed the information contained in a handbook or other electronic media presentation of the rights and responsibilities of parties to a marriage specified in the Florida Constitution.</li> <li>3) Completed marriage license (requires submission of Social Security number).</li> <li>4) If either party is under 18, the parties must submit the written consent of the parents or guardian of such minor to such marriage, acknowledged before some officer authorized by law to take acknowledgments and administer oaths. Parental consent is not required if both parents of the minor are deceased. A judge may waive the parental consent requirement if both parties to the marriage are the parents or expected parents of a child.</li> </ol>
Domestic partnership	<p>Domestic partnerships generally impose the same conditions as Florida law regarding age, competency, marital status, and family relationships between partners. They require the partners to sign an affidavit or form affirming their intention to enter into such a legal relationship and file it with the appropriate local government department. Some counties also require, for example:</p> <ul style="list-style-type: none"> <li>• Residence in the recognizing county (Broward, Palm Beach).</li> <li>• An agreement that they consider one another family and will support one another financially (Miami-Dade, Monroe, Palm Beach, Sarasota, Volusia).</li> <li>• Partners to live at the same residence (Monroe, Miami-Dade, Palm Beach, Sarasota).</li> <li>• Waiting periods following the termination of a previous domestic partnership (Broward – 30 days; Palm Beach – one year).</li> <li>• Each party to express his or her intent that the other partner make healthcare decisions during emergencies or dispose of his or her remains in the event of death (Pinellas, Sarasota, Volusia).</li> </ul>

**Q**

**3. If both marriage and civil unions exist:**

- (a) Identify any significant differences in eligibility; and
- (b) Briefly highlight how they interact if both are in effect (e.g., in some countries, entering into a marriage with the same or a different person automatically dissolves any civil union that the two parties were previously party to, making the latter vulnerable and potentially circumventing separation laws).
- (c) If both marriage and civil unions are available to same-sex couples, briefly highlight areas where major differences exist between marriage and civil unions (e.g., taxes, adoption, immigration, etc.).

**A**

(a)	In addition to the basic requirements for marriage under Florida law (competent, unmarried, not blood-related), partners in a domestic relationship must be over the age of 18, and there is no parental-consent exception for minors. As described above, additional substantive requirements vary county by county.
(b)	Domestic partnerships terminate when one partner marries.
(c)	Not applicable.

**Q**

**4. What kinds of pre-existing relationships make you ineligible to enter each kind of relationship?**

**A**

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	Marriages are prohibited between persons related by lineal consanguinity. A man may not marry his sister, aunt, or niece; a woman may not marry her brother, uncle, or nephew.
Domestic partnership	Certain close familial relationships may make parties ineligible to enter into domestic partnerships. Parties to a domestic partnership also may not be part of another marriage or, in Broward, Pinellas, Sarasota, and Volusia Counties, domestic partnership.

Q

**5. When a couple comes to Florida, is their pre-existing relationship recognized? If not, is there any formalized avenue for obtaining recognition?**

A

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	In 2014, several state trial judges recognized same-sex marriages performed outside Florida for the purpose of, for example, granting a divorce or permitting a same-sex spouse to act as personal representative of his husband's estate. The legal effect of those cases was, however, limited to the parties involved or to the county in which the court was located. Under <i>Obergefell</i> , lawful out-of-state same-sex marriages must be recognized statewide.
Domestic partnership	Generally, domestic partnerships are recognized only in the county in which they are registered. However, Palm Beach and Volusia Counties expressly extend recognition to "all persons legally partnered" in other jurisdictions, and the City of Sarasota recognizes domestic partnerships registered in other <i>Florida</i> jurisdictions.

Q

**6. How can each form of relationship be dissolved? What is the residency requirement or other link to Florida for an authority to grant a divorce/ dissolution?**

A

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	To obtain a dissolution of marriage, one of the parties to the marriage must reside six months in the state before the filing of the petition.
Domestic partnership	<p>A partner to a domestic partnership can terminate the partnership by filing an affidavit or notarized declaration formalizing his or her intent to do so. Marriage (marriage in Florida for Sarasota), entry into a civil union or another domestic partnership (Palm Beach County, Sarasota, Volusia), or death of either partner also terminates the partnership. Miami-Dade County also considers the domestic partnership to be terminated if one of the partners is no longer "responsible for the other's basic food and shelter."</p> <p>Some counties require immediate notice of the partnership's termination to the county clerk or appropriate department; Pinellas County requires both parties to file an Affidavit of Termination with the county clerk within 10 days, Volusia County requires only one partner to do so, and Sarasota requires one partner to file in the event of death, marriage, or reregistration.</p>

## ■ Sources:

- Fla. Const. art. I, § 27
- Fla. Stat. §§ 61.001–.061, 61.183–.191
- Fla. Stat. §§ 741.01–.212
- S.B. 1428; H.B. 4037
- *Obergefell v. Hodges*, 576 U.S. \_\_\_\_\_ (2015)
- Broward County Domestic Partnership Act of 1999, Broward Cnty., Fla., Code §§ 16½-150–162
- Miami-Dade Cnty, Fla., Code art. IX, §§ 11A-70–79
- Monroe Cnty., Fla., Domestic Partnership Resolution No. 081-1998
- Orange County Ordinance Pertaining to Health, Education and Life Protections “HELP,” Orange Cnty., Fla., Ord. No. 2012-09
- Palm Beach Cnty., Fla., Ord. No. 2006-002
- Pinellas Cnty., Fla., Code §§ 70-236 et seq.
- Sarasota, Fla., Code art. VIII, §§ 18-52–59
- Volusia Cnty., Fla., Ord. No. 2012-09
- *Brenner v. Scott*, 999 F. Supp. 2d 1278 (N.D. Fla. 2014)
- *Shaw v. Shaw*, 166 So. 3d 892 (Fla. Dist. Ct. App. 2015)
- *Brandon-Thomas v. Brandon-Thomas*, 163 So. 3d 644 (Fla. Dist. Ct. App. 2015)
- *In re Bangor*, No. 502014CP001857XXXMB, slip op. at 1–10 (Fla. Cir. Ct. August 5, 2014)
- *Brassner v. Lade*, No. 13-012058 (37), slip op. at 1–16 (Fla. Cir. Ct. August 4, 2014)
- *Pareto v. Ruvlin*, No. 1401661 CA 24, slip op. at 1–36 (Fla. Cir. Ct. July 25, 2014)
- *Huntsman v. Heavlin*, No. 2014-CA-305-K, slip op. at 1–14 (Fla. Cir. Ct. July 17, 2014)
- <http://cms.leoncountyfl.gov/Home/Engaging-Citizens-Partnering-With-Our-Community/Domestic-Partnership-Registry>