



Name of Country and Jurisdiction:  
**Indiana, 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 Indiana, 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 Indiana 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	Indiana	Ind. Code § 31-1-11-1, et seq.; <i>Obergefell v. Hodges</i> , 576 U.S. ____ (2015).	Yes <sup>1</sup>

<sup>1</sup> On June 25, 2014, a U.S. district court in Indiana overturned Indiana’s law prohibiting same-sex marriage. On September 7, 2014, the Seventh Circuit issued a unanimous opinion affirming the decisions of district courts in Indiana and Wisconsin in the combined case *Wolf v. Walker*. That decision was stayed on September 15, pending resolution of an appeal to the Supreme Court. On October 6, 2014, the Supreme Court denied a writ of certiorari to an appeal from the Seventh Circuit’s ruling in *Wolf v. Walker*. On October 7, the Seventh Circuit issued its mandate in *Wolf v. Walker*, and the Indiana Attorney General’s Office directed clerks in Indiana’s 92 counties that as of October 7, 2014, they are prohibited from denying marriage licenses to same-sex couples so long as all other marriage license requirements are met.

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 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 define 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 (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

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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.

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

**A**

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	Both parties must be: (1) at least 18 years of age, (2) not married to another, and (3) not closely related by blood or marriage. See Ind. Code § 31-11-2 to -4.

**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)–(c)	Not applicable. Civil unions do not exist in Indiana.
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**Q** 4. What kinds of pre-existing relationships make you ineligible to enter each kind of relationship?

**A**

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	One cannot marry if one is already married to another. Ind. Code § 31-11-18-2. A marriage is void if either party was mentally incompetent when the marriage was solemnized. Ind. Code § 31-11-18-4. A marriage is void if two Indiana residents had their marriage solemnized in another state to evade Indiana’s prohibitions on marriages to the mentally incompetent and/ or those under the influence of intoxicating substances. Ind. Code § 31-11-18-6.
<i>De facto</i>	Not applicable. Indiana does not recognize common-law marriages entered into after January 1, 1958. Ind. Code § 31-11-18-5.

Q

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

A

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	Indiana recognizes out-of-state marriages valid in the location where they were performed. <i>Baskin v. Bogan</i> , 12 F. Supp. 3d 1144, 1163 (S.D. Ind. 2014), <i>aff'd sub nom.</i> , <i>Wolf v. Walker</i> , 766 F.3d 648 (7th Cir. 2014) (citing <i>Bolkovac v. State</i> , 229 Ind. 294, 304, 98 N.E.2d 250 (Ind. 1951)).

Q

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

A

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	A court can grant a divorce provided that at least one of the parties was a resident of Indiana or stationed at a United States military installation within Indiana for six months immediately preceding the filing of the petition. Ind. Code § 31-15-2-6. In addition, at least one of the parties must have been a resident of the county where the petition is filed or must have been stationed at a United States military installation there for three months immediately preceding the filing of the petition. <i>Id.</i>

**Sources:**

**Legislation**

- Ind. Code §§ 31-1-11-1 through - 4
- § 31-11-4-3
- § 31-11-8-2
- § 31-11-8-6
- § 31-11-10
- § 31-11-10-4
- § 31-15-2
- § 31-15-2-6
- § 31-15-3
- § 31-15-3-6

**Secondary Sources**

- *Obergefell v. Hodges*, 576 U.S. \_\_\_\_ (2015).
- *Fujii et al. v. Governor, State of Indiana et al.*, No. 1:14-cv-00404 (S.D. Ind., June 25, 2014).
- *Virginia Wolf, et al. v. Scott Walker, et al.*, Docket No. 14-02526 (7th Cir. July 11, 2014), Court Docket (07/11/2014).

