



Name of Country and Jurisdiction:

Louisiana, 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 Louisiana, 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 Louisiana 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, registered	Louisiana	Louisiana Civil Code arts. 86, 89.	Yes ¹
Domestic partnership	City of New Orleans	New Orleans City Code ch. 87, § 87.2.	Yes

¹ 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 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?

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FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	Both parties must give their free consent to take each other as a spouse during a marriage ceremony. Both parties must be 18 or older, with certain exceptions where there is consent by a parent or guardian or a court order. The parties cannot be ascendants or descendants of each other and cannot be collaterally related within the fourth degree by whole or half blood (subject to certain exceptions where the relation is through the collateral line by adoption).
Domestic partnership	Cannot be married, cannot be related in a way that would preclude marriage, and must be 18 or over. Required to cohabit and live in the City of New Orleans, unless one partner is employed in the city. File declaration with the clerk of council.

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)	There is a residence requirement and a cohabitation requirement for a domestic partnership, but not for marriage.
(b)	No interaction specified.
(c)	Entry into the New Orleans domestic partnership registry does not “create any legal rights or duties from one of the parties to the other greater than the legal rights and duties specifically created by this article or other ordinances or resolutions of the city council which specifically refer to domestic partnership.” The primary function of the registry is to provide evidence for those who need it in order to qualify for employer domestic partner benefits.

Q

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

A

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	If you are already married or if you have a prohibited familial relationship, you cannot marry (ascendant and descendant, collaterals within the fourth degree).
Domestic partnership	Neither party can be married or have a familial relationship that would preclude them from marrying, and any previous domestic partnership for either must have ended more than six months before the new declaration is filed (unless the prior partnership ended by the death of one member).

Q

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

A

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	A foreign-formed marriage is recognized if it does not violate Louisiana's marriage laws.
Domestic partnership	Foreign-formed domestic partnerships are not separately recognized, and the domestic partners must register in New Orleans and meet all New Orleans requirements to become part of the New Orleans registry.

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

A

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	One or both parties must be domiciled in the state, and if the party has been a resident for six months, there is a rebuttable presumption of domicile. Louisiana generally requires a waiting period (one year if there are minor children; six months otherwise), although there are exceptions in cases such as adultery, abuse, etc.
Domestic partnership	Termination upon death, partners no longer meet qualifications, or one partner provides written notice to the other partner that the partnership is ended. The parties must then file a notice of termination with the clerk of council in New Orleans.

■ Sources:

- Louisiana Constitution (art. XII, § 15).
- Louisiana Civil Code (arts. 86–103.1).
- Louisiana Civil Code (art. 3520).
- Louisiana Code of Civil Procedure (art. 10).
- Louisiana Children's Code (§ 1545).
- New Orleans City Code (ch. 87).
- *Obergefell v. Hodges*, 576 U.S. _____ (2015).