



Name of Country and Jurisdiction:

Maryland, 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 Maryland, 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 Maryland 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	Maryland	Civil Marriage Protection Act 2012	Yes
Domestic partnership, not registered	Maryland	Health Care Facility Visitation & Medical Decisions Act 2008	Yes

NOTE: 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.

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

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(i) Geographic requirements:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	Neither party need be a resident of Maryland. However, parties must be married in the county where they purchased their marriage license. If the individuals wishing to obtain a marriage license are not residents of the county from which they seek the license, one of the parties must provide an affidavit containing the required identifying information about the parties sworn to under oath before a clerk or other comparable official in the county, state, province, or country where the party resides.
Domestic partnership	Neither party need be a resident of Maryland.

(ii) Other substantive eligibility criteria:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	<p>Both parties to the marriage must:</p> <ul style="list-style-type: none"> • be at least 18 years of age, or: <ul style="list-style-type: none"> • if 16 or 17, have the consent of a parent or guardian or a certificate from a medical professional stating that the woman to be married is pregnant or has given birth to a child. • if 15, have the consent of a parent or guardian and a certificate from a medical professional stating that the woman to be married is pregnant or has given birth to a child. • not be related to each other in a way that would prevent their marrying, including being closely related by blood or marriage. <p>An individual may not marry without a license issued by the clerk of the county in which the marriage is to be performed. The marriage must be performed within six months of the license's effective date.</p>

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FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Domestic partnership	<p>Both parties to the domestic relationship must:</p> <ul style="list-style-type: none"> • Be at least 18 years of age; • Not be married or in a civil union or domestic partnership with another individual; • Not be related to each other by blood or marriage within four degrees of consanguinity; and • Agree to be in a relationship of mutual interdependence in which each individual contributes to the maintenance and support of the other individual and the relationship, even if both individuals are not required to contribute equally to the relationship. <p>An individual who asserts membership in a domestic partnership may be required to provide:</p> <ul style="list-style-type: none"> ◆ An affidavit signed under penalty of perjury by two individuals stating that they have established a domestic partnership; and the ◆ Documents that provide proof of any two of the following: <ul style="list-style-type: none"> ◆ Joint liability of the individuals for a mortgage, lease, or loan; ◆ The designation of one of the individuals as the primary beneficiary under a life insurance policy on the life of the other individual or under a retirement plan of the other individual; ◆ The designation of one of the individuals as the primary beneficiary of the will of the other individual; ◆ A durable power of attorney for health care or financial management granted by one of the individuals to the other individual; ◆ Joint ownership or lease by the individuals of a motor vehicle; ◆ A joint checking account, joint investment, or joint credit account; ◆ A joint renter's or homeowner's insurance policy; ◆ Coverage on a health insurance policy; ◆ Joint responsibility for child care, such as guardianship or school documents; or ◆ A relationship or cohabitation contract.

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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 are no significant eligibility differences between marriages and domestic partnerships.
	(b)	Being in a domestic partnership does not prevent a person from marrying, but being married prevents a person from entering into a domestic partnership.
	(c)	There are great differences in the rights available to a couple in a marriage versus a couple in a domestic partnership, as domestic partnerships were not designed to offer an alternative to marriage. Rather, domestic partnerships exist to provide nonmarried individuals with medical decision-making and hospital visitation rights.

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

A	FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
	Marriage	An individual is not eligible to enter into a marriage while lawfully married to another living person.
	Domestic partnership	An individual is not eligible to assert the existence of a domestic partnership if he or she is already married or in a civil union or domestic partnership with another individual.

Q 5. When a couple comes to Maryland, 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 is not statutorily prohibited or “repugnant” to Maryland public policy. Foreign same-sex marriages are recognized.

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

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FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	<p>A marriage can be brought to an end by divorce where:</p> <ul style="list-style-type: none"> • The parties to the marriage have voluntarily lived separate and apart for a continuous period of at least 12 months; • The respondent has committed adultery; • The respondent has deserted the petitioner for a continuous period of at least 12 months, the desertion is deliberate and final, and there is no reasonable expectation of reconciliation; • The respondent has been convicted of a felony or misdemeanor and has been sentenced to serve at least three years OR an indeterminate sentence in a penal institution AND has actually served 12 months of the sentence; • The respondent is afflicted with incurable insanity and has been confined in a mental institution for at least three years and one party has been a resident of Maryland for at least two years; or • The respondent has treated the petitioner or a minor child of the petitioner with cruelty or excessively vicious conduct and there is no reasonable expectation of reconciliation. <p>A marriage can be brought to an end by annulment where the marriage is void or voidable because of conditions that existed before the marriage (e.g., one of the parties was already lawfully married to another person or one of the parties was below the age of consent).</p> <p>If the grounds for the divorce occurred outside the state, a party may not file for divorce unless one of the parties resided in Maryland for at least one year before the filing date.</p>
Domestic partnership	<p>Maryland law does not expressly provide for the dissolution of a domestic partnership. Without the necessary proof, however (e.g., durable power of attorney or joint ownership of a motor vehicle), an individual may not assert the existence of a domestic partnership.</p>

Sources:

- Civil Marriage Protection Act 2012.
- Health Care Facility Visitation & Medical Decisions Act 2008.
- Maryland Family Law Code, Title 2 (Marriage).
- Maryland Family Law Code, Title 7 (Divorce).
- Maryland Health – General Code, Title 6 (Health Care Facility Visitation and Medical Emergencies).
- *Obergefell v. Hodges*, 576 U.S. ____ (2015).