



Name of Country and Jurisdiction:
New York, 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 New York, 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 New York 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	New York State	NY Domestic Relations Law; Marriage Equality Act	Yes
Domestic partnership, registered	New York City	Domestic Partnership law	Yes
Common-law marriage, not registered	New York State	NY state law	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. The *Obergefell* decision did not affect the status of same-sex relationship rights in New York.

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

(i) If a geographic link is required:

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FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	No residency requirement.
Domestic partnership	At the time of registration both people must be residents of New York City, or one person must be employed by the City of New York.

(ii) If other substantive eligibility criteria must be satisfied:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	<ul style="list-style-type: none"> • At least 18 years of age, or consent of parent (and judge) for minors aged 14–17; proof of age and identity required. • Parties may not be ancestor and descendant, brother and sister of either the whole or the half blood, or an uncle and niece or an aunt and nephew. • Must be capable of consent and physically capable of entering into the married state. Neither party may have been incurably mentally ill for the last five years or more.
Domestic partnership	<ul style="list-style-type: none"> • Both people must be 18 or older. • Neither person can be married to another person, or related to one another by blood in any way that would be barred by New York marriage law. • The couple must be in a close, personal, committed, long term relationship in which the couple has been living together continuously. • Both individuals must share the same residential address. • Neither person can be in a Domestic Partnership with another person, or have been in another Domestic Partnership within the past 6 months.

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3. If both marriage and civil unions exist:

- Identify any significant differences in eligibility; and
- 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).
- 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)	Domestic partnerships are available only if both individuals are over 18 years of age; domestic partnerships are only available in New York City (not elsewhere in New York State); domestic partnerships require a link to New York City (both individuals domiciled in New York City or one person employed by New York City).
	(b)	<ul style="list-style-type: none"> • Being in a domestic partnership prevents a person from entering into another domestic partnership at the same time or within 6 months of a prior domestic partnership. • Being in a domestic partnership does not prevent a person from marrying. • If a person who is in a domestic partnership marries (either the domestic partner or another person), the marriage law automatically terminates the domestic partnership.
	(c)	Domestic partners receive many of the benefits of married couples. However, because they cannot be considered spouses, domestic partners do not benefit from state income tax advantages, the spousal privilege and confidential marital communications, the ability to take out insurance policies on the other spouse, among other benefits of marriage. A surviving domestic partner does not have any inheritance or life insurance rights absent an explicit bequest in a will.

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

A	FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
	Marriage	A person who is already married cannot marry again.
	Domestic partnership	If you are already married or have a domestic partnership with the same or a different person you cannot enter into a domestic partnership. A person cannot be in a domestic partnership if that person has been in another domestic partnership within the past 6 months.

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

A	FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
	Marriage	New York State recognizes valid marriages from other states or countries. No registration is required. New York allows a couple married in another state or country to be married again in New York state, but such action is legally unnecessary.
	Domestic partnership	Requires New York City geographic connection. No mechanism to recognize domestic partnerships or civil unions from other municipalities or jurisdictions.
	Common-law marriage	Although New York does not permit common-law marriages, it will recognize a common-law marriage that was validly entered into in another U.S. state.



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



FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	<p>Divorce. One of the following residency requirements must be met:</p> <ul style="list-style-type: none"> • The marriage ceremony was performed in New York and either spouse is a resident of the state at the time of the commencement of the action for divorce and resided in the state for a continuous period of one year immediately before the action began. • The couple lived as spouses in New York and either spouse is a resident of the state at the time of the commencement of the action for divorce and resided in this state for a continuous period of one year immediately before the action began. • The grounds for divorce occurred in New York and either spouse is a resident of the state at the time of the commencement of the action for divorce and resided in the state for a continuous period of one year immediately before the action began. • The grounds for divorce occurred in New York and both spouses are New York residents at the time the action is commenced. • If the parties were married outside of New York and have never lived together as spouses in the state and the grounds for divorce did not occur in New York, then one spouse must presently be a resident of New York and have resided continuously in the state for at least two years prior to filing an action for divorce. <p>A court can grant a divorce provided that both the parties are resident in the State.</p>
Domestic partnership	<p>Either person may terminate a domestic partnership by filing a termination statement in person to the Office of the New York City Clerk. A marriage to the same or another person automatically terminates a domestic partnership.</p>
Common-law marriage	<p>Common-law marriages validly made in other U.S. states are subject to the same rules for divorce as marriages made in New York.</p>

Sources:

- N.Y. Dom. Rel. § 1 et seq.
- N.Y. Dom. Rel. § 10 et seq.
- N.Y. Dom. Rel. § 230
- NYC Admin. Code § 3-240 (domestic partnership law)
- *Obergefell v. Hodges*, 576 U.S. ____ (2015)
- <http://www.cityclerk.nyc.gov/html/marriage/faq.shtml>
- http://www.cityclerk.nyc.gov/html/marriage/domestic__partnership__reg.shtml

