



Name of Country and Jurisdiction:
Oklahoma, 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 Oklahoma, 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 Oklahoma 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	Oklahoma	Okla. Stat. tit. 43, § 3. Okla. Const. art. 2, § 35.	Yes
Common-law marriage	Oklahoma	<i>State ex rel. Okla. Bar Ass'n v. Casey</i> , 295 P.3d 1096 (Okla. 2012) (citing <i>Vann v. Vann</i> , 96 P.2d 76, 79 (Okla. 1939)).	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	There is no residency requirement in Oklahoma.

(ii) Other substantive eligibility criteria:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage, registered	Under Oklahoma law, any unmarried person who is at least 18 years of age may get married. If either person is age 16–17, that person must obtain the consent of a parent, a guardian, or the judge of the district court issuing the license if the person’s parents are incapable and a guardian has not been appointed. Marriage is prohibited for persons under 16 except by court order. Procedurally, Oklahoma requires the couple to obtain a license from the court clerk prior to the marriage, and the court clerk must record the marriage license and marriage certificate following the marriage.
Common-law marriage	To constitute a valid common-law marriage, a couple must actually and mutually agree to enter into a permanent and exclusive marital relationship. The relationship must be between parties capable of making such a contract. There must be cohabitation or consummation of the marriage. And finally, the parties must hold themselves out to the community as married.

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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.).

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(a)–(c)	Not applicable. Civil unions are not available in Oklahoma.
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4. What kinds of pre-existing relationships make you ineligible to enter each kind of relationship?

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FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage, registered	A person who is already married is ineligible to enter into another marriage. Oklahoma also does not authorize any marriage that would be considered incestuous under Oklahoma law, except that any marriage of first cousins performed in another state authorizing such marriages is recognized as valid and binding. Lastly, any person who has recently divorced in Oklahoma may not marry anyone other than his or her previous spouse for a period of six months after the divorce decree is filed.
Common-law marriage	

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

A

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage, registered	Yes
Common-law marriage	

Q

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

A

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage, registered	A married couple can dissolve their marriage in Oklahoma via divorce or annulment if certain requirements are met. Either the petitioner or respondent in an action for divorce or annulment must have been an actual resident of the state for six months immediately preceding the filing of the petition. The petitioner must also have valid grounds for divorce, including but not limited to adultery, impotency, extreme cruelty, and incompatibility. As of November 1, 2014, a couple that has a child under the age of 18 and obtains a divorce on the grounds of incompatibility shall attend an educational program concerning the impact of divorce on children.
Common-law marriage	There is no “common-law divorce.” Like a registered marriage, a common-law marriage can be terminated only by decree of a court of competent jurisdiction or by the death of one of the parties.



■ Sources:

- Okla. Const. art. 2, § 35.
- Okla. Stat. tit. 10, § 7503-1.1 (laying out the eligibility requirements for adoption).
- Okla. Stat. tit. 43, §§ 2, 3, 4, 8, 14, 15, 17, 101, 102, and 123.
- Okla. Stat. tit. 58, § 122.
- *Obergefell v. Hodges*, 576 U.S. _____ (2015).
- *State ex rel. Okla. Bar Ass'n v. Casey*, 295 P.3d 1096, 1100 (Okla. 2012) (providing for common-law marriages between man and wife and stating that a common-law marriage, like a ceremonial marriage, “can be terminated only by decree of a court of competent jurisdiction or by death of one of the parties”).
- *Bishop v. United States, ex rel. Holder*, 962 F. Supp. 2d 1252 (N.D. Okla. 2014), *aff'd*, 760 F.3d 1070 (10th Cir. 2014), *cert. denied*, 135 S. Ct. 271 (2014).
- *Bishop v. United States*, No. 14-5003, 2014 WL 4960523 (10th Cir. Oct. 6, 2014) (mandating judgment of July 18, 2014).
- *Finstuen v. Crutcher*, 496 F.3d 1139, 1156 (10th Cir. 2007) (overruling an amendment that prohibited recognition of adoptions by same-sex couples in other jurisdictions).
- *O'Darling v. O'Darling*, 188 P.3d 137 (Okla. 2008) (implying that Oklahoma will not dissolve a same-sex marriage).
- *Marriage Qualifications*, Oklahoma County Court Clerk, available at <http://www.oklahomacounty.org/courtclerk/MarriageLicense.aspx>.
- *Common Law Marriage in Oklahoma*, DivorceNet.com, available at http://www.divorcenet.com/states/oklahoma/common_law_marriage_in_oklahoma.
- Chris Casteel, *Same-Sex Marriage Now Is Legal in Oklahoma* (Oct. 6, 2014), <http://newsok.com/same-sex-marriage-now-legal-in-oklahoma/article/5349007>.