



Name of Country and Jurisdiction:

Pennsylvania, 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 Pennsylvania, 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 Pennsylvania 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	Pennsylvania	Domestic Relations Code; <i>Obergefell v. Hodges</i> , 576 U.S. _____ (2015). The relationship is registered with the Department of Public Health.	Yes. ¹

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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.

LEGAL RECOGNITION FOR OPPOSITE-SEX COUPLE	GEOGRAPHY	LAW	AVAILABLE TO SAME-SEX COUPLE?
Domestic partnership	Philadelphia, Pittsburgh, Lucerne County, Harrisburg, and the Borough of State College ²	State law does not recognize domestic partnerships. However, Philadelphia, Pittsburgh, Lucerne County, Harrisburg, and the Borough of State College recognize domestic partnerships. City ordinances of Easton and Allentown recognizing domestic partnerships became null and void when same-sex marriage became lawful.	Yes, in certain cities and counties.

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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	No geographic link is required.
Domestic partnership	Domestic partnership status in Philadelphia applies to couples where at least one person is a city government employee. In Pittsburgh, both partners must be residents of the city in order to qualify for domestic partnership status. Domestic partnership in Allentown is available to couples where one or both parties were city employees or retirees. In Easton, domestic partnership is available when both parties were city employees. There is no geographic limitation for domestic partner registry in the Borough of State College.

² The ordinances allowing domestic partnerships vary in their eligibility requirements. There are a few requirements not found in the state's marriage statute, including the requirement in Pittsburgh that partners be together for 12 months before entering into a domestic partnership and the requirement in Philadelphia that partners have not been with another domestic partner for a period of at least six months.

If two people are in a domestic partnership, this will cease if they legally marry. Easton and Allentown provide that if Pennsylvania recognizes same-sex marriages (which had to occur after the *Obergefell* decision), the domestic partnership ordinance becomes null and void, and any domestic partners have a 90-day period of continued benefit coverage in order to marry, thereafter getting benefits for married couples.

Other than for State College, domestic partnerships are limited to residents of certain limited geographic locations and/or employees of a particular city. The status of "domestic partner" does not have significant impact under state law in regard to taxes, adoption, or immigration. For State College, the registry simply provides for public recognition of the union.

(ii) Other substantive eligibility criteria:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	<p>To be legally married in Pennsylvania, the couple must:</p> <ul style="list-style-type: none"> • Each be over the age of 18 or have the consent of a parent or guardian; • Each be mentally competent to marry; and • Obtain a marriage license.
Domestic partnership	<p>To obtain domestic partnership benefits in Pittsburgh:</p> <ul style="list-style-type: none"> • Both partners must be 18 or older; • Neither partner can be the domestic partner or spouse of another person; • The partners must acknowledge that they “intend[] the relationship to be the functional equivalent of marriage.” <p>To obtain domestic partnership benefits in Philadelphia:</p> <ul style="list-style-type: none"> • Both partners must be 18 or older; • Neither partner can be the domestic partner or spouse of another person; • Neither partner can have been part of another domestic relationship within the past six months; • Partners must share a residence; and • Partners must agree to notify the city of changes in their relationship. <p>To obtain domestic partner benefits in Allentown, the parties must be:</p> <ul style="list-style-type: none"> • At least 18 years old; • Competent to contract; • Not related in a way that would prevent marriage under PA law; • Unable to marry under current PA law; • Currently live together and be jointly responsible for expenses; and • Not be a part of (or have been a part of in the preceding 30 days) another domestic partnership. <p>In Easton, domestic partnership is available to:</p> <ul style="list-style-type: none"> • Individuals who are at least 18 years of age and not related to each other in a way that would bar marriage under PA law; • Who have been living together for at least six months; • Who shared responsibility for basic living expenses; • Who are not part of another domestic partnership, civil union, or marriage; • Had not been in another domestic partnership in the preceding six months; and • Who cannot marry under PA law but would if permitted to do so. <p>For the Borough of State College, domestic partners must be:</p> <ul style="list-style-type: none"> • In a committed relationship; • Living together; • At least 18 years of age and competent to contract; • Not related in a way that would bar marriage under PA law; • Not married or legally separated from another person, or in another domestic partnership; and • Not claimed as a dependent by any other party for tax purposes.

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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. Pennsylvania law does not provide for civil unions.
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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	Certain close familial relationships may make parties ineligible to be married. Applicants for a marriage license will also be interviewed regarding any previous marriages to ensure that those marriages were dissolved.
Domestic partnership	Certain close familial relationships may make parties ineligible to enter domestic partnerships. Parties may not be part of another domestic partnership or marriage.

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

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FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	A foreign-formed marriage is recognized in the state.
Civil union	Not recognized.



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



FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	<p>A court can grant a divorce provided that at least one of the parties has been a resident of the State for the previous six months.</p> <p>The grounds for divorce include:</p> <ul style="list-style-type: none"> • Desertion; • Adultery; • Cruel treatment; • Marrying another person while still married to one's spouse; • Imprisonment; • One spouse has made the other's life intolerable; • Institutionalization; • Mutual consent; and • Irretrievable breakdown of the marriage.
Domestic partnership	<p>A domestic partnership can be terminated by one or both of the parties filing a notice of termination which states that one of the factors necessary for domestic partnership status no longer exists. A domestic partnership also can be terminated when one partner dies or when one partner legally marries. See also note above re: Easton and Allentown limitation on domestic partnership benefits when same-sex marriage is recognized.</p>

Sources:

- Domestic Relations Code 1990.
- Executive Order No. 2-96 (Philadelphia).
- Pittsburgh, Pennsylvania, Code of Ordinances.
- Easton Code Chapter 114, Article VII: domestic partnership.
- Allentown Ordinance No. 14868; Code 104.26.
- Borough of State College, Article X (Licenses and Permits), Part G (Domestic Partner Registry).
- *Obergefell v. Hodges*, 576 U.S. ____ (2015).
- *Whitewood v. Wolf*, 2014 U.S. Dist. LEXIS 68771 (M.D. Pa. May 20, 2014).
- Pennsylvania Department of Health.

