



Name of Country and Jurisdiction:

Washington, 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 Washington, 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 Washington 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	Washington	Rev. Code Wash. §§ 26.04.010, 26.04.020	Yes
State registered domestic partnership (domestic partnership)	Washington	Rev. Code Wash. § 26.60.030	Yes

NOTE: Since June 30, 2014, all continuing domestic partnerships not involving one party who is at least 62 years old were converted into marriages.

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	No geographic requirement.
Domestic partnership	

(ii) Other substantive eligibility criteria:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	Both parties must be at least 18 years of age or otherwise legally capable of consenting. The couple must acquire a marriage license, and the marriage must be solemnized within 60 days of the license issuance. Marriage is prohibited if either party has a spouse or registered domestic partner living at the time of such marriage, unless the registered domestic partner is the other party to the marriage. A person may not marry any relative nearer of kin than second cousins. Rev. Code Wash. §§ 26.04.010, 26.04.020, 26.04.180.
Domestic partnership	Both parties must be at least 18 years old, and at least one party must be at least 62 years old. Both parties also must be capable of consenting to the domestic partnership. The couple must share a common residence, and neither party may be married to someone other than the other party to the domestic partnership. The parties also cannot be nearer of kin than second cousins, or marry a sibling, child, grandchild, aunt, uncle, niece, or nephew. Rev. Code Wash. § 26.60.030.

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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)	Domestic partnerships require: (a) parties to share a common residence; and (b) at least one party to the domestic partnership to be at least 62 years old. There are no similar requirements for marriage. Rev. Code Wash. § 26.60.030.
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(b)	Registered domestic partners are not prohibited from marrying each other. However, Washington law is silent as to whether a married couple may subsequently enter into a domestic partnership. Rev. Code Wash. § 26.04.020(1)(a).
(c)	Both marriage and civil unions are available to both opposite-sex and same-sex couples. There are no areas of major difference between marriage and civil unions.



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



FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	Parties cannot be either married to or in a registered domestic partnership with another person. Parties also cannot be nearer of kin than second cousins, or marry a sibling, child, grandchild, aunt, uncle, niece, or nephew. Rev. Code Wash. § 26.04.020(1).
Domestic partnership	Neither party may be married to, or in a domestic partnership with, someone other than the domestic partner. Parties also cannot be nearer of kin than second cousins, or marry a sibling, child, grandchild, aunt, uncle, niece, or nephew. Registered domestic partners are not prohibited from marrying each other. Rev. Code Wash. §§ 26.60.030, 26.04.020(1)(a).



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



FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	A marriage between two persons recognized as valid in another jurisdiction is valid in Washington if the marriage is not prohibited or made unlawful under Washington law. Rev. Code Wash. § 26.04.020(3).
Domestic partnership	A civil union formed in another jurisdiction that is substantially equivalent to a domestic partnership under Washington law is recognized as valid and treated the same as a domestic partnership registered in Washington. Rev. Code Wash. § 26.60.090.
Other civil union	Civil unions formed in other jurisdictions that are “substantially the same” as marriages under Washington law will be treated as marriages. Such unions must be validly formed in another jurisdiction; must provide substantially the same rights, benefits, and responsibilities as a marriage; and cannot meet the definition of a domestic partnership. This rule does not apply if the relationship is prohibited by Washington law (e.g., based on the closeness of kinship). Additionally, Washington will cease treating the union as a marriage if the parties do not enter into a marriage within one year after becoming permanent residents of Washington. Rev. Code Wash. § 26.04.260. Similarly, civil unions formed in other jurisdictions that are “substantially the same” as domestic partnerships under Washington law will be treated as domestic partnerships. Rev. Code Wash. § 26.60.090.





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



FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	<p>A court order is required to dissolve a marriage. Only one party needs to petition the court for dissolution, but at least one party must be a resident of the state or a member of the armed forces stationed in the state at the time of filing the petition.</p> <p>Marriages can also be declared invalid due to age; lack of parental or court approval; a prior undissolved marriage; a prior undissolved domestic partnership; lack of mental capacity; the influence of alcohol or other drugs; inducement by force, duress, or fraud; and the fact that the parties have not ratified their marriage or domestic partnership by voluntarily cohabiting after attaining the age or capacity to consent. Rev. Code Wash. § 26.09.040.</p>
Domestic partnership	<p>The same requirements to dissolve or declare invalid a marriage apply to domestic partnership. Domestic partnership may also be dissolved if the partners marry each other. Rev. Code Wash. § 26.60.100.</p>

Sources:

- Revised Code of Washington, available at: <http://apps.leg.wa.gov/rcw/>
- Rev. Code Wash. § 26.04.010
- Rev. Code Wash. § 26.04.020
- Rev. Code Wash. § 26.04.090
- Rev. Code Wash. § 26.04.140
- Rev. Code Wash. § 26.04.180
- Rev. Code Wash. § 26.04.260
- Rev. Code Wash. § 26.09.020
- Rev. Code Wash. § 26.09.030
- Rev. Code Wash. § 26.09.040
- Rev. Code Wash. § 26.60.015
- Rev. Code Wash. § 26.60.030
- Rev. Code Wash. § 26.60.090
- Rev. Code Wash. § 26.60.100
- *Obergefell v. Hodges*, 576 U.S. _____ (2015)
- *Peffley-Warner v. Bowen*, 113 Wn. 2d 243 (Wash. 1989)

