



Name of Country and Jurisdiction:

Wisconsin, 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 Wisconsin, 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 Wisconsin 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	Wisconsin	Wis. Stat. §§ 765.001-.31 <i>Obergefell v. Hodges</i> , 576 U.S. _____ (2015)	Yes. ¹
Domestic partnership (registered at the county level)	Wisconsin	Wis. Stat. §§ 770.001-.18	Yes. Domestic partnerships are available only to same-sex couples.

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.

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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 are no geographic requirements.
Domestic partnership	At least one of the individuals must reside in the county with which the partnership will be registered for at least 30 days immediately prior to application for a domestic partnership.

(ii) Other substantive eligibility criteria:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	Persons must be at least 18 years of age.
Domestic partnership	Persons must be at least 18 years of age. The two parties must share a common residence. The parties must be of the same sex.

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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)	In Wisconsin, both opposite-sex and same-sex couples can be married. For domestic partnerships, the couple must share a common residence and must be of the same sex.
(b)	If a party to a domestic partnership enters into a marriage that is recognized as valid in Wisconsin, the domestic partnership is automatically terminated on the date of the marriage.
(c)	Marriage is available to both opposite-sex and same-sex couples. Wisconsin's domestic partnership laws provide 43 basic rights and protections. Many protections available to married persons are unavailable to domestic partners (e.g., property rights and intestacy protections).

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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	RESTRICTION
Marriage	Persons may not marry while either of the parties has a spouse living. Persons may not marry if they are family members closer than second cousins. Persons who have been divorced in Wisconsin or elsewhere may not marry again until six months after the divorce is granted.
Domestic partnership	Persons entering into domestic partnerships may not be married or in another domestic partnership.

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

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FORM OF LEGAL RELATIONSHIP	RESTRICTION
Marriage	Wisconsin recognizes valid same-sex marriages performed outside the state.
Domestic partnership	Domestic partnership registrations from other states will not automatically be added to the registry. Persons who married each other in another state can apply for domestic partnership status in Wisconsin, but the partners should not declare their marital status as "legally married" at the time of application, because only unmarried persons may register a domestic partnership.



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



FORM OF LEGAL RELATIONSHIP	RESTRICTION
Marriage	<p>Divorce</p> <p>Wisconsin will not grant a divorce unless at least one of the parties has been a resident of the state for at least six months.</p> <p>Annulment</p> <p>Wisconsin will not grant an annulment unless one of the parties has been a resident of the county where the action is brought for at least 30 days or if the marriage was executed less than one year prior to the commencement of the annulment action.</p>
Domestic partnership	<p>Termination</p> <p>Either domestic partner may terminate the relationship by filing a notice of termination of domestic partnership with the county clerk. But if the notice is signed by only one of the domestic partners, the notice must be accompanied by an affidavit stating that the nonsigning partner has either been served with a copy of the notice or that the domestic partner seeking termination has been unable to locate the other domestic partner and the notice has been published at least one time in a newspaper of general circulation in the county in which the domestic partners most recently shared a residence.</p> <p>Alternatively, if a party to a domestic partnership enters into a marriage that is recognized as valid in Wisconsin, the domestic partnership is automatically terminated on the date of the marriage.</p>

Sources:

- Wis. Stat. §§ 765.001-.31 (marriage)
- Wis. Stat. §§ 767.301-.395 (dissolution of marriage)
- Wis. Stat. §§ 770.001-.18 (domestic partnership)
- *Obergefell v. Hodges*, 576 U.S. _____ (2015)
- Wisconsin Legislative Fiscal Bureau, Paper #391, Establishment of Domestic Partnership and Related Rights and Benefits (General Provisions) (2009), available at <http://legis.wisconsin.gov/lfb/publications/budget/2009-11-Budget/Documents/Budget%20Papers/391.pdf>
- Dane County Clerk, *Declaration of Domestic Partnership and Termination of Domestic Partnership FAQ's* (July 14, 2014), available at http://danedocs.countyofdane.com/webdocs/pdf/clerk/partnership_FAQ.pdf