



Name of Country and Jurisdiction:  
**Colorado, 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 Colorado, 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 Colorado for an authority to grant a divorce/dissolution?

**Q**

**1. What forms of legally recognized relationships are available?**

**A**

LEGAL RECOGNITION FOR OPPOSITE-SEX COUPLE	GEOGRAPHY	LAW	AVAILABLE TO SAME-SEX COUPLE?
Marriage, registered	Colorado	Colo. Const. art. II, § 31; <i>Obergefell v. Hodges</i> , 576 U.S. ____ (2015)	Yes
Civil union, registered	Colorado	Civil Union Act, C.R.S. 14-15-102	Yes
Marriage, common-law	Colorado	Common law	Yes <sup>1</sup>

**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 (6th Cir. 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.

<sup>1</sup> Although the Colorado courts have not yet decided the issue, the U.S. Supreme Court's June 26, 2015, decision in *Obergefell*, which recognized that the right of same-sex couples to marry was protected by the Due Process and Equal Protection Clauses of the Fourteenth Amendment, likely extended common-law marriage in Colorado to same-sex couples.

**Q**

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

**A**

(i) Geographic requirements:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	The parties are not required to be residents of Colorado.
Civil union	
Marriage, common-law	

(ii) Other substantive eligibility criteria:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	The parties must be at least 18 years old to marry without consent. If they are 16 or 17, they need consent from a parent or guardian. Additionally, neither party can be married to another person.
Civil union	For a civil union to be valid, both individuals must be at least 18 years old.

**Q**

**3. If both marriage and civil unions exist:**

- (a) Identify any significant differences in eligibility.
- (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.).

**A**

(a)	Persons must be at least 18 years old to marry, or be at least 16 years old with a guardian's consent. Persons must be at least 18 years old to enter into a civil union.
(b)	A person cannot enter into a marriage or civil union if he or she is already married.
(c)	A party to a civil union has the rights, benefits, protections, duties, obligations, responsibilities, and other incidents under law as are granted to or imposed upon spouses, whether those rights, benefits, protections, duties, obligations, responsibilities, and other incidents derive from statute, administrative or court rule, policy, common law, or any other source of law. Note: Same-sex couples cannot file a joint tax return.

**Q**

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

**A**

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	You cannot get married if you are already married to a different person and there has been no dissolution. You cannot marry an ancestor, descendant, brother, or sister, regardless of whether you are related by half or whole blood. There can be no marriage between uncles/aunts and nieces/nephews, unless permitted by established customs of aboriginal cultures.
Civil union	If you are already married or have a civil union with the same or a different person, you cannot enter into a civil union. You also cannot enter into a civil union with an aunt, uncle, niece, nephew, sister, or brother, even if they are a half-blooded relative.

**Q**

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

**A**

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	Yes, pre-existing relationships are recognized.
Civil union	Persons who enter into a legal, same-sex marriage or a civil union from another state will be deemed to be in a civil union in Colorado.

**Q**

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

**A**

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage and civil union	The process of dissolution or legal separation for a marriage or civil union is the same for each and is granted by the court. One party must be domiciled in the state for 90 days. The proceeding relating to the dissolution may be held in the county where either party resides or where the parties' civil union certificate was issued.

■ **Sources:**

- Colo. Const. art. II, § 31.
- C.R.S. 14-15-102.
- C.R.S. 14-15-104.
- C.R.S. 14-15-105.
- C.R.S. 14-15-106.
- C.R.S. 14-10-106.
- *Obergefell v. Hodges*, 576 U.S. \_\_\_\_\_ (2015).
- [http://www.coloradoattorneygeneral.gov/press/news/2014/10/07/colorado\\_attorney\\_general\\_tells\\_county\\_clerks\\_begin\\_issuing\\_same\\_sex\\_marriage\\_](http://www.coloradoattorneygeneral.gov/press/news/2014/10/07/colorado_attorney_general_tells_county_clerks_begin_issuing_same_sex_marriage_).
- [https://www.courts.state.co.us/Courts/County/Case\\_Details.cfm?Case\\_ID=265](https://www.courts.state.co.us/Courts/County/Case_Details.cfm?Case_ID=265).