Name of Country and Jurisdiction:

Illinois, 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 Illinois, 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 Illinois for an authority to grant a divorce/ dissolution?

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

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LEGAL RECOGNITION FOR OPPOSITE-SEX COUPLE	GEOGRAPHY	LAW	AVAILABLE TO SAME-SEX COUPLE?
Marriage, registered	Illinois	Illinois Marriage and Dissolution of Marriage Act, 750 ILCS 5/101–5/802. Religious Freedom and Marriage Fairness Act, 750 ILCS 80/1–80/20.	Yes

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LEGAL RECOGNITION FOR OPPOSITE-SEX COUPLE	GEOGRAPHY	LAW	AVAILABLE TO SAME-SEX COUPLE?
Civil union, registered	Illinois	Illinois Religious Freedom Protection and Civil Union Act, 750 ILCS 75/1.	Yes[1]

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 the 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?

(i) Geographic requirements:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	There are no express residential prerequisites for Illinois marriages. However, if non-residents attempt to solemnize a marriage that would be void if contracted in their home state, such marriages are void by operation of Illinois law.
Civil union	There are no express residential prerequisites for Illinois civil unions. However, before granting licenses, county clerks must verify that the home jurisdictions of nonresident applicants recognize such relationships.

1 Cook County and the City of Chicago each have ordinances providing for a Domestic Partnership Registry for same-sex couples only. Since the passage of the Civil Union Act, no new partnerships have been registered in Cook County, and registration of a civil union automatically terminates a registered domestic partnership. Chicago's Domestic Partners Ordinance, which technically remains on the books, guaranteed equal benefits for spouses and registered same-sex partners of city employees. Given that the Civil Union and Marriage Fairness Acts guarantee equal rights for all parties to civil unions and marriages, regardless of sex, the ordinance has limited utility going forward.

(ii) Other substantive eligibility criteria:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	• Both parties must be age 18 or older *unless* an underage party has parental or judicial approval to marry at age 16 or 17; • Any prior marriage, civil union, or similar relationship must have been dissolved *unless* the parties to a civil union seek to convert their union to a marriage pursuant to the amended Civil Union Act; and • No marriage may be solemnized between family members (ancestor/descendant, siblings, aunt/uncle and niece/nephew, or first cousins, with certain exceptions). Parties seeking to marry must apply for a license; the license becomes effective in the county in which it was issued one day after its date of issuance. Once the license is effective, the parties may solemnize their marriage at any point within 60 days. After the marriage is solemnized, the person solemnizing the marriage or the parties to the marriage must submit a completed marriage certificate to the county clerk within 10 days. The clerk will then register the marriage in the county records.
Civil union	• Both parties must be age 18 or older (there is no consent exception for younger applicants); • Any prior marriage, civil union, or similar relationship must have been dissolved; and • No civil union may be solemnized between family members (ancestor/descendant, siblings, aunt/uncle and niece/nephew, or first cousins). Parties seeking to enter a civil union must apply for a license; the license becomes effective in the county in which it was issued one day after its date of issuance. Once the license is effective, the parties may solemnize their civil union at any point within 60 days. After the union is solemnized, the person solemnizing the union or the parties to the union must submit a completed certificate of civil union to the county clerk within 10 days. The clerk will then register the union in the county records.

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)	As of June 1, 2014, both marriages and civil unions have been available to same-sex and opposite-sex couples alike. The Civil Union Act expressly provides that parties to a union are entitled to the same obligations, responsibilities, protections, and benefits afforded to spouses. Thus, in terms of legal benefits under state law, the two statuses are comparable. The ACLU of Illinois has identified a variety of the benefits available under both statutes, including joint property ownership, medical decision making, pension protections for state employees, workers' compensation and wrongful-death benefits, and intestacy rights. Both the Civil Union Act and the Marriage Fairness Act expressly include "parties to a marriage" and "part[ies] to a civil union" within the definition of "next of kin." Both the Civil Union Act and the Marriage Fairness Act provide that religious institutions may choose which ceremonies they wish to solemnize. Such institutions are not required to solemnize same-sex unions.
(b)	Generally speaking—and regardless of sex—a party may enter neither a marriage nor a civil union without first dissolving any prior marriage/union. There is an exception in the Marriage Fairness Act for partners who wish to convert a preexisting civil union into a marriage. Such partners may apply for a license and have their marriage solemnized without formally dissolving their prior union and without paying a license fee. Moreover, for a period of one year following the June 1, 2014, effective date of the Marriage Fairness Act, such partners may have their civil union designated a marriage, effective as of the date on which they solemnized their union, unless they have commenced dissolution proceedings. Partners who act within this one-year period can establish a lawful marriage without completing an additional solemnization ceremony.
(c)	Although civil unions and marriages officially offer equivalent rights and benefits, a few details concerning adoption and taxation differ. **Adoption** The Illinois Adoption Act has not yet been updated to expressly provide for civil union adoptions. However, the Act does provide that any "reputable" person of legal age may adopt a child, and it further provides that married couples should be joint parties to the adoption proceedings. For same-sex married couples in Illinois, this provision should impose no hurdle whatsoever. Couples who elect to enter/retain civil union status should also be able to adopt jointly, given that the Civil Union Act guarantees equal benefits to spouses and civil partners. The adoption consent form prescribed by the General Assembly contemplates a situation in which the would-be adoptive parents divorce *or dissolve their civil union* before completing the process. **Tax** Under federal law as articulated in I.R.S. Revenue Ruling 2013-17, parties to a civil union are not married for purposes of federal income tax filing. However, in the State of Illinois, parties to a civil union *are* recognized as married for tax purposes and may choose the "married filing jointly" or "married filing separately" statuses for their state tax returns. They must also file a special Schedule CU, Civil Union Income Report.

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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	Ordinarily, the following pre-existing relationships must be dissolved, declared invalid, or terminated by death before parties may enter a marriage: marriages, civil unions, or substantially similar legal relationships. The Marriage Fairness Act does offer parties to a civil union the opportunity to convert their union to a marriage: such parties may apply for a marriage license without dissolving their civil union.
Civil union	The following pre-existing relationships must be dissolved, declared invalid, or terminated by death before parties may enter a civil union: marriages, civil unions, or substantially similar legal relationships.

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5. When a couple comes to Illinois, 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 marriage between persons of the same or opposite sex (other than common-law marriage) lawfully solemnized in another jurisdiction will be recognized in Illinois as a marriage.
Civil union	A civil union or substantially similar legal relationship (other than common-law marriage) lawfully solemnized in another jurisdiction will be recognized in Illinois as a civil union.

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

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FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	A marriage may be dissolved if it meets one of the enumerated grounds for divorce and if, at the time of the divorce action, one spouse has been an Illinois resident for at least 90 days.
Civil union	The Civil Union Act incorporates by reference the invalidation and dissolution provisions of Illinois's marriage law. One key difference: A civil union that was solemnized in Illinois may be dissolved by Illinois courts even if *neither* party resides in Illinois at the time of dissolution.

Sources:

- Illinois Marriage and Dissolution of Marriage Act, 750 ILCS 5/101–5/802.
- Religious Freedom and Marriage Fairness Act, 750 ILCS 80/1–80/20.
- Illinois Religious Freedom Protection and Civil Union Act, 750 ILCS 75/1.
- Illinois Adoption Act, 750 ILCS 50/0.01–50/24.
- Rev. Rul. 2013-17, 2013-38 IRB 201.