



Name of Country and Jurisdiction:
Kansas, 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 Kansas, 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 Kansas 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, constitutional; statutory	State of Kansas	Kansas Constitution, Article 15, Section 16(a); Kansas Statutes Annotated, Section 23, Article 25; <i>Obergefell v. Hodges</i> , 576 U.S. _____ (2015).	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?
Marriage, common-law	State of Kansas	Kansas Statutes Annotated, Section 23, Article 25.	Yes; see Footnote 1
Domestic partnership, registered	City of Lawrence	Code of the City of Lawrence, Kansas, Article 2, Section 10-201 through 10-211.	Yes
Domestic partnership, registered	City of Topeka	City of Topeka Municipal Code, Chapter 2.150.	Yes

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

A

(i) Geographic requirements:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage, statutory	No residency requirement.
Marriage, common-law	No residency requirement.
Domestic partnership, registered in Lawrence, Kansas	Both individuals must be residents of Lawrence for at least 60 consecutive days prior to filing.
Domestic partnership, registered in Topeka, Kansas	Both individuals must be residents of Topeka for at least 60 consecutive days prior to filing.

(ii) Other substantive eligibility criteria:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage, statutory	Under Kansas statutory and constitutional provisions, parties must be of the opposite sex and at least 18 years old (a person who is 16 or 17 may marry with the consent of a parent/guardian, and a person who is 15 may marry with the consent of a district court judge. K.S.A. § 23-2505(c)). The parties must secure a license, and declarations must be made before an authorized officiating person (except per religious tradition) and two witnesses. Marriages between parents and children, grandparents and grandchildren, brothers and sisters (including half siblings), cousins, uncles and nieces, and aunts and nephews are void. K.S.A. § 23-2503.
Marriage, common-law	The parties must meet the requirements of a statutory marriage, be at least 18, and hold themselves out as married.

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FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Domestic partnership, registered in Lawrence, Kansas	Both individuals share a common permanent residence; both individuals agree to be in a relationship of mutual interdependence; both individuals contribute to the maintenance and support of the household; neither individual is married to, or in another domestic relationship with, a third party; each individual is age 18 or older; each individual has the mental capacity to contract; the two individuals are not related by blood in a way that prevents them from being married in Kansas; and both individuals agree to file a declaration of domestic partnership with the city.
Domestic partnership, registered in Topeka, Kansas	Both individuals share a common permanent residence; both individuals agree to be in a relationship of mutual interdependence; both individuals contribute to the maintenance and support of the household; neither individual is married to, or in another domestic relationship with, a third party; each individual is age 18 or older; each individual has the mental capacity to contract; the two individuals are not related by blood in a way that prevents them from being married in Kansas; both individuals agree to file a declaration of domestic partnership with the city.

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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)	To participate in a domestic partnership, the parties must live in either Lawrence or Topeka and must share a common permanent residence. These are not requirements of marriage.
(b)	The two do not interact. The domestic partnerships created in Lawrence and Topeka are not recognized by the State of Kansas and do not provide any rights to the parties.
(c)	Domestic partnerships create no legal rights, other than the right to have the registered domestic partnership included in the city’s Domestic Partner Registry. No parties are prohibited from extending rights or benefits to persons listed in the Domestic Partner Registry.

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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, statutory	Incestuous marriages (as described above) are void. K.S.A. § 23-2503. A marriage contracted by a party (either within or outside the state) before securing a final judgment of divorce from an earlier marriage is voidable until the divorce decree is final.
Domestic partnerships in Topeka and Lawrence	See requirements above.

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

A

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	Kansas law states that all marriages formed outside the state which would be valid where formed shall be valid in Kansas, but it is “the strong public policy of this state only to recognize as valid marriages from other states that are between a man and a woman.” K.S.A. § 23-2508. After the United States Supreme Court decision in <i>Obergefell</i> , Kansas must now also recognize same-sex marriages from other states.

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

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FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage, statutory	A divorce may be granted due to: (1) incompatibility; (2) failure to perform a material marital duty or obligation; or (3) incompatibility by reason of mental illness or the mental incapacity of one or both spouses. K.S.A. § 23-2701(a). Either the petitioner or the respondent in a divorce proceeding must have resided in Kansas for 60 days prior to filing. K.S.A. § 23-2703. A marriage may be annulled if: (1) the marriage is void for any reason; or (2) the contract of marriage is voidable because it was induced by fraud. The court may also grant an annulment if the marriage was induced by mistake of fact, lack of knowledge of a material fact, or any other reason justifying rescission of a contract of marriage. K.S.A. § 23-2702.
Domestic partnerships in Topeka and Lawrence	Domestic partners (one or both) may request that the partnership be removed from the registry. A domestic partnership also can be removed from the registry if it appears, based upon a preponderance of the evidence, that one or both of the partners no longer meets the definition of domestic partner.

■ Sources:

- Kansas statutes, Chapter 23, Article 25 (Marriage); Chapter 23, Article 27 (Dissolution of Marriage).
- *Obergefell v. Hodges*, 576 U.S. ____ (2015).
- <http://www.topeka.org/CityClerk/DPR.shtml> and Ordinance No. 19905.
- https://www.lawrenceks.org/city_clerk/domestic_partnership_registry.
- <http://kslib.info/841/Article-Fifteen-Miscellaneous>.
- http://www.kslegislature.org/li_2012/b2011_12/statute/023_000_0000_chapter/023_025_0000_article/023_025_0001_section/023_025_0001_k/.
- http://www.kslegislature.org/li_2012/b2011_12/statute/023_000_0000_chapter/023_025_0000_article/023_025_0008_section/023_025_0008_k/.