



Name of Country and Jurisdiction:

## Kentucky, 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 Kentucky, 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 Kentucky 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	Commonwealth of Kentucky	Ky. Rev. Stat. Ann. § 402.005. Ky. Rev. Stat. Ann. § 402.020(d). Ky. Const. § 233A. <i>Obergefell v. Hodges</i> , 576 U.S. _____ (2015).	Yes <sup>1</sup>

<sup>1</sup> 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.

**Q**

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

**A**

(i) Geographic requirements:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage, registered	There is no residency requirement for marriage in Kentucky unless the female is under 18, in which case a marriage license must be obtained in the county in which the female resides.

(ii) Other substantive eligibility criteria:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage, registered	<p>To marry, a person must: (i) be at least 18, (ii) be mentally competent, (iii) not have a currently living husband or wife, and (iv) have the marriage solemnized before an authorized person or society.</p> <p>Marriages may not be between more than two persons.</p> <p>Persons between the ages of 16 and 18 may not marry without parental consent (or judicial consent in the case of pregnancy) of the person under the age of 18.</p> <p>A person under 16 may not marry unless a district judge grants permission in the case of pregnancy.</p> <p>A person may not marry a relative.</p> <p>A marriage license must be obtained to solemnize a marriage.</p>

**Q**

**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.).

**A**

(a)–(c)	Not applicable. Kentucky does not recognize civil unions.
---------	---



Q

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

A

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage, registered	Persons related to each other closer than second cousins may not be married. A person who has a living husband or wife from whom the person has not been divorced may not enter into another marriage.

Q

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

A

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage, registered	If any resident of Kentucky marries in another state, the marriage is a valid marriage in Kentucky if: (i) it is valid where it was solemnized, and (ii) the marriage is not against Kentucky public policy. <sup>1</sup>

Q

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

A

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage, registered	A person may petition the circuit court for a decree of dissolution of marriage or a decree of legal separation.  To obtain a decree of dissolution of marriage or a decree of legal separation in Kentucky, one of the parties, at the time the action was commenced, must have resided in Kentucky, or be stationed in Kentucky while a member of the armed services, for at least 180 days immediately before filing the petition.

**Sources:**

- Ky. Rev. Stat. Ann. § 402.005.
- Ky. Rev. Stat. Ann. § 402.010.
- Ky. Rev. Stat. Ann. § 402.020.
- Ky. Rev. Stat. Ann. § 402.040.

*continued on next page*

<sup>1</sup> The Kentucky statute states that same-sex marriage is against the public policy of Kentucky, but after the *Obergefell* decision, that can no longer be grounds for not recognizing legally performed same-sex marriages from other states.





## Legal Recognition of Same-Sex Relationships

- Ky. Rev. Stat. Ann. § 402.080.
- Ky. Rev. Stat. Ann. § 403.140.
- Ky. Rev. Stat. Ann. § 403.150.
- *Obergefell v. Hodges*, 576 U.S. \_\_\_\_\_ (2015).
- Kentucky Constitution: <http://www.lrc.ky.gov/lrcpubs/ib59.pdf>.
- Kentucky Revised Statutes: <http://www.lrc.ky.gov/statutes/>.
- *Love v. Beshear*, 2014 U.S. Dist. LEXIS 89119 (W.D. Ky.).

