



Name of Country and Jurisdiction:
Nebraska, 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 Nebraska, 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 Nebraska 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	Nebraska	Neb. Const. art. I, § 29. Neb. Stat. 42-101.	Yes ¹

¹ On March 2, 2015, a federal district court in Nebraska ruled that Nebraska’s ban on same-sex marriages is unconstitutional. *Waters v. Ricketts*, No. 8:14CV356, 2015 U.S. Dist. LEXIS 25869 (D. Neb. Mar. 2, 2015).

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 relationships?

A

(i) Geographic requirements:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage, registered	No legal residency requirement.

(ii) Other substantive eligibility criteria:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage, registered	<p>For a valid marriage, parties cannot be married to someone else, must apply for a marriage license, and with that application must provide proof of identity and age. Generally a party must be at least 19 years old and cannot have a venereal disease. People between 17 and 19 can be married with the consent of: (1) either one of the parents of such minor, if the parents are living together; (2) the parent having the legal custody of such minor, if the parents are living separate and apart from each other; (3) the surviving parent, if one of the parents of such minor is deceased; or (4) the guardian, conservator, or person under whose care and government such minor may be, if both parents of such minor are deceased or if such guardian, conservator, or person has the legal and actual custody of such minor.</p> <p>Marriages are void: (1) when either party has a husband or wife living at the time of the marriage; (2) when either party, at the time of marriage, is mentally incompetent to enter into the marriage relation; and (3) when the parties are related to each other as parent and child, grandparent and grandchild, brother and sister of half as well as whole blood, first cousins when of whole blood, uncle and niece, and aunt and nephew.</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.).

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(a)–(c)	Not applicable. Nebraska does not grant civil unions.
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4. What kinds of pre-existing relationships make you ineligible to enter each kind of relationship?

A

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	If you are already married, you cannot marry again. See also the response to Question 2(ii).

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

A

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	It appears that Nebraska recognizes marriages from other states. Due to the <i>Obergefell</i> decision, Nebraska must recognize same-sex married partners as spouses.

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

A

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	A court can grant a divorce if one of the parties is domiciled in this state within 12 months prior to the commencement of the proceeding therefor, and resumed residence in this state within 18 months after the date of his departure therefrom, or at all times after his departure from this state and until his return maintained a place of residence within this state.

Sources:

- Neb. Stat. ch. 42.
- Neb. Const. art. I, § 29.
- *Obergefell v. Hodges*, 576 U.S. ____ (2015).
- *Waters v. Ricketts*, No. 8:14CV356, 2015 U.S. Dist. LEXIS 25869 (D. Neb. Mar. 2, 2015).
- *Waters v. Ricketts*, No. 15-1452 (8th Cir., filed Mar. 2, 2015).
- Ed Payne, *Court puts Nebraska same-sex marriages on hold*, CNN (Mar. 6, 2015), available at <http://www.cnn.com/2015/03/06/us/nebraska-same-sex-marriage/index.html>.