



Name of Country and Jurisdiction:

## North Carolina, 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 North Carolina, 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 North Carolina 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	North Carolina	N.C. Gen. Stat. Ann. § 51; <i>Obergefell v. Hodges</i> , 576 U.S. ____ (2015).	Yes

**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 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	There is no residency requirement for marriage in North Carolina.

(ii) Other substantive eligibility criteria:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	<p><b>Family relationship</b> In North Carolina, family members who are closer in relation than first cousins may not marry one another. People who are currently married may not enter into a second marriage before ending the existing marriage. Two double first cousins also may not marry each other.</p> <p><b>Age</b> Any person at least 18 years old or any minor emancipated by court order may marry without anyone else's consent. An unemancipated minor aged 16 or 17 may marry with the consent of the parent, person, agency, or institution that has legal custody or is serving as guardian. A minor aged 14 or 15 must obtain a court order authorizing him or her to marry.</p> <p><b>Competency</b> The person must be capable of contracting to marry of his or her own will and understanding.</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. Civil unions are not recognized in North Carolina.
---------	--



Q

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

A

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	People who are already married may not enter into a new marriage before ending the existing marriage.

Q

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

A

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	Marriages from other jurisdictions will be recognized as valid so long as the marriage was legal in the jurisdiction of celebration.

Q

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

A

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	A court can grant a divorce where either of the parties has resided in North Carolina for a period of at least six months prior to filing.

**Sources**

- N.C. Gen. Stat. §§ 50-6, 51-1 to 51-7.
- *Obergefell v. Hodges*, 576 U.S. \_\_\_\_\_ (2015).
- *General Synod of the United Church of Christ v. Resinger*, 12 F. Supp. 3d 790 (W.D. N.C. 2014) (finding North Carolina's constitutional and legal prohibitions on same-sex relationships unconstitutional).