



Name of Country and Jurisdiction:

## North Dakota, 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 Dakota, 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 Dakota 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	North Dakota	North Dakota Constitution, Article XI, § 28.  North Dakota Cent. Code §§ 14-03-01 to -08; <i>Obergefell v. Hodges</i> , 576 U.S. _____ (2015).	Yes <sup>1</sup>

<sup>1</sup> The North Dakota Constitution and marriage statutes limit marriage to one man and one woman. N.D. Const. Art. XI, § 28; N.D. Cent. Code § 14-03-01. But laws limiting marriage to opposite-sex couples are no longer valid in the United States.

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 in North Dakota.

(ii) Other substantive eligibility criteria:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	Any unmarried person over 18 years of age may get married, except to a close relative.  An unmarried person between 16 and 18 years of age may get married with the consent of his or her parents or guardian, if any. Persons younger than 16 may not get married, even with the consent of a parent or guardian.

**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. North Dakota does not recognize civil unions.
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**Q**

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

**A**

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	A person who has a living husband or wife may not get married unless the former marriage is annulled or dissolved.



Q

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

A

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	Yes. North Dakota recognizes marriages that were lawfully performed outside the state, unless the marriage is prohibited under the laws of North Dakota. N.D. Cent. Code § 14-03-08. In <i>Obergefell v. Hodges</i> , 576 U.S. _____ (2015), the U.S. Supreme Court held that states must recognize lawful same-sex marriages performed in other states.

Q

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

A

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	<p>Divorce is permitted for the following reasons:</p> <ul style="list-style-type: none"> <li>• Adultery;</li> <li>• Extreme cruelty;</li> <li>• Willful desertion;</li> <li>• Willful neglect;</li> <li>• Alcohol or drug abuse;</li> <li>• Conviction of a felony; or</li> <li>• Irreconcilable differences.</li> </ul> <p>Divorces may only be granted to a person seeking divorce who has been a resident of North Dakota for six months.</p>

**Sources:**

- N.D. Const. art. XI, § 28 (2014).
- North Dakota Cent. Code §§ 14-03-01 to -08.
- *Obergefell v. Hodges*, 576 U.S. \_\_\_\_\_ (2015).