



Name of Country and Jurisdiction:

Tennessee, 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 Tennessee, 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 Tennessee 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	Tennessee	Tennessee Constitution, Article XI, Section 18. Tennessee Code Annotated §§ 36-3-101 et seq.	Yes ¹

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.

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

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(i) Geographic requirements:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	There are no residency requirements in Tennessee.

(ii) Other substantive eligibility criteria:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	Marriage cannot be contracted with a lineal ancestor or descendant, nor the lineal ancestor or descendant of either parent, nor the child of a grandparent, nor the lineal descendants of husband or wife, as the case may be, nor the husband or wife of a parent or lineal descendant. No party under 16 may be married. A party under 18 can be married only with parental or guardian permission.

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; Tennessee does not provide for civil unions.
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Q 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	An individual cannot be married if he or she has a living husband or wife. However, a previous marriage shall be regarded as dissolved, for this purpose, if either party has been absent five (5) years, and is not known to the other to be living.

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

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FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	Tennessee recognizes marriages licensed out-of-state, unless those unions violate Tennessee state law.
Common-law marriage	Tennessee recognizes valid common-law marriages entered into in jurisdictions that recognize common-law marriages.

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

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FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	Tennessee courts can grant divorce petitions if the basis for the divorce occurred while the plaintiff was a bona fide resident of this state or if the basis for the divorce occurred out of this state and the plaintiff resided out of the state at the time but the plaintiff or the defendant has resided in Tennessee at least six months before the filing of the complaint.

Sources:

- Tennessee Constitution Article XI, Section 18.
- Tennessee Code Annotated §§ 36-3-101 et seq.
- Tennessee Code, Title 36, Chs. 3 and 4.
- *Obergefell v. Hodges*, 576 U.S. _____ (2015).
- *Guzman v. Alvares*, 205 S.W.3d 375, 379 (Tenn. 2006) (no common-law marriage).
- <http://www.lambdalegal.org/publications/nationwide-status-same-sex-relationships>.
- <http://www.freedomtomarry.org/litigation/entry/tennessee>.