

*The
Vermont
Guide to*

Please note that the new marriage equality law, effective September 1, 2009, discontinues the need for the separate status of "civil unions" in Vermont. Civil unions entered into prior to September 1 will continue to be recognized as civil unions. Couples currently in a civil union who want to be married will need to go through the new marriage process. For more information, please call 802-828-2148 or visit www.sec.state.vt.us and click on "Marriages."

CIVIL UNIONS



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7. Parties to a civil union may modify the terms of the union

Parties to a civil union may modify the terms, conditions, or effects of their civil union in the same manner and to the same extent as parties to a marriage. This is done by executing an antenuptial agreement or other agreement recognized and enforceable under the law, setting forth particular understandings with respect to their union. 15 V.S.A. § 1205. The family court determines the enforceability of such agreements.

Note that a party to a civil union is included, by law, in any definition or use of the terms "spouse," "family," "immediate family," "dependent," "next of kin," and other terms that denote the spousal relationship, as those terms are used throughout Vermont law.

8. How are civil unions dissolved?

The Vermont family court has jurisdiction over all proceedings relating to the dissolution of civil unions. The dissolution of civil unions follows the same procedures and is subject to the same substantive rights and obligations that are involved in the dissolution of marriages, including any residency requirements. 15 V.S.A. § 1206.

The Vermont Family Court only has authority to consider a dissolution when at least one member of the couple has been a resident of Vermont for at least one year preceding the date of the final hearing of the dissolution. A complaint to dissolve a civil union in Vermont may be brought if either party to the civil union has resided within the state for a period of six months or more, but dissolution cannot be granted unless one of the parties has resided in the state at least one year preceding the date of the final hearing. Nonresident couples should consult with a domestic relations attorney in their home state to see whether the courts in their state will consider the dissolution action. It is unclear how other states may handle a civil union dissolution.



- **Spousal benefits.** The laws relating to group insurance for state employees under 3 V.S.A. § 631, and continuing care contracts under 8 V.S.A. § 8005; victim's compensation rights under 13 V.S.A. § 5351; workers' compensation benefits; state pay for military service under 20 V.S.A. § 1544; and family leave benefits under 21 V.S.A. chapter 5, subchapter 4A apply to parties to a civil union.

- **Right to make medical decisions and to take family leave.** Laws relating to emergency and non-emergency medical care and treatment, hospital visitation and notification, including the Patient's Bill of Rights under 18 V.S.A. chapter 42 and the Nursing Home Residents' Bill of Rights under 33 V.S.A. chapter 73; laws relating to the making, revoking and objecting to anatomical gifts by others under 18 V.S.A. § 5240; terminal care documents under 18 V.S.A. chapter 111, and durable power of attorney for health care execution and revocation under 14 V.S.A. chapter 121, subchapter 2 apply to parties to a civil union.



“Parties to a civil union shall have all the same benefits, protections and responsibilities under Vermont law, whether they derive from statute, policy, administrative or court rule, common law or any other source of civil law, as are granted to spouses in a marriage.”

Vermont Act 91
2000 Session

- **Other laws that may apply to parties to a civil union**
 - prohibitions against discrimination based upon marital status;
 - laws relating to immunity from compelled testimony and the marital communication privilege;
 - the definition of family farmer under 10 V.S.A. § 272;
 - application for absentee ballot under 17 V.S.A. § 2532;
 - family landowner rights to fish and hunt under 10 V.S.A. § 4253;
 - legal requirements for assignment of wages under 8 V.S.A. § 2235; and
 - affirmance of relationship under 15 V.S.A. § 7.

Since July 2000, Vermont has permitted eligible couples of the same sex to be joined in civil union. As of June 2008, over 1,490 Vermont couples have joined in civil union. In total, more than 8,711 couples from all over the country – and all over the world have obtained a Vermont civil union.

1. Who may be joined in civil union?

To be joined in civil union a couple must satisfy all of the following criteria:

1. Neither person may already be married, joined in civil union or be a party to a legal reciprocal beneficiary relationship;
2. The couple must be of the same gender;
3. The couple may not be close family members. A woman may not enter into a civil union with her mother, grandmother, daughter, granddaughter, sister, brother's daughter, sister's daughter, father's sister or mother's sister. A man may not enter into a civil union with his father, grandfather, son, grandson, brother, brother's son, sister's son, father's brother or mother's brother;
4. Each person must be 18 years of age or older;
5. Neither person may be non compos mentis (of unsound mind); and,
6. Neither person may be under guardianship, unless the guardian consents in writing. 18 V.S.A. §§ 1203, 5163.

2. How to get a Vermont civil union

In order to be joined in civil union the couple must complete the following three steps:

- **Obtain civil union license from town clerk.**
Vermont residents must get a civil union license from the town clerk of the town where either party resides. Nonresidents may go to any town clerk in the state to obtain a civil union license. It is not necessary for both parties to be present to obtain the license as only one signature is required on the application form. A \$45.00 fee must be paid to the town clerk.

- **Domestic relations law.** The law of domestic relations, including annulment, separation and divorce, child custody and support, and property division and maintenance, adoption, and spouse abuse shall apply to parties to a civil union.
- **Laws regarding child custody and support.** The rights of parties to a civil union, with respect to a child who either has become a natural parent to during the term of the civil union, shall be the same as those of a married couple, with respect to a child who either spouse has become the natural parent to during the marriage.
- **Property law and laws relating to decedents estates and probate.** The laws relating to title, tenure, descent and distribution, intestate succession, waiver of will, survivorship, or other incidents of the acquisition, ownership, or transfer, *inter vivos* or at death, of real or personal property, including eligibility to hold real and personal property as tenants by the entirety (parties to a civil union meet the common law unity of person qualification for purposes of a tenancy by the entirety); probate law and procedure, including non-probate transfer apply to parties to a civil union.
- **Tort law.** The laws relating causes of action related to or dependent upon spousal status, including an action for wrongful death, emotional distress, loss of consortium, dramshop, or other torts or actions under contracts reciting, related to, or dependent upon spousal status apply to parties to a civil union.
- **Tax laws and public assistance.** The laws relating to taxes imposed by the state or a municipality other than estate taxes; to public assistance benefits under state law; the homestead rights of a surviving spouse under 27 V.S.A. § 105 and homestead property tax allowance under 32 V.S.A. § 6062 apply to parties to a civil union.



6. What are the legal consequences of a civil union?

Parties to a civil union are given all the same benefits, protections and responsibilities under Vermont law, whether they derive from statute, administrative or court rule, policy, common law or any other source of civil law, as are granted to spouses in a marriage. These include:

- **Mutual financial support.** Parties to a civil union shall be responsible for the support of one another to the same degree and in the same manner as prescribed under law for married persons.

Sample Civil Union Ceremony

Officiant: We are here to join _____ and _____ in civil union. (Then to each in turn, giving names as appropriate) Will you _____ have _____ to be united as one in your civil union?

Response: I will.

Officiant: (Then to each in turn, giving names as appropriate): Then repeat after me:

"I _____ take you _____ to be my spouse in our civil union, to have and to hold from this day on, for better, for worse, for richer, for poorer, to love and to cherish forever."

Then, if rings are used, each in turn says, as the ring is put on:

"With this ring I join with you in this, our civil union."

Officiant: By the power vested in me by the State of Vermont, I hereby join you in civil union.

- **Solemnize the civil union.**

After obtaining the license, the couple must have the civil union solemnized by an official authorized to certify a civil union. A Vermont judge, Vermont justice of the peace, a temporary officiant registered with the Vermont Secretary of State's Office, a member of the Vermont clergy, or a clergy person from another state who has been granted permission by a Vermont probate judge may certify a civil union. The civil union may be solemnized anywhere in the state but must occur within 60 days of the issuance of the license by the town clerk. If the certification is delayed for more than 60 days a new license must be obtained.



There are no residency nor citizenship requirements for Vermont civil unions.

- **Return the certified license to the town clerk.**

The official who has solemnized the union must fill out and sign a portion of the civil union license. Within 10 days of the certification, the official who certifies the union must return it to the town clerk who issued it. If the official delays returning the certification beyond the 10th day, the official may be penalized, but the civil union will still be valid. 18 V.S.A. § 5131.

For civil unions, as for marriages, Vermont law requires no medical certificate, blood test nor waiting period. 18 V.S.A. § 5145.

WARNING to NON-RESIDENTS

It is easy to get a civil union in Vermont, but it may be hard to dissolve the civil union later. See Section 8, *How are civil unions dissolved*, below.

3. Who may certify a Vermont civil union?

Civil unions may be certified by any of the following:

Vermont Judges: Supreme Court justices, a superior court judge, a district judge, a judge of probate, an assistant judge.

Vermont Justices of the Peace: Only Vermont justices of the peace may solemnize civil unions. Performing ceremonies (marriage and civil union) are discretionary functions of this office. A justice may decide whether to perform a particular ceremony on a case by case basis, or may decline to perform all ceremonies or may decide only to perform ceremonies for family and friends. A justice may not discriminate on any basis prohibited by law (age, race, sex, national origin, religion, sexual orientation,) and must apply his or her policy to both marriages and civil unions.

Temporary Officiant for a Civil Union: By registering with the Vermont Secretary of State's Office, an individual who is over the age of 18 may be temporarily authorized to solemnize a specific civil union in Vermont. For information on how to register to officiate a civil union, go to www.sec.state.vt.us/municipal/officiant.html or call 802-828-2148.



Vermont clergy: Members of the clergy residing in Vermont who are ordained, licensed, or authorized by his or her denomination may solemnize Vermont civil unions. In addition, a clergy person from an adjoining state or country, whose parish, church, temple, mosque or other religious organization lies wholly or in part in Vermont may solemnize Vermont civil unions.

Out of state clergy members (aside from those in adjoining jurisdictions whose parish, church, temple, mosque or religious organization serves Vermont) must obtain permission to perform civil unions in Vermont from the probate court of the district within which the civil union is to be certified.

Special rules that apply to certain religious societies and faiths without clergy. Civil unions among the Friends or Quakers, the Christadelphian Ecclesia and the Baha'i Faith may be certified in the manner used in such societies. 18 V.S.A. § 5164.

4. Where is the official record of the civil union?

Once the civil union license is certified and returned to the town clerk, the town clerk records the certificate in the permanent records of the town. The clerk must send a copy of the certificate to the department of health. A copy of the civil union certificate received from the town clerk, the commissioner of health or the director of public records shall be presumptive evidence of the civil union in all courts. 18 V.S.A. § 5167.

5. What must a Vermont civil union ceremony include?

There is no law governing what a civil union ceremony (or marriage ceremony) must include. Indeed, the couple is free to discuss with the officiant their own ideas of what they want in a ceremony. What is important is that the officiant is present for the ceremony and is able to certify that the parties entered into the civil union with mutual consent.

While it is traditional that, at a minimum the ceremony conducted by an officiant involves saying the words, "By the authority vested in me by the State of Vermont, I hereby join you in civil union," this is not required by law.