

**From legal rights
to EQUAL rights**



Vermont Freedom to Marry
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FAQ for couples who want to marry Implementation of S.115: Frequently Asked Questions

When does the new law allowing same-sex couples to legally marry take effect? The new law, S.115, takes effect on September 1, 2009. Same-sex couples will not be able to get a marriage license before that date, and will not be able to get a civil union license after that date.

If I am already joined in civil union, what happens to my civil union on September 1? Vermont's new law, S.115, will not affect existing civil unions, or civil unions celebrated before September 1. If you are joined in civil union, you will remain joined in civil union unless you legally dissolve your relationship by court order, or unless one of the parties to the civil union dies. If you are joined in civil union and would like to legally marry your civil union partner, you may do so by going through the same steps as any other couple. No *new* civil union licenses will be issued after September 1.

Should my partner and I join in civil union before September 1 and then legally marry after September 1 in the hope that our relationship will be recognized in as many places as possible? This is a legal question that we cannot answer for you. In the short run, it is true that there may be places that will recognize your civil union but not your legal marriage, and other places that recognize your marriage but not your civil union. *Bear in mind that if you are legally married to your partner and joined in civil union to your partner, if you split up you will likely need a court order dissolving both legal statuses.*

If my partner and I get legally married, will we be entitled to Social Security Survivor Benefits and other federal law protections? You will be closer to getting those protections, but still won't be able to get them. Federal law currently does not recognize, for federal law purposes, otherwise valid marriages between same-sex partners. This restriction is the subject of a constitutional challenge in a pending court case, and may be the target of repeal efforts in Congress. For now, the federal government is not recognizing valid marriages between same-sex partners. Social Security is a federal law program.

Does Vermont have a residency requirement for marriage? Vermont does not have a residency requirement for marriage. Vermont *does*, however, have a residency requirement for divorce. Non-residents who legally marry in Vermont and then later split up may find it difficult to get a divorce, depending on where you live. Non-residents should keep this in mind when deciding whether to marry in Vermont.

Who will be able to get married in Vermont? Two people who are each at least 18 years old can marry in Vermont. If you are at least 16, but under 18, you will need the consent of a parent or guardian. Your parent or guardian should go with you to the town clerk's office to sign an affidavit giving you permission to marry. (The affidavit is on the back of the marriage license and is a legal part of the license.) Effective September 1, nobody under the age of 16 will be able to marry in Vermont.

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Will there be any other marriage restrictions? Anyone under guardianship cannot marry without the guardian's written consent. Vermont also does not allow marriage between most close relatives. You cannot marry a parent, grandparent, sister, brother, child, grandchild, niece, nephew, aunt or uncle. First cousins may marry each other in Vermont. You cannot marry if either of you is currently married or joined in civil union to someone else other than the person you seek to marry. The law requires that both parties be of sound mind.

What if either of us was married or joined in civil union before? ? If your spouse or civil union partner has died, you are free to marry. The clerk will ask the date your spouse or civil union partner died. If you are divorced, you may remarry after the date on which your previous marriage or civil union was legally dissolved.

Do we need a marriage license? Do we need blood tests? You will need a license, but you do not need blood tests, and there is no waiting period.

Where do we get a marriage license and how much does it cost? Licenses are issued by Vermont town clerks. If both parties are Vermont residents, you may go to the town clerk in either of your towns of residence. If just one of you resides in a Vermont town, you must buy the license in that town. **The license costs \$45**, and is valid for 60 days from the date it is issued. During that time period, an authorized person must perform your wedding ceremony — otherwise, the license is void.

What if we are not Vermont residents? If neither party is a Vermont resident, you may get the license from any town clerk in the state.

What information must we provide to get a marriage license? Besides basic information about yourselves (names, towns of residence, places and dates of birth), you must also provide your parents' names, including your mothers' maiden names, and their places of birth. (A certified copy of your birth certificate can supply most of this information). Vermont law requires that at least one of you sign the license in the presence of the town clerk, certifying that all the information you provided is correct. However, most town clerks prefer to see both of you in person before issuing your license. The law requires that town clerks satisfy themselves that you are both free to marry under Vermont laws. Therefore, they may legally ask to see documented proof of your statements (birth certificates, divorce decrees, death certificates, etc.). You will also be asked to provide information about your race, the highest grade you completed in school, the number of previous marriages, and how they ended. This information is confidential and does not become part of the marriage certificate.

Can a license be issued through the mail? Can we be married by proxy? No. A marriage license cannot be issued through the mail, and you cannot be married by proxy.

Where can we get married? With a valid Vermont license, you can be married anywhere in Vermont, but only in Vermont.

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Who can marry us? Do we need witnesses? A Supreme Court justice, a superior court judge, a district judge, a judge of probate, an assistant judge, a justice of the peace or an ordained or licensed member of the clergy residing in Vermont can perform your wedding ceremony. A clergy person residing in an adjoining state or country can marry you if his or her church, temple, mosque, or other religious organization lies wholly or partly in Vermont. A clergy member residing in some other state or in Canada can marry you if he or she first obtains a special authorization from the probate court in the district where the marriage will take place. In addition, any person who is over the age of 18 may register with the Secretary of State to become a temporary officiant to a marriage. A person who has filled out the registration form and who has paid the registration fee of \$100 will receive a certificate authorizing the person to solemnize a specific Vermont marriage. The individual's authority to solemnize that marriage will expire at the same time as the corresponding license. For information on registering to be a temporary officiant visit www.sec.state.vt.us or call 802-828-2148. Vermont law does not require witnesses for a legal marriage.

What do we do with the license? What happens to it after the ceremony? By law, you must deliver the license to the person who will conduct your wedding ceremony before the marriage can be performed. After the ceremony, the person who performs the ceremony (officiant) will complete the sections concerning the date, place and officiant information, and sign your license. At that point, the license becomes a marriage certificate. The officiant must return the certificate to the town clerk's office where it was issued within 10 days after the wedding, so that your marriage can be officially registered. If the officiant has registered with the Secretary of State as a temporary officiant, a copy of the certificate of authority issued by the Secretary of State should be attached to the signed license and returned to the clerk's office. The certificate is not a complete legal document until it has been recorded in the town clerk's office where it was purchased.

How do we get a copy of our marriage certificate? At the time you buy your marriage license, you can arrange with the town clerk to mail you a certified copy of your certificate as soon as your marriage has been recorded. The cost is \$10 for the certified copy along with the \$45 for the license purchase (\$10 + \$45 = \$55). Or, two weeks or more after the ceremony, you can request, in person or in writing, additional copies from the town clerk's office where you bought your license for the same \$10 fee. Or, six or more weeks after your ceremony, you may request, in person or in writing, a certified copy from the Vermont Department of Health, Vital Records Unit for \$10. In either case, you will receive a copy of the original certificate, embossed with the town or state seal, signed and dated by the appropriate official. This copy is accepted for all legal purposes as proof of a valid marriage.