



NATIONAL CENTER FOR LESBIAN RIGHTS

Marriage, Domestic Partnerships, and Civil Unions: Same-Sex Couples Within the United States

I. INTRODUCTION

A. Marriage

Civil marriage is a social and cultural institution that is understood as an expression of a couple's love and commitment to each other. It is also a legal status that automatically confers over a thousand federal rights and benefits and hundreds of additional rights and benefits under state law. Many of these rights are intended to help families in times of crisis, such as an automatic right to visit a spouse in a hospital or to make medical decisions for an incapacitated spouse. While some of these rights can be obtained, at least partially, through private agreements or other legal procedures, most cannot. Same-sex couples can marry and have their marriages recognized throughout the U.S. and its territories.

In addition, at least twenty American Indian tribal nations expressly allow same-sex couples to marry and/or recognize same-sex couples' marriages: the Coquille Indian Tribe, the Suquamish Tribe, the Little Traverse Bay Bands of Odawa Indians, the Pokagon Band of Potawatomi, the Iipay Nation of Santa Ysabel, the Confederated Tribes of the Colville Reservation, the Cheyenne and Arapaho Tribes, the Leech Lake Band of Ojibwe, the Puyallup Tribe, the Shoshone and Arapahoe Tribes of the Wind River Indian Reservation, the Central Council of the Tlingit and Haida Indian Tribes of Alaska, the Confederated Tribes of Siletz Indians, the Oneida Tribe of Indians of Wisconsin, the Keweenaw Bay Indian Community, the Confederated Tribes of Grand Ronde, the Menominee Nation, the Tulalip Tribes, the Cherokee Nation (Oklahoma), the Osage Nation, and the Prairie Island Mdewakanton Dakota Community.

B. Civil Unions and Domestic Partnerships with Nearly All the Rights and Responsibilities of Marriage

A civil union or comprehensive domestic partnership is a separate legal status available in some states that provides all or nearly all the specific rights and responsibilities provided to married persons under state law. However, they do not provide most of the federal benefits of marriage. Civil unions and comprehensive domestic partnerships are a tremendous advance in the struggle for equal treatment of same-sex couples. However, there are some significant differences between civil unions and comprehensive domestic partnerships and marriage. First, parties to a civil union or domestic partnership are denied most of the federally conferred rights, benefits, and responsibilities of marriage.¹ Second, it is uncertain whether other states will honor civil unions or domestic partnerships, although a few states have enacted legislation.

Colorado, Hawaii, Illinois, and New Jersey allow same-sex couples to enter civil unions as well as to marry. California, Oregon, Nevada, and the District of Columbia offer domestic partnerships that include nearly all the rights and responsibilities of marriage. Washington state previously allowed same-sex couples to enter into domestic partnerships, but as of July 1, 2014, only couples where one partner is age 62 or older may enter into domestic partnerships.

C. More Limited Forms of Relationship Recognition

Several states provide some rights and responsibilities to couples who are not married. In some places, registration is available only to same-sex couples; in others, it is open to both same-sex and different-sex couples. The rights and responsibilities granted vary widely from state to state. Many cities and counties also have registries for domestic partnerships or provide other recognition for unmarried committed partners. These generally give partners just a few rights that are recognized only by the city or county.

Maine, Maryland, New York, and Wisconsin grant limited rights and responsibilities to domestic partners. Hawaii grants limited rights to two people who register as “reciprocal beneficiaries,” and Colorado makes available a limited set of rights to two people who register as “designated beneficiaries.”

STATE-BY-STATE OVERVIEW OF RELATIONSHIP RECOGNITION

Alabama

On January 23, 2015, a federal district court ruled that Alabama's ban on marriage equality violated the due process and equal protection clauses of the U.S. Constitution, and struck down the ban, issuing a similar ruling in a separate marriage case on January 26.² The court granted temporary stays of both these rulings that would be lifted February 9, 2015.³ The Eleventh Circuit denied stays pending appeal on both of the cases.⁴ The U.S. Supreme Court denied a stay in the *Searcy* case on February 9, 2015, allowing marriages to begin in Alabama for same-sex couples on that date.⁵ Subsequently, the Alabama Supreme Court issued an order directing all local officials to stop issuing marriage licenses to same-sex couples. Same-sex couples are now seeking class-wide relief from a federal court. In the meantime, the existing marriages are valid and must be recognized by the state, which must also recognize same-sex couples' valid out-of-state marriages. The ruling on June 26, 2015 by the U.S. Supreme Court makes clear that the state must issue marriage licenses to same-sex couples.

Alaska

On October 12, 2014, a federal district court ruled that Alaska's ban on marriage equality violated the due process and equal protection clauses of the U.S. Constitution, and struck down the ban.⁶ On October 15, 2014, the Ninth Circuit Court of Appeals granted a temporary stay of the order to allow the state to seek a stay from the U.S. Supreme Court.⁷ The U.S. Supreme Court denied the stay on October 17, 2014.⁸ As a result of these rulings, same-sex couples can marry in Alaska, although an appeal remains pending. Some same-sex couples also obtained marriage licenses and may have married in the window between the district court ruling and the circuit court's temporary stay.⁹ Any marriages entered during this time should be fully valid. The ruling on June 26, 2015 by the U.S. Supreme Court makes clear that the state must continue to issue marriage licenses to same-sex couples.

Arizona

On October 17, 2014, a federal district court ruled that Arizona's ban on marriage equality violated the equal protection clause of the U.S. Constitution, and struck down the ban.¹⁰ The Arizona Attorney General announced that day that he would not appeal the ruling, and Arizona began issuing marriage licenses to same-sex couples.¹¹ Note that the state did appeal the district court's ruling on November 17, but no stay has issued on the ruling pending appeal, and proceedings were stayed until March 2015.¹² As a result of these rulings, same-sex couples currently can marry in Arizona. The ruling on June 26, 2015 by the U.S. Supreme Court makes clear that the state must continue to issue marriage licenses to same-sex couples.

Arkansas

A June 26, 2015 U.S. Supreme Court ruling makes clear that Arkansas must allow same-sex couples to marry. Also, a number of same-sex couples were able to marry in the state for a brief window after a trial court ruling that was stayed pending appeal.

On May 9, 2014, an Arkansas circuit court ruled that Arkansas's ban on same-sex marriage was unconstitutional.¹³ On May 16, 2014, the Arkansas Supreme Court stayed the circuit court's ruling pending appeal.¹⁴ However, many same-sex couples married in Arkansas between May 9, 2014 and May 16, 2014. This appeal is still pending.

On November 15, 2014, a federal district court ruled that Arkansas's ban on same-sex marriage was unconstitutional, but stayed the ruling pending appeal.¹⁵ The state appealed. The ruling on June 26, 2015 by the U.S. Supreme Court made clear that the state must issue marriage licenses to same-sex couples.

California

Same-sex couples have been able to marry in California since June 28, 2013, when the judgment of the United States District Court striking down Proposition 8 went into effect. California previously allowed same-sex couples to marry between June 16, 2008 and November 4, 2008. California also respects the marriages of same-sex couples who married in other jurisdictions.

In 2008, the California Supreme Court held in *In re Marriage Cases* that excluding same-sex couples from marriage violated the California Constitution, and same-sex couples began marrying on June 16, 2008.¹⁶ On November 4, 2008, a slim majority of California voters passed Proposition 8, which changed California's constitution to prohibit same-sex couples from marrying. On May 26, 2009, the California Supreme Court upheld Proposition 8 in *Strauss v. Horton*, but also held that the state must continue to recognize the marriages of all same-sex couples who married in California between June 16, 2008 and November 4, 2008.¹⁷ The California Supreme Court also held that the California Constitution continues to require equal treatment of same-sex couples in every respect except for access to the designation of "marriage." In August 2010, a federal district court held that Proposition 8 is unconstitutional under the U.S. Constitution; that decision was affirmed by the United States Court of Appeals in February 2012.¹⁸ The U.S. Supreme Court agreed to review the case, and on June 26, 2013, issued its decision holding that the supporters of Proposition 8 did not have the legal authority to appeal the 2010 district court decision striking down the measure. Marriages of same-sex couples resumed in California on June 28, 2013, after the United States Court of Appeals lifted its stay of the district court order striking down Proposition 8.

On October 11, 2009, California enacted S.B. 54, which clarified that all same-sex couples who married outside of California before November 5, 2008 must continue to be recognized as married in California.¹⁹ S.B. 54 also ensures that same-sex couples who marry outside of California on or after November 5, 2008 will be given all of the rights,

benefits, and responsibilities of marriage except for the name “marriage.” Now that Proposition 8 has been struck down as unconstitutional, California should fully recognize as married all same-sex couples who lawfully married in any jurisdiction regardless of when the marriage took place.

California has recognized registered domestic partners with nearly all of the rights and responsibilities of marriage since January 1, 2005.²⁰ California Family Code section 297.5(a) provides that registered domestic partners have the same rights, protections, benefits, responsibilities, obligations, and duties as married spouses. Prior to the expansion of the domestic partnership law in 2005, California recognized a more limited form of domestic partnership since January 1, 2000,²¹ but all couples who remained registered as domestic partners on January 1, 2005 gained all the rights and responsibilities of marriage back to the date of their original registration.

Under a law that went into effect January 1, 2012, same-sex couples who married in California but live out-of-state can get divorced in California if they cannot divorce in the state where they live by filing a petition in the county where they married.²² Registered domestic partners who are not residents may also divorce in a California court.²³

The ruling on June 26, 2015 by the U.S. Supreme Court made clear that the state must continue to issue marriage licenses to same-sex couples.

Colorado

Colorado allows both same-sex and different-sex couples to marry or enter into civil unions. Same-sex couples began marrying in Colorado statewide on October 6, 2014, when the Tenth Circuit Court of Appeals ruling that denying the right to marry to same-sex couples was unconstitutional went into effect following the U.S. Supreme Court’s decision not to review that ruling.²⁴ On the same day, the Attorney General of Colorado issued a statement that clerks in Colorado must begin issuing marriage licenses to same-sex couples as soon as the Tenth Circuit’s stay was lifted.²⁵

Both same-sex and different-sex couples have been able to enter into civil unions in Colorado since May 1, 2013. Civil unions carry almost all of the same rights, benefits, and obligations of marriage under state law, except that parties to civil unions may not file joint state tax returns.²⁶ Under the law, similar non-marital relationships from other jurisdictions, including civil unions, and comprehensive domestic partnerships, are recognized as civil unions in Colorado.²⁷

Any person who enters into a civil union in Colorado consents to the jurisdiction of the Colorado courts for the purpose of any action relating to the civil union (such as dissolution), even if one or both of the parties to the civil union no longer lives in Colorado. In addition, anyone residing in Colorado who entered into a civil union or comprehensive domestic partnership elsewhere can dissolve that relationship in a Colorado court as a civil union.²⁸

Colorado also provides for “designated beneficiaries.” Since July 1, 2009, any two unmarried individuals who are over the age of 18 may enter into a designated beneficiary agreement at the county Clerk and Recorder’s office.²⁹ A designated beneficiary agreement can provide a number of rights and responsibilities to the designated beneficiaries, at their election, including hospital visitation, medical decision-making, recognition as beneficiaries of certain state employee pensions, standing to sue for wrongful death, and inheritance. A party to a civil union may not enter into a designated beneficiary agreement, and any previously existing designated beneficiary agreement is deemed revoked if either party marries or enters into a civil union.³⁰

Connecticut

Same-sex couples have been able to marry in Connecticut since November 12, 2008. On October 28, 2008, the Connecticut Supreme Court ruled that denying same-sex couples the right to marry violates the constitutional right to equal protection.³¹

Connecticut previously allowed same-sex couples to enter into civil unions, but it no longer allows couples to enter into new civil unions.³² On October 1, 2010, all existing civil unions were automatically converted into marriages.³³ Civil union spouses were also allowed to convert their civil unions into marriages before this date by marrying each other.

Couples who have entered into civil unions or domestic partnerships that have substantially the same rights, benefits and responsibilities as a marriage in another state are treated as married in Connecticut.³⁴

Delaware

Same-sex couples have been able to marry in Delaware since July 1, 2013. The General Assembly passed a law granting same-sex couples the freedom to marry on May 7, 2013, and Governor Jack Markell signed it the same day.

Delaware previously allowed same-sex couples to enter into civil unions with all the rights and responsibilities of marriage under Delaware law.³⁵ No new civil unions have been allowed since July 1, 2013.³⁶ Between July 1, 2013, and July 1, 2014, couples who previously entered into a civil union in Delaware may convert their civil union to a marriage either by applying for a marriage license and marrying, or by applying to have their civil union legally converted to a marriage without requirement of solemnization.³⁷ On July 1, 2014, all remaining civil unions were automatically converted to marriages by operation of law.³⁸ Delaware recognizes civil unions and comprehensive domestic partnerships entered into in other jurisdictions and affords them the same rights, benefits, protections, responsibilities, obligations and duties as marriage.³⁹

The Delaware Family Court may dissolve a marriage of a same-sex couple who are not Delaware residents if they married in Delaware and one or both spouses live in a state where the law does not permit them to dissolve their marriage or civil union.⁴⁰ The

couple should file the petition for dissolution in the county where one or both of them last resided in Delaware.

District of Columbia

In December 2009 the District of Columbia passed a law permitting same-sex couples to marry, which went into effect on March 3, 2010.⁴¹ The District already recognized marriages between same-sex couples validly entered into in other jurisdictions pursuant to a law passed in May 2009.⁴²

The District of Columbia also allows both same-sex and different-sex couples to register as domestic partners with nearly all the rights and responsibilities of marriage, including parentage recognition, inheritance, hospital visitation and medical decision-making, joint tax filing, alimony, domestic partner benefits for D.C. employees, and property rights.⁴³ Although the domestic partnership law went into effect on June 11, 1992, Congress prevented the District of Columbia from spending funds to implement the law until 2002. Originally, the law only granted a few rights to domestic partners, but these rights have expanded considerably. Registered domestic partners may marry without paying the required fee; marrying automatically converts the domestic partnership into a marriage.⁴⁴

Under a law that went into effect May 31, 2012, same-sex couples who married in the District of Columbia but who live out-of-state can get divorced in D.C. if they cannot divorce in the state where they live.⁴⁵

Florida

Same-sex couples have been able to marry statewide in Florida since January 6, 2015. Miami-Dade County began issuing licenses to same-sex couples one day earlier, on January 5, pursuant to a state court order.

On August 21, 2014, a federal district court ruled that Florida's ban on same-sex marriage violates the Due Process and Equal Protection clauses of the U.S. Constitution, and struck down the ban, but granting a stay on the ruling until January 5, 2015.⁴⁶ On December 19, 2014, the U.S. Supreme Court denied the state defendants an extension of the stay.⁴⁷ Since January 6, 2015, same-sex couples have been able to marry statewide as a result of these rulings. The ruling on June 26, 2015 by the U.S. Supreme Court makes clear that the state must continue to issue marriage licenses to same-sex couples.

On January 5, 2015, the Florida Eleventh Circuit Court for Miami-Dade County vacated the stay on a previous ruling striking down the marriage ban, allowing same-sex couples to marry in Miami-Dade County on that day.⁴⁸

Hawaii

Hawaii's law allowing same-sex couples to marry went into effect on December 2, 2013.⁴⁹ Couples who are already in a civil union or reciprocal beneficiary relationship with each other may subsequently marry.⁵⁰ Solemnization of the marriage will automatically terminate the couple's pre-existing civil union or reciprocal beneficiary relationship.⁵¹ However, any rights and responsibilities the couple had because of their civil union or reciprocal beneficiary relationship shall continue through the marriage.⁵²

Hawaii has allowed same-sex and different-sex couples to enter into civil unions with all the rights and responsibilities of marriage under Hawaii law since January 1, 2012.⁵³ The Hawaii legislature passed a bill establishing civil unions in February 2011, and the Hawaii governor signed the bill into law on February 23, 2011. Under the law, similar formal relationship statuses from other jurisdictions will be recognized as civil unions in Hawaii.⁵⁴

Hawaii grants limited rights to two unmarried people who register as "reciprocal beneficiaries." While a lawsuit over the constitutionality of denying same-sex couples licenses to marry was pending,⁵⁵ the Hawaii legislature passed the reciprocal beneficiaries law in 1997.⁵⁶ The reciprocal beneficiaries law allows any two single adults who are not eligible to marry under state law⁵⁷ access to some of the rights, benefits, and responsibilities of marriage, including the right to sue for wrongful death, the right to inherit intestate, the right to hospital visitation, the right to make medical decisions, and some property rights.

Where a couple married or entered into a civil union in Hawaii, and neither spouse or partner lives in a jurisdiction that will divorce them because their marriage is not recognized there, they may divorce in Hawaii.⁵⁸ Couples must commence a divorce action of this kind in the circuit where the marriage was solemnized.⁵⁹

Idaho

Same-sex couples have been able to marry in Idaho since October 15, 2014. An appeal of court rulings striking down the state's marriage ban remains pending. On May 13, 2014, a federal district court ruled that Idaho's ban on same-sex marriage violated the Equal Protection and Due Process clauses of the U.S. Constitution, and struck down the ban, with the ruling to take effect May 16, 2014.⁶⁰ On May 15, 2014, the Ninth Circuit Court of Appeals granted a temporary stay on the district court's ruling to consider an emergency motion for a stay, and on May 20, 2014 granted a stay pending resolution of the appeal.⁶¹ On October 8, 2014, the Ninth Circuit Court of Appeals found Idaho's ban on same-sex marriage unconstitutional and upheld the district court's decision.⁶² The Ninth Circuit dissolved the stay effective October 15, 2014.⁶³ The state asked the U.S. Supreme Court to review the Ninth Circuit's ruling. The ruling on June 26, 2015 by the U.S. Supreme Court makes clear that the state must continue to issue marriage licenses to same-sex couples.

Illinois

On November 20, 2013, Governor Pat Quinn signed into law the Religious Freedom and Marriage Fairness Act, which permits same-sex couples to marry in Illinois and took effect June 1, 2014.⁶⁴

On February 21, 2014, the U.S. District Court for the Northern District of Illinois ordered that Cook County begin issuing marriage licenses to same-sex couples immediately, before the new law took effect on June 1, 2014.⁶⁵

Illinois has allowed same-sex and different-sex couples to enter into civil unions with all the rights and benefits of marriage since June 1, 2011.⁶⁶ The legislature passed this law in 2010, and the bill was signed by the Illinois governor in early 2011.⁶⁷ Illinois recognizes similar relationships from other jurisdictions, including marriages between same-sex couples, as civil unions.⁶⁸ As of June 1, 2014, couples who previously entered into civil unions can voluntarily convert their civil union into a marriage by marrying. Alternatively, for a period of one year after June 1, 2014, couples in civil unions may convert their civil union to a marriage by applying to a county clerk for issuance of a marriage certificate; if this procedure is used, the marriage will be deemed effective as of the date the couple's civil union was solemnized.⁶⁹

Illinois recognizes marriages of both same-sex and opposite-sex couples from other states as marriages, and will continue to recognize civil unions and comprehensive domestic partnerships from other states as civil unions.⁷⁰

In general, Illinois requires that one spouse be a resident of the state when an action for dissolution of marriage is commenced. When partners enter into a civil union in Illinois, however, they consent to Illinois courts' jurisdiction over any action relating to the civil union, even if neither partner resides in the state, so non-resident partners may seek dissolution of an Illinois civil union in Illinois courts.⁷¹ After June 1, 2014, same-sex couples who marry in Illinois are deemed to consent to the jurisdiction of the Illinois courts for any action relating to the marriage, even if one or both spouses resides outside the state, so that non-resident spouses may seek dissolution of the marriage in Illinois.⁷²

Indiana

Same-sex couples have been able to marry in Indiana since October 6, 2014. On June 25, 2014, a federal district court in Indiana found that Indiana's ban on marriage for same-sex couples violated the equal protection and due process guarantees in the U.S. Constitution, striking down the ban.⁷³ On September 4, 2014, the Seventh Circuit Court of Appeals affirmed the district court's order, but granted a stay of this ruling pending an application for certiorari to the Supreme Court.⁷⁴ The U.S. Supreme Court denied the petition on October 6, 2014, letting the Seventh Circuit ruling stand.⁷⁵

Iowa

Same-sex couples have been able to marry in Iowa since April 27, 2009. On April 3, 2009, the Iowa Supreme Court unanimously struck down the 1998 state ban on marriage for same-sex couples.⁷⁶ The Court recognized that the constitutional guarantee of equal protection requires that same-sex couples have “full access to the institution of civil marriage,” and that civil unions and domestic partnerships could not provide full equality under the constitution.⁷⁷

Kansas

Kansas is bound by the Supreme Court decision on June 26, 2015 holding bans on same-sex marriage unconstitutional. Same-sex couples have been able to get marriage licenses at least in Douglas, Sedgwick, and Johnson counties by direct court order. Couples may be able to marry in other counties currently.

In *Kitchen v. Herbert*, the Tenth Circuit Court of Appeal held that a ban on same-sex marriage in Utah was unconstitutional, and the Supreme Court denied review of the decision.⁷⁸ The opinion is final and binding on the entire circuit, including Kansas,.

On November 4, 2014, a federal district court struck down the state’s marriage ban, but stayed its decision until November 11, 2014.⁷⁹ On November 10, the U.S. Supreme Court temporarily stayed the order, and on November 12, 2014, the U.S. Supreme Court denied a stay of the order.⁸⁰ The Kansas Attorney General issued a statement that the district court’s order applied to Douglas and Sedgwick county clerks.⁸¹

In light of *Kitchen*, the Kansas district court for Johnson County issued an order for the county clerk to issue marriage licenses to otherwise qualified same-sex couples on October 8, 2014.⁸² The Kansas Supreme Court temporarily stayed that order, but lifted its stay on November 18, 2014.⁸³

The ruling on June 26, 2015 by the U.S. Supreme Court makes clear that the state must issue marriage licenses to same-sex couples.

Kentucky

Kentucky allows same-sex couples to marry. In 2014, a federal district court struck down Kentucky’s marriage ban. The Sixth Circuit stayed and reversed that decision. The U.S. Supreme Court ruled on this case on June 26, 2015 that the state must issue marriage licenses to same-sex couples.

Louisiana

Louisiana allows same-sex couples to marry. In 2014, a federal district court judge upheld Louisiana’s marriage ban, becoming the first federal court to uphold a state ban. The plaintiffs appealed. The Fifth Circuit heard oral argument in the case on January 9,

2015, but has not yet issued a ruling. The ruling on June 26, 2015 by the U.S. Supreme Court makes clear that the state must issue marriage licenses to same-sex couples.

Maine

Maine has permitted same-sex couples to marry since December 29, 2012, after the voters approved a citizen initiative in the November 2012 election.⁸⁴ Maine also recognizes marriages of same-sex couples that were validly entered into in other jurisdictions.⁸⁵ Previously, the Maine Legislature had passed a law allowing same-sex couples to marry that was signed into law by the state's governor, but that law was overturned in a voter referendum on November 3, 2009.⁸⁶

Maine has recognized domestic partnerships since July 30, 2004. The law provides a handful of rights to domestic partners, including the right to intestate succession, the right to elect against the will, the right to make funeral and burial arrangements, the right to receive victim's compensation, and preferential status to be named as guardian and/or conservator in the event of the death of a domestic partner.⁸⁷ Domestic partnerships in Maine are available to same-sex or different-sex couples if they are both unmarried adults who have lived together in Maine for at least 12 months and are not registered as domestic partners with anyone else.

Maryland

On March 1, 2012, Governor Martin O'Malley signed a bill that allows same-sex couples to marry.⁸⁸ A referendum that would have repealed the new law failed to pass during the November 6, 2012 election.⁸⁹ The law went into effect on January 1, 2013.⁹⁰

On May 18, 2012, the Court of Appeals of Maryland (the state's highest court), ruled that Maryland must recognize an out-of-state marriage of a same-sex couple if the marriage was valid in the state where the couple married.⁹¹ Under the legal doctrine of "comity," the court held that Maryland must recognize out-of-state marriages for purposes of divorce and for all other purposes, even if the couple could not have entered into the marriage within the state. Before the Maryland Court of Appeals' decision requiring recognition of out-of-state marriages, Maryland's attorney general issued an opinion on February 23, 2010 concluding that the state government must recognize valid marriages between same-sex couples entered into in other jurisdictions.⁹² Governor O'Malley directed all state agencies to work closely with the attorney general's office to ensure compliance with the law.⁹³

Maryland has also recognized domestic partnerships with a limited set of rights since July 1, 2008.⁹⁴ Domestic partners in Maryland have the right to visit each other in the hospital, make certain decisions about healthcare and funeral arrangements, and are exempt from taxes on certain property transfers between partners. Same-sex and different-sex couples who are over the age of 18 not closely related to each other may be domestic partners in Maryland.⁹⁵

Massachusetts

Same-sex couples have been able to marry in Massachusetts since May 17, 2004. On November 18, 2003, in *Goodridge v. Department of Public Health*,⁹⁶ the Massachusetts Supreme Judicial Court held that denying marriage and its protections to same-sex couples is unconstitutional under the equality and liberty provisions of the Massachusetts Constitution.

In January 2004, the Massachusetts State Senate asked the court to issue an advisory opinion on whether a law allowing same-sex couples to enter into civil unions would comply with the court's opinion in *Goodridge*. In February 2004, the court sent an advisory opinion to the Senate stating unequivocally that civil unions would *not* provide full equality to same-sex couples as mandated by the Massachusetts constitution.⁹⁷ The court explained that having a separate institution just for same-sex couples compounds, rather than corrects, the constitutional infirmity. Establishing a separate "civil union" status for same-sex couples "would have the effect of maintaining and fostering a stigma of exclusion that the Constitution prohibits," the court explained.⁹⁸ "The history of our nation has demonstrated that separate is seldom, if ever, equal."⁹⁹

Initially, Massachusetts did not allow non-resident same-sex couples to marry if their home states prohibited marriage between same-sex couples.¹⁰⁰ Massachusetts removed this restriction on July 31, 2008, and any same-sex couple may now marry in Massachusetts regardless of where they live.¹⁰¹

Massachusetts recognizes both comprehensive domestic partnerships and civil unions validly entered into in other jurisdictions.¹⁰²

Michigan

The ruling on June 26, 2015 by the U.S. Supreme Court makes clear that Michigan must issue marriage licenses to same-sex couples. In addition, a number of same-sex couples were able to marry in the state for a brief window after a federal court ruling that was stayed during the appeal.

On March 21, 2014, a federal court ruled that Michigan's marriage ban violates equal protection under the U.S. Constitution and that Michigan must allow same-sex couples to marry.¹⁰³ The state of Michigan immediately appealed the district court's order and asked the appeals court to stay the order pending appeal. The next day, the Sixth Circuit Court of Appeals stayed the district court's ruling.¹⁰⁴ Before the order was stayed, same-sex couples were able to marry, and many couples did marry in that brief window of time. A federal court ruled that Michigan must recognize marriages of same-sex couples that took place in that window.¹⁰⁵

The Sixth Circuit reversed the lower court decision invalidating the ban. However, on June 26, 2015 the U.S. Supreme Court ruled in that case that the state must issue marriage licenses to same-sex couples.

Minnesota

Same-sex couples have been able to marry in Minnesota since August 1, 2013.¹⁰⁶ The Legislature passed a law allowing same-sex couples to marry on May 13, 2013, and Governor Mark Dayton signed it the next day.

Minnesota courts may dissolve a marriage of a same-sex couple who are not residents of Minnesota if they married in Minnesota and neither spouse lives in a state that permits them to dissolve their marriage.¹⁰⁷

Missouri

Missouri recognizes marriages between same-sex spouses entered in other states as of October 3, 2014. The ruling on June 26, 2015 by the U.S. Supreme Court makes clear that the state must continue to issue marriage licenses to same-sex couples.

The clerk of the City of St. Louis began issuing marriage licenses to same-sex couples pursuant to a November 5, 2014 court order finding that the clerk had authority to do so. The clerk of Jackson County began issuing marriage licenses to same-sex couples after a federal district court ruling finding the state's ban unconstitutional on November 7, 2014.

A state court issued an order on October 3, 2014 requiring the state to recognize marriages validly entered into in other jurisdictions by same-sex couples.¹⁰⁸ The Missouri Attorney General issued a statement on October 6, 2014 that he would not appeal the court's ruling.¹⁰⁹

On November 5, 2014, a state court issued an order that the state's ban on marriage was unconstitutional and allowing at least the clerk of the City of St. Louis to issue marriage licenses to same-sex couples.¹¹⁰ The Missouri Attorney General announced he would appeal the ruling but would not seek a stay.¹¹¹

On November 7, 2014, a federal district court ruled that the state's ban on marriage violated the Due Process and Equal Protection clauses of the U.S. Constitution, struck down the ban, and ordered the clerk of Jackson County to issue marriage licenses to same-sex couples, but stayed the order pending a final judgment.¹¹² The Jackson County clerk began issuing marriage licenses following this ruling.¹¹³

Mississippi

The ruling on June 26, 2015 by the U.S. Supreme Court makes clear that Mississippi must issue marriage licenses to same-sex couples. In 2014, a federal district court struck down Mississippi's marriage ban, but stayed its ruling. The state appealed and

the Fifth Circuit heard oral argument on January 9, 2015, but has not yet issued a ruling. However, the Fifth Circuit is bound by the U.S. Supreme Court's decision.

Montana

Same-sex couples have been able to marry in Montana since November 19, 2014 pursuant to a federal district court order, although an appeal of that order remains pending. A federal district court on November 19, 2014 ruled that Montana's ban on marriage for same-sex couples violated the Equal Protection clause of the U.S. Constitution, and struck down the law effective immediately.¹¹⁴ The ruling on June 26, 2015 by the U.S. Supreme Court makes clear that the state must continue to issue marriage licenses to same-sex couples.

Nebraska

A federal district court on March 2, 2015 found that Nebraska's ban on marriage for same-sex couples was unconstitutional.¹¹⁵ The state of Nebraska appealed that decision, and the Eighth Circuit Court of Appeals stayed the district court's ruling pending appeal. The Eighth Circuit stayed the appeal pending the U.S. Supreme Court's ruling in the four consolidated marriage cases. The ruling on June 26, 2015 by the U.S. Supreme Court makes clear that the state must issue marriage licenses to same-sex couples.

Nevada

Same-sex couples have been able to marry in Nevada since October 9, 2014. On October 7, 2014, the Ninth Circuit Court of Appeals held that Nevada's ban on marriage for same-sex couples violated the Equal Protection clause of the U.S. Constitution, and sent the case back to the trial court to enter an order striking down the ban.¹¹⁶ The federal district court struck down the ban on October 9, 2014.¹¹⁷ The ruling on June 26, 2015 by the U.S. Supreme Court makes clear that the state must continue to issue marriage licenses to same-sex couples.

Nevada has allowed same-sex and different-sex couples to register as domestic partners with all of the rights and responsibilities of marriage under Nevada law since October 1, 2009.¹¹⁸ Governor Gibbons initially vetoed the bill, but the legislature overrode the veto on May 31, 2009. Couples may register as domestic partners with the Nevada Secretary of State's Office. Forms and other information can be found at: <http://sos.state.nv.us/licensing/securities/domesticpartnership.asp>.

Nevada recognizes civil unions and comprehensive domestic partnerships from other states, but couples are first required to pay the domestic partnership registry fee to the Secretary of State.¹¹⁹

New Hampshire

New Hampshire has allowed same-sex couples to marry since January 1, 2010.¹²⁰ After the legislature passed a marriage equality bill in April 2009, Governor Lynch agreed to sign it only if it were amended to include a number of provisions regarding religious organizations, including that clergy may choose which marriages to solemnize. The legislature passed those amendments, and Governor Lynch signed the marriage bill into law on June 3, 2009.

New Hampshire previously allowed same-sex couples to enter civil unions between January 1, 2008 and December 31, 2009.¹²¹ All existing New Hampshire civil unions were automatically converted into marriages on January 1, 2011.¹²² New Hampshire recognizes civil unions and comprehensive domestic partnerships from other states as marriages.¹²³

New Jersey

New Jersey has allowed same-sex couples to marry since October 21, 2013. On September 27, 2013, a New Jersey state court ruled that same-sex couples must be allowed to marry.¹²⁴ The New Jersey Supreme Court denied a stay of the court's ruling, stating that the state had failed to show it had a reasonable probability of success on the merits, and the state of New Jersey withdrew its appeal.¹²⁵

New Jersey has allowed same-sex couples to enter into civil unions since February 19, 2007. In *Lewis v. Harris*,¹²⁶ the New Jersey Supreme Court held that committed same-sex couples in New Jersey must be given the same rights as different-sex married couples. The court allowed the legislature to determine whether to allow same-sex couples to marry or to create a separate status such as civil unions. On December 21, 2006, New Jersey passed legislation allowing same-sex couples to enter into civil unions.¹²⁷ The law provides parties to a civil union with the same benefits, protections, and responsibilities as spouses in a marriage.¹²⁸ New Jersey recognizes civil unions from other states.¹²⁹

Before it passed civil union legislation, New Jersey allowed same-sex couples to enter into domestic partnerships, which provided a much more limited set of rights and responsibilities than civil unions. Beginning July 10, 2004, New Jersey recognized domestic partnerships between same-sex couples and different-sex couples over the age of 62.¹³⁰ After February 19, 2007, only couples over the age of 62 may enter into domestic partnerships.¹³¹ New Jersey continues to recognize the domestic partnerships of all couples who registered as domestic partners before February 19, 2007, and who have not terminated their partnerships.

New Mexico

New Mexico has expressly allowed same-sex couples to marry statewide since December 19, 2013. On this date, the New Mexico Supreme Court held that denying

same-sex couples the ability to marry violates equal protection under the New Mexico Constitution.¹³² While this appeal was pending, several New Mexico counties had begun allowing same-sex couples to marry.

New Mexico's Attorney General had previously issued an opinion on January 4, 2011 concluding that under existing state law, the state government must recognize valid marriages between same-sex couples entered into in other jurisdictions.¹³³

New York

New York has permitted same-sex couples to marry since July 24, 2011. The New York legislature passed the Marriage Equality Act on June 24, 2011, and Governor Cuomo signed the bill into law the same day.¹³⁴

New York also recognizes the marriages of same-sex couples who validly married in another state or country, and it recognizes civil unions from other states for at least some purposes. Even before the Marriage Equality Act passed, numerous courts held that the state of New York must recognize marriages entered of same-sex couples validly entered into in other jurisdictions.¹³⁵ Based on these decisions, the governor directed all agencies to revise their policies to recognize marriages between same-sex couples in other states and countries that allow same-sex couples to marry,¹³⁶ and the New York Court of Appeal affirmed that state agencies and local governments have the authority to recognize marriages between same-sex couples from other jurisdictions, although it did not reach the question of whether the state government is required to recognize those marriages.¹³⁷ In May 2010, New York's high court held that the state will recognize civil unions from other states for purposes of determining the legal parentage of a child born to a same-sex couple in a civil union.¹³⁸ Nevertheless, same-sex couples who entered into a civil union in another state may still face challenges in getting their relationship to be recognized in other contexts.¹³⁹

New York also recognizes domestic partnerships for same-sex couples with a few limited rights, including hospital visitation,¹⁴⁰ the right to make decisions about disposition of a partner's remains,¹⁴¹ and a supplemental burial allowance for partners of veterans killed in combat.¹⁴²

North Carolina

Same-sex couples have been able to marry in North Carolina pursuant to a federal district court order since October 10, 2014. The ruling on June 26, 2015 by the U.S. Supreme Court makes clear that the state must continue to issue marriage licenses to same-sex couples.

On October 10, 2014, a federal district court ruled, in light of *Bostic v. Schaefer*, 760 F.3d 352 (4th Cir. 2014), *cert. denied* 2014 WL 4354536 (S.Ct. Oct. 6, 2014), that North Carolina's marriage ban for same-sex couples was a violation of the Equal Protection

and Due Process clauses of the U.S. Constitution, and struck down the ban.¹⁴³ The order took effect immediately.

North Dakota

The ruling on June 26, 2015 by the U.S. Supreme Court makes clear that Nebraska must issue marriage licenses to same-sex couples.

North Dakota previously did not allow same-sex couples to marry or enter into any state-recognized relationship, and prohibits recognition of marriages or other unions between same-sex couples entered in other states. Same-sex couples filed a challenge to the state's ban, which was stayed by the federal district court.

Ohio

The ruling on June 26, 2015 by the U.S. Supreme Court makes clear that Ohio must issue marriage licenses to same-sex couples.

Ohio previously did not allow same-sex couples to marry or enter into any state-recognized relationship, and prohibited recognition of marriages or other unions between same-sex couples entered in other states.¹⁴⁴ On December 23, 2013, a federal district judge ordered that Ohio's anti-recognition law is invalid and that Ohio must recognize out-of-state marriages between same-sex spouses for purposes of preparing death certificates when one spouse passes away.¹⁴⁵ That decision was reversed by the Sixth Circuit Court of Appeals. On June 26, 2015 the U.S. Supreme Court required Ohio to issue marriage licenses to same-sex couples.

Oklahoma

Oklahoma has allowed same-sex couples to marry since October 6, 2014. On February 13, 2014, a federal district court found that Oklahoma's ban on marriage for same-sex couples violated the equal protection guarantee in the U.S. Constitution, striking down the ban, but placing its order on hold during the state's appeal.¹⁴⁶ On July 18, 2014, the Tenth Circuit Court of Appeals affirmed the district court's order, ruling that the ban is unconstitutional but also staying the ruling (putting the ruling on hold).¹⁴⁷ On October 6, 2014, the Supreme Court denied review of the case, and the Tenth Circuit ruling went into effect.¹⁴⁸ The ruling on June 26, 2015 by the U.S. Supreme Court makes clear that the state must continue to issue marriage licenses to same-sex couples.

Oregon

Oregon allows same-sex couples to marry. On May 19, 2014, a federal district court in Oregon ruled that Oregon's marriage ban violates the rights of same-sex couples to equal protection under the U.S. Constitution, and that Oregon must allow same-sex couples to marry.¹⁴⁹ The state opposed the marriage ban and has declined to appeal that ruling.¹⁵⁰

Prior to that decision, the Oregon Department of Administrative Services issued a memo on October 16, 2013 to Oregon agencies stating that “Oregon agencies must recognize all out-of-state marriages for purposes of administering state programs.”¹⁵¹

Oregon grants domestic partners nearly all the rights and responsibilities of marriage under state law.¹⁵² Domestic partnerships in Oregon are only available to same-sex couples. Oregon’s law establishing domestic partnerships was signed by the governor on May 9, 2007. The law went into effect on February 4, 2008.

Couples who entered into an Oregon registered domestic partnership but no longer reside there may dissolve their registered domestic partnership in an Oregon court.¹⁵³

Pennsylvania

On May 20, 2014, a federal district court in Pennsylvania ruled that Pennsylvania’s marriage ban violates the rights of same-sex couples to due process and equal protection under the U.S. Constitution, and that Pennsylvania must allow same-sex couples to marry.¹⁵⁴ The state governor has declined to appeal that ruling.¹⁵⁵

Rhode Island

Same-sex couples have been able to marry in Rhode Island since August 1, 2013.¹⁵⁶ The General Assembly passed a law granting same-sex couples the freedom to marry on May 2, 2013, and Governor Lincoln Chafee signed it the same day.

Rhode Island previously allowed same-sex couples to enter into civil unions, but no new civil unions are permitted after August 1, 2013.¹⁵⁷ Couples who previously entered into a civil union in Rhode Island may convert their civil union to a marriage, either by applying for a license and marrying, or by applying to the clerk of the city or town in which their civil union is recorded to have their civil union legally designated and recorded as a marriage.¹⁵⁸ Civil unions that are not converted to marriages remain valid. Rhode Island recognizes civil unions and comprehensive domestic partnerships from other states and affords them the same rights, benefits, and responsibilities as marriage.¹⁵⁹

South Carolina

Same-sex couples have been able to marry in South Carolina since November 20, 2014, although an appeal of court rulings striking down the state’s marriage ban remains pending. The ruling on June 26, 2015 by the U.S. Supreme Court makes clear that the state must continue to issue marriage licenses to same-sex couples. Same-sex couples who married elsewhere are recognized in South Carolina under a federal district court order on November 18, 2014.

On November 12, 2014, a federal district court ruled that in light of *Bostic v. Schaeffer*, South Carolina’s marriage ban for same-sex couples was unconstitutional, and struck

down the ban.¹⁶⁰ The court stayed its order until November 20, 2014.¹⁶¹ The U.S. Supreme Court denied any further stay, and the order took effect November 20, 2014.¹⁶²

On November 18, 2014, a federal district court ordered South Carolina to recognize the marriages of same-sex couples who married in other jurisdictions.¹⁶³

South Dakota

South Dakota is bound by the ruling on June 26, 2015 by the U.S. Supreme Court to issue marriage licenses to same-sex couples. South Dakota previously did not permit same-sex couples to marry or to obtain any other type of official legal recognition. In 2014, a federal district court ruled that South Dakota's ban is unconstitutional, but stayed the decision pending appeal. The Eighth Circuit stayed the appeal pending the U.S. Supreme Court's ruling. On June 26, 2015 the U.S. Supreme Court ruled that states must issue marriage licenses to same-sex couples.

Tennessee

Tennessee must allow same-sex couples to marry pursuant to the U.S. Supreme Court ruling on June 26, 2015. In 2014, a federal district court ruled that Tennessee's refusal to recognize same-sex couples' valid out-of-state marriages violated is unconstitutional. The Sixth Circuit stayed the decision and reversed it on appeal. The U.S. Supreme Court ruled on the case making clear that the state must recognize marriage for same-sex couples.

Texas

Texas allows same-sex couples to marry. On June 26, 2015 the U.S. Supreme Court ruling made clear that states must issue marriage licenses to same-sex couples.

In 2014, two different federal district courts ruled that Texas's marriage ban is unconstitutional. The state of Texas appealed those decisions to the Fifth Circuit Court of Appeals, which heard oral argument on January 9, 2015, but has not yet issued a decision. Both decisions were stayed pending appeal. However, the U.S. Supreme Court decision is binding on all federal courts. On Feb. 19, 2015, two Austin women were married after a state court issued an emergency ruling permitting them to do so because one of the women had been diagnosed with ovarian cancer.

Utah

Same-sex couples have been able to marry in Utah since October 6, 2014, and were previously briefly allowed to marry between December 20, 2013 and January 6, 2014. On December 20, 2013, a federal district court in Utah ruled that Utah's marriage ban violates the rights of same-sex couples to due process and equal protection under the U.S. Constitution, and that Utah must allow same-sex couples to marry.¹⁶⁴ That day,

same-sex couples began marrying in Utah. The state of Utah immediately appealed the decision. The federal district court denied the state of Utah's request to stay the decision pending its appeal. The Tenth Circuit Court of Appeals also rejected the state's request to stay the decision during the appeal. However, on January 6, 2014, the U.S. Supreme Court ordered that the district court's injunction be stayed pending final disposition of the appeal by the Tenth Circuit Court of Appeals. Hundreds of same-sex couples married in Utah before the Supreme Court stayed the decision, but same-sex couples were subsequently not allowed to marry in Utah while the appeal was pending. On June 25, 2014, the Tenth Circuit Court of Appeals affirmed the district court's ruling, but stayed its order pending a petition for review to the U.S. Supreme Court. On October 6, 2014, the U.S. Supreme Court denied review, and the Tenth Circuit Court of Appeals ruling went into effect that day.¹⁶⁵ On June 26, 2015 the U.S. Supreme Court ruling made clear that the state must continue to issue marriage licenses to same-sex couples.

On May 19, 2014, a federal district court ruled that Utah had to recognize the marriages of same-sex couples who married in Utah pursuant to Utah marriage licenses issued and solemnized between December 20, 2013, and January 6, 2014.¹⁶⁶ The U.S. Supreme Court stayed that order on July 18, 2014 pending final disposition of the appeal by the circuit court.¹⁶⁷ Although this case is still pending, there should be no question that these marriages are valid.

Vermont

Same-sex couples have been able to marry in Vermont since September 1, 2009. Vermont was the first state to enact a marriage equality law without a court mandate. On April 7, 2009, the Vermont legislature voted in favor of the marriage equality law, overriding Governor Douglas's earlier veto. The law went into effect on September 1, 2009.¹⁶⁸

Vermont currently recognizes civil unions entered in Vermont before September 1, 2009, but same-sex couples may no longer enter into new civil unions. Vermont was the first state to allow same-sex couples to enter into civil unions,¹⁶⁹ following the Vermont Supreme Court's 1999 ruling in *Baker v. State*.¹⁷⁰

Under a law that went into effect July 1, 2012, same-sex couples living out-of-state who married or entered into civil unions in Vermont may divorce in some circumstances.¹⁷¹ Non-resident same-sex couples may divorce in Vermont if neither spouse's home state allows them to divorce, they do not have minor children, they agree on how to divide their property, and there are no domestic violence protective orders against either spouse.

Virginia

Same-sex couples have been able to marry in Virginia since October 6, 2014. On February 13, 2014, a federal district court found that Virginia's ban on marriage for same-sex couples violated the equal protection and due process guarantees in the U.S.

Constitution, striking down the ban.¹⁷² That order was stayed during the appeal. On July 28, 2014, the Fourth Circuit Court of Appeals affirmed the district court's order in that case and in another class-action case on behalf of similarly situated plaintiffs, ruling that Virginia's marriage ban is unconstitutional.¹⁷³ The U.S. Supreme Court stayed this ruling pending the state's petition for certiorari.¹⁷⁴ On October 6, 2014, the Supreme Court denied review of the case, allowing the Fourth Circuit ruling to go into effect. On June 26, 2015 the U.S. Supreme Court ruling made clear that the state must continue to issue marriage licenses to same-sex couples.

Washington

Same sex-couples have been able to marry in the state of Washington since December 6, 2012, when a federal court struck down the state's ban.¹⁷⁵ The legislature subsequently codified the court's ruling, and that legislation was signed into law on February 13, 2012.¹⁷⁶ The voters upheld the new law in a statewide referendum on November 6, 2012.

Washington previously permitted same-sex couples to enter into comprehensive domestic partnerships, but as of June 30, 2014, domestic partnerships are limited to couples where one or both partners are over the age of 62. Previously existing domestic partnerships will continue to be recognized, but were automatically converted to marriages on June 30, 2014. People who were previously domestic partners could also have converted their domestic partnership to a marriage before this time by marrying each other.¹⁷⁷

As of June 30, 2014, Washington recognizes civil unions and comprehensive domestic partnerships from other states as domestic partnerships if one or both partners are over age 62.¹⁷⁸ Washington treats other couples in civil unions and comprehensive domestic partnerships from other states as having the rights and responsibilities of marriage if they have not been permanent residents in Washington for more than a year – after that time, couples must marry to retain their relationship recognition.¹⁷⁹ Couples with civil unions and comprehensive domestic partnerships from other states who are travelling through Washington or residing in Washington for less than a year will be given all of the rights and responsibilities of marriage. **IMPORTANT: if you have entered a civil union or registered domestic partnership in another state and now live in Washington, you should consider marrying each other, or your relationship may not be recognized in Washington.**

West Virginia

Same-sex couples have been able to marry in West Virginia since October 9, 2014.

The U.S. Supreme Court denied certiorari in *Bostic v. Schaeffer*, the Fourth Circuit decision affirming lower court rulings striking down state marriage bans in Virginia and North Carolina, in October, 2014, thereby allowing the Fourth Circuit's decision to take effect.¹⁸⁰ *Bostic* was binding circuit precedent for West Virginia. On October 9, 2014, the

West Virginia Attorney General announced that in light of that case, he would direct state agencies to no longer uphold the state ban on marriages for same-sex couples.¹⁸¹ On June 26, 2015 the U.S. Supreme Court ruling made clear that the state must continue to issue marriage licenses to same-sex couples.

Wisconsin

Same-sex couples have been able to marry in Wisconsin since October 6, 2014, and previously briefly between June 6 and June 13, 2014. Same-sex couples may also register as domestic partners with limited rights.

Wisconsin began recognizing domestic partnerships with limited rights and responsibilities on August 3, 2009.¹⁸² Same-sex couples may register as domestic partners if they are over the age of 18, share a common residence, are not married or registered as domestic partners with a different person, and are not closely related. Domestic partners receive some rights and responsibilities, including hospital visitation and some medical decision-making, inheritance, the right to sue for wrongful death, and immunity from testifying against the other partner in court.

On June 6, 2014, a federal district court in Wisconsin ruled that the state's marriage ban violates the rights of same-sex couples to equal protection under the U.S. Constitution, and denied them a fundamental right to marry, and that Wisconsin must allow same-sex couples to marry.¹⁸³ On June 13, 2014, the district court stayed its ruling pending resolution of the appeal.¹⁸⁴ A number of same-sex couples married in Wisconsin before the stay was issued. On September 4, 2014, the Seventh Circuit Court of Appeals affirmed the district court's order, ruling that the ban was unconstitutional, but stayed the ruling pending the state's petition for certiorari to the Supreme Court.¹⁸⁵ The U.S. Supreme Court denied the petition for certiorari on October 6, 2014, allowing the Seventh Circuit ruling to go into effect. On June 26, 2015 the U.S. Supreme Court ruling made clear that the state must continue to issue marriage licenses to same-sex couples.

Wyoming

Same-sex couples have been able to marry in Wyoming since October 21, 2014, pursuant to a federal district court order.

On October 17, 2014, a federal district court, in light of binding precedent from the Tenth Circuit Court of Appeals, struck down Wyoming's ban on marriage for same-sex couples, issuing a preliminary injunction to that effect.¹⁸⁶ The court stayed its order until the earlier of October 23, 2014 or all defendants filing a notice with the court that they would not appeal.¹⁸⁷ By October 21, 2014, all defendants filed a notice saying they would not appeal, and the court lifted its stay.¹⁸⁸ The court issued a permanent injunction on January 29, 2015.¹⁸⁹ On June 26, 2015 the U.S. Supreme Court ruling made clear that the state must continue to issue marriage licenses to same-sex couples.

Previously, since 2011, same-sex married couples who married elsewhere were able to divorce in Wyoming.¹⁹⁰

American Indian Tribal Nations¹⁹¹

American Indian tribes are sovereign nations that have the ability to have inherent, retained powers to govern themselves and establish their own laws. There are over 550 tribes formally recognized by the U.S. government and numerous tribes that are not federally recognized.

At least twenty American Indian tribal nations expressly allow same-sex couples to marry. The Coquille Indian Tribe amended their laws in 2009 to allow same-sex couples to marry and recognize marriages and domestic partnerships from other jurisdictions.¹⁹² The Suquamish Tribe's tribal council voted in August 2011 to allow same-sex couples to marry.¹⁹³ On March 15, 2013, the chairman of the Little Traverse Bay Bands of Odawa Indians signed a law approved by the tribal council allowing same-sex couples to marry.¹⁹⁴ On June 20, 2013, the Pokagon Band of Potawatomi issued its first marriage license to a same-sex couple.¹⁹⁵ On June 24, 2013, the Lipay Nation of Santa Ysabel announced its recognition of marriages of same-sex couples.¹⁹⁶ On September 5, 2013, the Colville Tribal Council of the Confederated Tribes of the Colville Reservation voted to recognize marriages between same-sex couples.¹⁹⁷ The Cheyenne and Arapaho Tribes has issued a marriage license to a same-sex couple in October 2013.¹⁹⁸ The Leech Lake Band of Ojibwe issued a marriage license to a same-sex couple in November 2013.¹⁹⁹ The Puyallup Tribe amended their domestic relations code to legalize same-sex marriages in July 2014.²⁰⁰ The tribal court for the Shoshone and Arapahoe tribes of the Wind River Reservation performed a marriage for a same-sex couple in November 2014.²⁰¹ On February 20, 2015, The Executive Council of the Central Council of the Tlingit and Haida Indian Tribes of Alaska unanimously enacted a tribal statute to legalize marriages for same-sex couples.²⁰² On May 15, 2015, the tribal council of the Confederated Tribes of Siletz Indians approved ordinances recognizing marriage for same-sex couples.²⁰³ In a May 27, 2015 meeting of the Oneida Business Committee, the Oneida Tribe of Indians of Wisconsin voted to recognize marriage for same-sex couples effective June 10, 2015.²⁰⁴ On June 6, 2015, the Keweenaw Bay Indian Community of Michigan adopted a new marriage ordinance that recognized same-sex couples marriages.²⁰⁵ The Confederated Tribes of Grand Ronde re-enacted a Tribal Marriage Ordinance that goes into effect November 18, 2015, which includes a nondiscrimination provision expressly covering sexual orientation.²⁰⁶ On November 3, 2016, the Tribal Legislature of the Menominee Nation voted to amend their marriage law to allow any two persons regardless of gender to marry.²⁰⁷ In 2016, the Tulalip Tribes changed their Domestic Relations Code to define marriage as "the legal union of two persons, regardless of their sex, created to the exclusion of all others."²⁰⁸ On December 9, 2016, the Cherokee Nation (Oklahoma) Office of the Attorney General issued an opinion, which has legal effect absent a contrary determination by a Cherokee Nation court, that the Cherokee Nation's prohibition on same-sex marriages was inconsistent

with the Cherokee Nation constitution and hence invalid.²⁰⁹ On March 20, 2017, the Osage Nation voted by referendum to amend their marriage law to allow same-sex couples to marry.²¹⁰ In 2017, the Prairie Island Mdewakanton Dakota Community amended their Domestic Relations code to allow two persons of the same or opposite gender to marry.²¹¹

At least three additional tribes likely allow same-sex couples to marry: the Mashantucket Pequot (marriage and adoption law changed to be sex neutral, strong evidence that intent was to allow same-sex couples to marry)²¹², the Sault Ste. Marie (law expressly tied to Michigan marriage law, which, post-Obergefell, allows same-sex couples to marry)²¹³, and the Port Gamble S'Klallam Tribe (in 2012, the tribe supported Washington State's Referendum 74, which recognized marriages of same-sex couples in that state and upon passage of that law, the tribe allowed marriage ceremonies for same-sex couples on tribal-owned land)²¹⁴.

A number of tribes have sex-neutral marriage laws that should allow same-sex couples to marry, including: Yurok; Hoopa Valley; Coughatta Tribe; Tohono O'odham; Iowa Tribe; White Mountain Apache; Poarch Band of Creek; St. Regis Mohawk; Ute; Rosebud Sioux; Winnebago; Ponca Tribe of Nebraska; and Yankton Sioux.²¹⁵

In May 2004, Kathy Reynolds and Dawn McKinley, a same-sex couple who are members of the Cherokee Nation (Oklahoma), obtained a marriage certificate from the Cherokee Nation and married shortly thereafter. Other members of the Cherokee Nation have sought to invalidate Reynolds and McKinley's marriage in three different cases. NCLR successfully defended the couple in two of these cases, and a motion to dismiss a third challenge is still pending.²¹⁶ The Cherokee Nation passed a tribal law explicitly prohibiting same-sex couples from marrying.²¹⁷ The Cherokee Nation Attorney General invalidated that law as contrary to the Cherokee Nation constitution in an opinion issued December 9, 2016.²¹⁸

A few tribes expressly prohibit marriage between same-sex couples.²¹⁹

If you have questions about the laws of a particular tribe, you should check with the tribal government or leadership.

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End Notes

¹ For more information about the federal rights of same-sex married couples, as well as the federal rights of couples in other relationship statuses, such as civil unions and domestic partnerships, see <http://www.nclrights.org/afterdoma>.

² *Searcy v. Strange*, 1:14-cv-00208-CG-N (S.D. Ala. Jan. 23, 2015); *Strawser v. Strange*, 1:14-cv-00424-CG-C (S.D. Ala. Jan. 26, 2015).

³ *Searcy v. Strange*, 1:14-cv-00208-CG-N (S.D. Ala. Jan. 25, 2015); *Strawser v. Strange*, 1:14-cv-00424-CG-C (S.D. Ala. Jan. 26, 2015).

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- ⁴ *Searcy v. Strange*, No. 15-10295 (11th Cir. Feb. 3, 2015); *Strawser v. Strange*, No. 15-10313-A (11th Cir. Feb. 3, 2015).
- ⁵ *Strange v. Searcy et al.*, 574 U. S. ____ (2015).
- ⁶ *Hamby v. Parnell*, 3:14-cv-00089-TMB (D. Alaska Oct. 12, 2014).
- ⁷ *Hamby v. Parnell*, No. 14-35856 (9th Cir. Oct. 15, 2014).
- ⁸ *Parnell v. Hamby*, 135 S. Ct. 399 (2014).
- ⁹ See, e.g., “First Alaska same-sex couples wed after waiting period waived,” Alaska Dispatch News (Oct. 14, 2014), available at <http://www.adn.com/article/20141014/first-alaska-same-sex-couples-wed-after-waiting-period-waived>
- ¹⁰ *Connolly v. Jeanes*, 2:14-cv-00024-JWS (D. Ariz. Oct. 17, 2014); *Majors v. Horne*, 2:14-cv-00518-JWS (D. Ariz. Oct. 17, 2014).
- ¹¹ See “Attorney General Tom Horne Will Not Appeal Same-Sex Marriage Ruling,” Statement by Attorney General Tom Horne (Oct. 17, 2014), available at <https://www.azag.gov/press-release/attorney-general-tom-horne-will-not-appeal-same-sex-marriage-ruling>
- ¹² *Connolly v. Roche*, 2:14-cv-00024-JWS (D. Ariz. Nov. 17, 2014) (notice of appeal); *Connolly v. Roche*, No. 14-17274 (9th Cir. Dec. 2, 2014) (order granting stay of proceedings).
- ¹³ *Wright v. Arkansas*, No. 60CV-13-2662 (Pulaski County, Ark. 2d Div., May 9, 2014).
- ¹⁴ *Wright v. Arkansas*, S. Ct. Case No. CV-14-427 (Ark. S. Ct., May 16, 2014).
- ¹⁵ *Jernigan v. Crane*, 4:13-cv-00410 KGB (E.D. Ark. Nov. 25, 2014).
- ¹⁶ *In re Marriage Cases*, 43 Cal.4th 757, 183 P.3d 384 (Cal. 2008).
- ¹⁷ *Strauss v. Horton*, 46 Cal.4th 364, 207 P.3d 48 (Cal. 2009).
- ¹⁸ *Perry v. Schwarzenegger*, 704 F.Supp.2d 921 (N.D. Cal. Aug. 4, 2010, *aff'd sub nom Perry v. Brown*, 671 F.3d 1052 (9th Cir. 2012).
- ¹⁹ CAL. FAM. CODE § 308(b)-(c) (West 2010), S.B. 54, 2009-2010 Reg. Sess. (Cal. 2009).
- ²⁰ A.B. 205, 2003-2004 Reg. Sess. (Cal. 2003) (enacted). For more information about A.B. 205 and related legislation, see <http://www.nclrights.org>.
- ²¹ A.B. 26, 1999-2000 Reg. Sess. (Cal. 1999) (enacted).
- ²² CAL. FAM. CODE § 2320(b).
- ²³ CAL. FAM. CODE § 299(d).
- ²⁴ *Kitchen v. Herbert*, No. 13-4178 (10th Cir., Oct. 6, 2014).
- ²⁵ Statement available from website of Colorado Attorney General at https://www.coloradoattorneygeneral.gov/sites/default/files/press_releases/2014/10/06/100614_same_sex_marriage_legal_colorado.pdf
- ²⁶ COLO. REV. STAT. ANN. §§ 14-15-107, 14-15-117 (West 2013).
- ²⁷ COLO. REV. STAT. ANN. § 14-15-116 (West 2013).
- ²⁸ COLO. REV. STAT. ANN. §§ 14-15-115, 14-15-166(2) (West 2013).
- ²⁹ COLO. REV. STAT. ANN. § 15-22-101, *et seq.* (West 2013).
- ³⁰ COLO. REV. STAT. ANN. §§ 15-22-104, 15-22-111 (West 2013).
- ³¹ *Kerrigan v. Dep't of Pub. Health*, 289 Conn. 135, 957 A.2d 407 (Conn. 2008). For more information about marriages in Connecticut, visit the website for Gay & Lesbian Advocates & Defenders at <http://www.glad.org>.
- ³² CONN. GEN. STAT. § 46b-38aa to -38pp (2009).
- ³³ CONN. GEN. STAT. § 46b-38rr (2010).
- ³⁴ CONN. GEN. STAT. § 46b-28a (2009).
- ³⁵ DEL. CODE tit. 13, § 201 *et seq.*
- ³⁶ 79 DEL. LAWS ch. 19, § 6 (to be codified at DEL. CODE tit. 13, § 218).
- ³⁷ *Id.*
- ³⁸ *Id.*
- ³⁹ 79 DEL. LAWS ch. 19, § 1 (to be codified at DEL. CODE tit. 13, § 101).
- ⁴⁰ DEL. CODE tit. 13, § 216; 79 DEL. LAWS ch. 19, § 7 (to be codified at DEL. CODE tit. 13, § 1504).
- ⁴¹ D.C. CODE § 46-401 (passed as B18-482, 2009-2010 Council, 18th Period (D.C. 2009)).

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- ⁴² D.C. CODE § 46-405.01 (passed as B18-0010, 2009-2010 Council, 18th Period (D.C. 2009)).
- ⁴³ D.C. CODE §§ 32-701 to -710 (passed as B18-0066, 2009-2010 Council, 18th Period (D.C. 2009)).
- ⁴⁴ D.C. CODE § 32-702 (passed as B18-482, 2009-2010 Council, 18th Period (D.C. 2009)).
- ⁴⁵ D.C. LAWS 19-133 (ACT 19-330) (to be codified at D.C. CODE § 16-902).
- ⁴⁶ *Brenner v. Scott* and *Grimley v. Scott*, Nos. 4:14cv107-RH/CAS, 4:14cv138-RH/CAS (N.D. Fla. Aug. 21, 2014).
- ⁴⁷ *Armstrong v. Brenner*, No. 14A650 (S. Ct. Dec. 19, 2014).
- ⁴⁸ *Pareto v. Ruvín*, 14-1661 CA 24 (Fla. 11th Cir. Ct. July 25, 2014) (striking down marriage ban and granting stay pending resolution of appeal); *Pareto v. Ruvín*, 2014-1661-CA-01 (Fla. 11th Cir. Ct. Jan 5, 2014) (vacating stay).
- ⁴⁹ HAW. REV. STAT. §§ 572-1, 572-1.8
- ⁵⁰ HAW. REV. STAT. §572-1.7(a)
- ⁵¹ HAW. REV. STAT. §572-1.7(b)
- ⁵² HAW. REV. STAT. §572-1.7(d)
- ⁵³ HAW. REV. STAT. §572B-1, *et seq.*
- ⁵⁴ HAW. REV. STAT. §572B-10 (2012)
- ⁵⁵ *Baehr v. Miike*, 87 Hawai'i 34, 950 P.2d 1234 (Haw. 1997).
- ⁵⁶ HAW. REV. STAT. § 572C-6 (2008).
- ⁵⁷ HAW. REV. STAT. § 572C-4 (2008).
- ⁵⁸ HAW. REV. STAT. § 580-1(b)
- ⁵⁹ HAW. REV. STAT. § 580-1(c)
- ⁶⁰ *Latta v. Otter*, No. 1:13-CV-00482-CWD, 2014 WL 1909999 (D. Idaho May 13, 2014).
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