



Name of Country and Jurisdiction:

Alabama, United States

- 1. What forms of legally recognized relationships are available?
- 2. What are the requirements to be able to enter into the above relationships?
- 3. Differences between marriage and civil unions and how the two sets of laws interact.
- 4. What kinds of pre-existing relationships make you ineligible to enter each kind of relationship?
- 5. When a couple comes to Alabama, is their pre-existing relationship recognized? If not, is there any formalized avenue for obtaining recognition?
- 6. How can each form of relationship be dissolved? What is the residency requirement or other link to Alabama for an authority to grant a divorce/dissolution?



1. What forms of legally recognized relationships are available?



LEGAL RECOGNITION FOR OPPOSITE-SEX COUPLE	GEOGRAPHY	LAW	AVAILABLE TO SAME-SEX COUPLE?
Marriage, registered	Alabama	Alabama Marital and Domestic Relations Law, Code of Ala. § 30-1-1 through § 30-1-19 (2014).	Yes*
Common-law marriage	Alabama	Alabama common law.	Yes*

* On June 26, 2015, the United States Supreme Court issued a decision in four consolidated cases from the Sixth Circuit Court of Appeals under the name *Obergefell v. Hodges*, 576 U.S. _____ (2015), regarding same-sex marriage. The appeals arose from federal district court decisions in Michigan, Kentucky, Ohio, and Tennessee, which struck down as unconstitutional laws that denied the 14 petitioners the right to marry or refused to give full recognition to marriages lawfully performed in another state. The laws at issue in those states define marriage as a union between one man and one woman. The Sixth Circuit had reversed those decisions (in *DeBoer v. Snyder*, 772 F.3d 388 (2014)), holding that a state had no constitutional obligation to allow same-sex marriages or to recognize those performed in another state. In a 5-4 majority opinion, the U.S. Supreme Court held that the Fourteenth Amendment requires a state to license marriages between same-sex couples and to recognize lawfully performed same-sex marriages from another state. The Court held that the right to marry is protected under both the Due Process Clause and the Equal Protection Clause of the Fourteenth Amendment. Because the Court found that state laws at issue burden the liberty and abridge the equality of same-sex couples, they must be struck down.

At least nine counties in Alabama stopped issuing marriage licenses altogether, for both opposite-sex and same-sex couples, after a federal district court held that Alabama's laws prohibiting same-sex marriage and refusing to recognize same-sex marriages entered into in other states violate the U.S. Constitution in January 2015. These counties have not begun to issue licenses since the *Obergefell* decision.

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

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(i) Geographic requirements:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage, registered	There is no residency requirement in Alabama.
Common-law marriage	

(ii) Other substantive eligibility criteria:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage, registered	<p>To be legally married in Alabama, a person must:</p> <ul style="list-style-type: none"> • Be at least 18 years of age, or have parental consent if between the ages of 16 and 18; • Be married by a person authorized to solemnize marriages under Alabama state law; and • Obtain a marriage license.
Common-law marriage	<p>To enter a common-law marriage in Alabama, a person must:</p> <ul style="list-style-type: none"> • Have the capacity to enter the marriage; • Have a present agreement or mutual consent to enter into a marriage relationship, permanent and exclusive of all others; • Have public recognition of the existence of the marriage; and • Cohabit or mutually and openly assume marital duties and obligations.

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3. If both marriage and civil unions exist:

- (a) Identify any significant differences in eligibility; and
- (b) Briefly highlight how they interact if both are in effect (e.g., in some countries, entering into a marriage with the same or a different person automatically dissolves any civil union that the two parties were previously party to, making the latter vulnerable and potentially circumventing separation laws).
- (c) If both marriage and civil unions are available to same-sex couples, briefly highlight areas where major differences exist between marriage and civil unions (e.g., taxes, adoption, immigration, etc.).

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(a)–(c)	Not applicable because there are no civil unions in Alabama.
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4. What kinds of pre-existing relationships make you ineligible to enter each kind of relationship?

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FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage, registered	A person who is already married is ineligible to enter into another marriage in Alabama. A person is also ineligible to enter another marriage for 60 days following a divorce, although a judge may disallow a party the right to marry again following a divorce. Further, it is a felony to marry an ancestor or descendant, sibling, step-parent or stepchild, aunt, uncle, niece, or nephew, by blood or adoption.
Common-law marriage	

Q

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

A

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage, registered	Yes
Common-law marriage	

Q

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

A

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage, registered	<p>A court can grant a divorce if:</p> <ul style="list-style-type: none"> • The party bringing the complaint for divorce has been a resident in the state for at least six months. • At least 30 days from the filing of the complaint have passed. • One of the following enumerated grounds for divorce under law is met: physical incapacity at the time the marriage is entered, adultery, voluntary abandonment, imprisonment, crimes against nature, drug or alcohol addiction, "complete incompatibility of temperament," placement in a mental hospital for at least five years, "an irretrievable breakdown of the marriage," the wife's pregnancy at the time of marriage without the husband's knowledge or agency, violence within the marriage, and when the wife has stopped receiving support and board from the husband for at least two years. <p>Under case law in Alabama, an annulment can be granted if the marriage was void at the time it was entered.</p>
Common-law marriage	There is no "common-law divorce." Like a registered marriage, a common-law marriage can be terminated only by decree of a court of competent jurisdiction or by the death of one of the parties.



■ Sources:

- Ala. Const. art. I, § 36.03.
- Ala. Code § 13A-13-1 to -3 (2015).
- Ala. Code § 30-1-1 through § 30-1-19 (2015).
- Ala. Code § 30-2-1 (2015).
- Ala. Code § 30-2-2 (2015).
- Ala. Code § 30-2-5 (2015).
- Ala. Code § 30-2-8 (2015).
- Ala. Code § 30-2-10 (2015).
- *Obergefell v. Hodges*, 576 U.S. _____ (2015).
- *Hackmeyer v. Hackmeyer*, 268 Ala. 329 (1958) (recognizing right to annulment).
- *Adams v. Boan*, 559 So. 2d 1084 (Ala. 1990) (elements of common-law marriage).
- *Searcy v. Strange*, Civ. Action No. 14-0208-CG-N (S.D. Ala. 2015).
- *Strawser v. Strange*, Civ. Action No. 14-0424-CG-C (S.D. Ala. 2015).
- *Alabama ex rel. Alabama Policy Institute In re: Alan L. King*, No. 1140460 (Ala. 2015).
- 1 Crittenden and Kindregan, *Alabama Family Law* § 1:4, *Common-law Marriage* (2014).
- At Least 9 Alabama Counties not Issuing Marriage Licenses After Gay Marriage Ruling (July 23, 2015), http://www.al.com/news/index.ssf/2015/07/at_least_9_alabama_counties_no.html.