



Name of Country and Jurisdiction:  
**Idaho, 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 Idaho, 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 Idaho 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	Idaho	Idaho Statutes, Title 32 (Domestic Relations)  Idaho Constitution  <i>Obergefell v. Hodges</i> , 576 U.S. ____ (2015)	Yes <sup>1</sup>

<sup>1</sup> On May 13, 2014, in *Latta v. Otter*, a federal judge found that the prohibitions in Idaho’s constitution and code on same-sex unions were unconstitutional, thus allowing same-sex marriage and ordering that the state must recognize such marriages from other states. On October 7, 2014, the Ninth Circuit Court of Appeals upheld the district court’s ruling, and the U.S. Supreme Court subsequently rejected Idaho state officials’ request for a stay blocking same-sex couples from marrying; same-sex couples began marrying in Idaho on October 15, 2014.

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

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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 the state laws at issue burden the liberty and abridge the equality of same-sex couples, they must be struck down.

**Q**

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

**A**

(i) Geographic requirements:

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

(ii) Other substantive eligibility criteria:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	Parties to a marriage must be at least 18 years old or have parental consent. Parties to a marriage may not be first cousins or closer relatives. Residency in Idaho is not required.

**Q**

**3. If both marriage and civil unions exist:**

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

**A**

(a)–(c)	Not applicable, because Idaho recognizes only marriage, not civil unions.
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Q

**4. What kinds of pre-existing relationships make you ineligible to enter each kind of relationship?**

A

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	If you are already married to the same or a different person, you cannot marry again; otherwise, anyone of legal age can marry.

Q

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

A

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	Yes, pre-existing relationships are recognized. Additionally, the portion of the statute refusing to recognize same-sex marriages performed outside the state has been nullified by recent federal court decisions, including the <i>Obergefell</i> decision.

Q

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

A

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	Marriages can be dissolved by death or divorce by a court of competent jurisdiction. A court can grant a divorce provided that the plaintiff has been a resident of Idaho for at least six weeks.

**Sources:**

- Idaho Const. art. III, § 28 (2014).
- Idaho Code Ann. § 32-201 (2014).
- Idaho Code Ann. § 32-202 (2014).
- Idaho Code Ann. § 32-209 (2014).
- Idaho Code Ann. § 32-601 (2014).
- Idaho Code Ann. § 32-701 (2014).
- Idaho Statutes, Title 32 (Domestic Relations), available at <http://legislature.idaho.gov/idstat/Title32/T32.htm>.
- *Obergefell v. Hodges*, 576 U.S. \_\_\_\_\_ (2015).
- *Latta v. Otter*, 2014 U.S. App. LEXIS 19152 (2014).
- *Latta v. Otter*, 2014 U.S. LEXIS 6735 (Oct. 10, 2014).
- Ninth Circuit webpage regarding proceedings in *Latta v. Otter*, available at: [http://www.ca9.uscourts.gov/content/view.php?pk\\_id=0000000740](http://www.ca9.uscourts.gov/content/view.php?pk_id=0000000740).

