



Name of Country and Jurisdiction:

Puerto Rico, 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 Puerto Rico, 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 Puerto Rico 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, civil contract	Commonwealth of Puerto Rico	P.R. Laws Ann. tit. 31 §§ 221–385a.	Yes.

NOTE: 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.

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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:

Not applicable.

(ii) Other substantive eligibility criteria:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	<ul style="list-style-type: none"> • A person must be legally unmarried to be eligible for marriage. P.R. Laws Ann. tit. 31 § 232(1). • A person may not marry if he or she is incapable of consenting to marriage due to a mental disorder, or suffers from impotency or a sexually transmitted disease. <i>Id.</i> §§ 232(2)–(3), (6), 235. • Males under 18 years of age and females under 16 years of age may not marry. <i>Id.</i> § 232(4). • Minors under the age of 21 must obtain the consent of a parent or guardian to marry. Minors of both sexes that are at least 18 years old do not need a guardian's consent where “the betrothed woman has been raped, seduced or is pregnant.” <i>Id.</i> §§ 232(5), 242. • A person serving as a guardian (“tutor”) may not enter into a marriage with a person currently under his or her care. <i>Id.</i> § 232(7). • A woman who plans to remarry within 301 days of a dissolved marriage must present the person performing the marriage with a medical certificate showing whether or not she is pregnant, unless she has given birth within that time frame. <i>Id.</i> § 232a. • Close family members, including by adoption, may not get married. <i>Id.</i> §§ 233(1)–(4), 234. • Persons who have been convicted of adultery within the past five years, or in connection with the death of a husband or wife, are not eligible for marriage. <i>Id.</i> § 233(5)–(6).

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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.).

A	(a)–(c)	Not applicable. Puerto Rico does not recognize 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	A person who is already legally married is ineligible to be married. P.R. Laws Ann. tit. 31 § 232(1).

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

A	FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
	Marriage	Yes. Marriages entered into in the United States or foreign countries may be proved by the registration of the marriage in the foreign jurisdiction or by any other proof permitted by law. P.R. Laws Ann. tit. 31 § 235.



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



FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	<ul style="list-style-type: none"> • Divorce is permitted for the following reasons: <ul style="list-style-type: none"> • Adultery; • Imprisonment of a spouse for a felony; • Continual abuse of alcohol or drugs; • Cruel treatment or “grave injury”; • Abandonment of one spouse by the other for more than a year; • Incurable impotence that occurs after marriage; • Attempt of a spouse to “corrupt” their sons or prostitute their daughters; • Proposal of the husband to prostitute his wife; • Uninterrupted separation for more than two years; or • Incurable insanity for more than seven years. P.R. Laws Ann. tit. 31 § 321. • To obtain a divorce in Puerto Rico, one of the following requirements must be met: <ul style="list-style-type: none"> • A person must have resided in Puerto Rico for a full year before filing for divorce; or • The act(s) providing grounds for the divorce occurred in Puerto Rico or while one of the spouses resided there. <i>Id.</i> § 331.

Sources:

- P.R. Laws Ann. tit. 31 §§ 221–385a.
- *Obergefell v. Hodges*, 576 U.S. ____ (2015).
- Casey C. Sullivan, *Court Strikes Puerto Rico’s Gay Marriage Ban as Marriages Begin*, FindLaw (July 14, 2015, 3:51 PM), http://blogs.findlaw.com/first_circuit/2015/07/court-strikes-puerto-ricos-gay-marriage-ban-as-marriages-begin.html (reporting that Puerto Rico began accepting marriage license applications from same-sex couples on July 13, 2015).

