



Name of Country and Jurisdiction:

## State of Baja California Sur, Mexico



What forms of legally recognized relationships are available?



LEGAL RECOGNITIONS FOR OPPOSITE-SEX COUPLE	GEOGRAPHY	LAW	AVAILABLE TO SAME-SEX COUPLE?
Marriage, registered	State of Baja California Sur	Civil Code for the State of Baja California Sur ( <i>Código Civil para el Estado de Baja California Sur</i> )	No
Concubinage, not registered			

### Relevant Information:

- i) Same-sex couples may marry in this jurisdiction only by court injunction. Through *Amparo* (Special Injunction) Resolution 43/2015 (published on June 19, 2015), the Mexican Supreme Court declared unconstitutional the statutes of any state of the Mexican Republic providing that “marriage is the union of a man and a woman” and “the purpose of marriage is procreation.” The decision, based on five separate rulings, means that same-sex couples may marry by court injunction in states which have not legalized same-sex unions. However, it is important to mention that *amparo* remedies (protection of constitutional rights) have no general effect; they merely generate rights and affect only the parties involved in an individual process. Until state legislatures change their statutes, couples must still petition the courts on a case-by-case basis. However, this ruling will help same-sex couples obtain authorization for marriage in a judicial way, because the jurisdiction of the Supreme Court on this issue is binding for all Mexican courts. As a consequence of a court judgment, the Civil Registry of the State shall celebrate the same-sex marriage of the parties to that particular court proceeding. In such cases, the rights and obligations for marriage under local legislation are applicable (excluding adoption, since it is not considered a right that arises from marriage, although marriage is generally a requirement for adoption).
- ii) Same-sex marriages celebrated in any jurisdiction of Mexico (either through *amparo* proceedings or the law of that jurisdiction) shall be recognized in all of Mexico’s other jurisdictions, despite the local jurisdiction on the subject, pursuant to Article 121 of the Mexican Constitution.
- iii) The overseas marriage of opposite-sex foreigners who become residents of the jurisdiction will have full legal effect. To the best of our knowledge, however, no antecedents exist in the jurisdiction regarding recognition of the legal effect of, and/or the registration requirements for, same-sex marriages celebrated overseas.
- iv) Regarding the right to adopt, the Mexican Supreme Court further declared unconstitutional the provisions of the Regulatory Law of Cohabitation Civil Societies for the State of Campeche (*Ley Regulatoria de Sociedades Civiles de Convivencia del Estado de Campeche*) that prohibit adoption by same-sex couples. Therefore, same-sex couples may file *amparo* (special injunction) proceedings against those resolutions failing to recognize their right to adopt. However, unlike Resolution 43/2015, this decision is not legally binding for all Mexican courts. This means that same-sex couples may use the above-mentioned Mexican Supreme Court ruling in order to substantiate their petition, but judges will still be free to deviate from such ruling.



## Legal Recognition of Same-Sex Relationships

### ■ Sources:

- Political Constitution of the United Mexican States (*Constitución Política de los Estados Unidos Mexicanos*).
- Civil Code for the State of Baja California Sur (*Código Civil para el Estado de Baja California Sur*).