



Name of Country and Jurisdiction:

State of Jalisco, México

- 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 the State of Jalisco, 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 the State of Jalisco for an authority to grant a divorce/dissolution?



1. What forms of legally recognized relationships are available?



LEGAL RECOGNITIONS FOR OPPOSITE-SEX COUPLE	GEOGRAPHY	LAW	GOVERNMENTAL REGISTRY	AVAILABLE TO SAME-SEX COUPLE?
Marriage, registered	State	Civil Code for the State of Jalisco (<i>Código Civil para el Estado de Jalisco</i> or the " <i>Civil Code</i> ")	Yes	No
Concubinage, not registered	State	Civil Code	No	No
Free Cohabitation, registered	State	Free Cohabitation Law for the State of Jalisco (<i>Ley de Libre Convivencia para el Estado de Jalisco</i> or the " <u>Free Cohabitation Law</u> ")	Yes	Yes

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

(i) If a geographic link is required:

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FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	At least one party must be resident in the State. Mexicans living overseas can marry at the Mexican consulate under Mexican law, as provided by the Mexican Foreign Service Law (<i>Ley del Servicio Exterior Mexicano</i>).
Concubinage	As a de facto union the parties shall be resident in the State.
Free Cohabitation	The parties shall be resident in the State.

(i) If other substantive eligibility criteria must be satisfied:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	Both parties: 1) Shall be single (monogamy). 2) Shall be of legal age, that is 18 years old. A waiver exists for parties who are 16 years old at least. 3) Cannot be relatives by blood in the direct line in any degree and up to the third degree in the collateral line. 4) Cannot have a present or past affinity or civil relationship.
Concubinage	Both parties: 1) Shall be single (monogamy) (not be married or live in concubinage with someone else) 2) Shall be of legal age. 3) 3) Cannot be relatives by blood in the direct line in any degree and up to the third degree in the collateral line. 4) Cannot have a present or past affinity or civil relationship.
Free Cohabitation	Both parties: 1) Shall be single (monogamy) (not be married or live in concubinage with someone else) 2) Shall be of legal age. 3) Cannot be relatives by blood in the direct line in any degree and up to the fourth degree in the collateral line.

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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)	<ul style="list-style-type: none"> • Marriage shall be celebrated before a judge and registered in the Civil Registry of the State. • Concubinage is a de facto union in which a couple shall live in common constantly and permanently for at least five years, or three years if during their union they procreate. • Free Cohabitation is a union of two or more persons of the same or opposite sex for the purpose of providing mutual aid (without necessarily having an affective relationship) created pursuant to an agreement entered before a notary public for the State.
	(b)	Being married prevents a person to enter into concubinage, or create a Free Cohabitation and vice versa. In other words, marriage, concubinage and Free Cohabitation cannot coexist.
	(c)	Not applicable.

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

A	Marriage	Any existing marriage shall be dissolved in order to marry another person.
	Concubinage	A concubinage relationship cannot exist if a marriage or concubinage relationship already exists.
	Free Cohabitation	There cannot be free cohabitation if a marriage, concubinage relationship or another free cohabitation relationship already exists.

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

A	Marriage	<ul style="list-style-type: none"> • If both are opposite-sex foreigners and got married overseas, and later they become State residents, their marriage has full legal effect. • When the parties are Mexican, or one is Mexican and the other foreign, and they got married overseas, in order to have full legal effects the marriage shall be registered with the Civil Registry of the State. • As to the best of our knowledge, no antecedents exist in the jurisdiction regarding recognition of the legal effect and/or registration with the Civil Registry of the State of foreigners' same sex marriages celebrated overseas.
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<p>Concubinage</p>	<ul style="list-style-type: none"> • A foreign opposite-sex formed concubinage is recognized in the State if: (i) the couple becomes resident thereat; and (ii) the requirements provided for in the Civil Code are complied with. • No registry is needed.
<p>Free Cohabitation</p>	<p>A foreign formed free cohabitation can be recognized in Jalisco if it meets the requirements of the Free Cohabitation Law.</p>

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

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<p>Marriage</p>	<p>Marriage can be dissolved:</p> <ol style="list-style-type: none"> 1) By mutual consent: <ol style="list-style-type: none"> a) Administrative procedure. When spouses agree on the dissolution, they have not procreated or their children are 18 years or older, and the community property marital regime has already been liquidated or if they got married with no community property regime. The divorce request shall be filed in the Civil Registry or before a notary public. b) Judicial process. There is mutual consent but the requirements for the administrative procedure are not fulfilled. It shall be filed before the Family Court. 3) Necessary: When there is no agreement between the parties. The divorce action shall be filed before the Family Court. The aggrieved party shall demonstrate one or more of the legal causes provided for by law. <p>The defendant shall be resident in the State where the suit has been filed. In some exceptional cases, the judge of the jurisdiction where the aggrieved party resides could also be competent.</p>
<p>Concubinage</p>	<p>Concubinage shall terminate:</p> <ul style="list-style-type: none"> • By mutual consent, or • Unjustified abandonment of the common domicile by either party.
<p>Free Cohabitation</p>	<ul style="list-style-type: none"> • The parties are entitled to terminate the Free Cohabitation or to separate from it by their free will, unilaterally and without having to prove any circumstances. • The interested party shall appear before a notary public for the State who will prepare the relevant minutes and notify the notary public before whom the Free Cohabitation agreement was entered and to the remaining parties of the Free Cohabitation.

Relevant Information:

- i) Same sex marriages might be allowed in this jurisdiction through final judgments in amparo proceedings. It is important to mention that amparo remedies (protection of constitutional rights) have no general effect; they only generate rights and bind the parties involved in the process. As consequence of a final judgment in an amparo proceeding, the Civil Registry of the State shall celebrate the same sex marriage of the parties to the amparo proceeding only. In such cases, the rights and obligations for marriages established in this document are applicable (excluding



adoption since it is not considered a right that arises from marriage, although marriage is a requirement to adopt, generally).

- ii) Same sex marriage celebrated in any jurisdiction of Mexico (either through amparo proceedings or the law of that jurisdiction) shall be recognized in all other jurisdictions of Mexico, despite the local jurisdiction on the subject pursuant to article 121 of the Mexican Constitution.

■ Sources:

- Civil Code for the State of Jalisco (*Código Civil para el Estado de Jalisco*).
- Free Cohabitation Law for the State of Jalisco (*Ley de Libre Convivencia para el Estado de Jalisco*).
- Political Constitution of the United Mexican States (*Constitución Política de los Estados Unidos Mexicanos*).