



Name of Country and Jurisdiction:
Alaska, 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 Alaska, 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 Alaska 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	Alaska	Alaska Constitution, Article 1, § 25. Alaska Marriage Code § 25.05.011.	Yes.

NOTE: On October 12, 2014, the district court in *Hamby v. Parnell*, 56 F. Supp. 3d 1056 (D. Alaska Oct. 12, 2014), held that Alaska's ban on same-sex marriage was unconstitutional under the Fourteenth Amendment; that decision was appealed. 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:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	There is no residency requirement in Alaska.

(ii) Other substantive eligibility criteria:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	<p>The spouses must each be at least one of the following: (1) 18 years of age or older and otherwise capable; (2) qualified for a license under § 25.05.171 (requiring parental consent or court order for persons under the age of 18 to marry); or (3) a member of the armed forces of the U.S. while on active duty.</p> <p>Marriage requires a license and a solemnization. Upon applying for a license, each party must provide the licensing officer his or her Social Security number (if any). The application for a license must be filed at least three days before the license can be issued. Each party must make a statement under oath that includes, among other personal information, a description of any prior marriage and the manner of its dissolution.</p>

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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, since there are no civil unions in Alaska.
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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	Marriage is prohibited if either party has a living husband or wife. In addition, marriage is prohibited if the parties are more closely related to each other than the “fourth degree of consanguinity.”

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

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FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	Yes.

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

A

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	<p>Legal marriages in Alaska may be dissolved through divorce or annulment. Either spouse (or both) may initiate a divorce by filing an action in court. A court judgment decreeing divorce restores both parties to the state of unmarried persons. Divorce may be granted for failure to consummate the marriage, adultery, conviction of a felony, willful desertion for one year, cruel and inhuman treatment, incompatible personalities, habitual gross drunkenness, incurable mental illness, or addiction to opium, morphine, cocaine, or a similar drug. If the party bringing the action is an Alaska resident, he or she can do so at any time.</p> <p>A marriage may be annulled for a variety of reasons, such as the fact that the party moving to annul was under the legal age of consent, that either party was of “unsound mind,” that consent to marry was obtained by fraud or force, or that the parties failed to consummate the marriage.</p> <p>While an action to dissolve the marriage is pending, the court may grant a spouse attorneys’ fees and costs, spousal and child support, or protective orders. The court may also order family counseling or mediation if both parties agree.</p>

■ Sources:

- Alaska Marriage Code, Alaska Statutes § 25.05.
- *Obergefell v. Hodges*, 576 U.S. _____ (2015).
- *Hamby v. Parnell*, 56 F. Supp. 3d 1056 (D. Alaska Oct. 12, 2014).
- *Harris v. Millennium Hotel*, No. 6927 – (Alaska July 25, 2014).
- *Schmidt v. Alaska & Municipality of Anchorage*, No. 6898 (Alaska Apr. 25, 2014).
- *Alaska Civil Liberties Union v. State of Alaska & Municipality of Anchorage*, No. 5950 (Alaska Oct. 28, 2005).
- *Retiree Important Tax Implications for Enrolling Same-Sex Partners* (2014), <http://doa.alaska.gov/dr/ghlb/retiree/pubs/sspTaxImplications.html#U9IIQ5RdW8A>.