



Name of Country and Jurisdiction:

American Samoa



What forms of legally recognized relationships are available?



LEGAL RECOGNITION FOR OPPOSITE-SEX COUPLE	GEOGRAPHY	LAW	AVAILABLE TO SAME-SEX COUPLE?
Marriage	American Samoa	American Samoa Code Annotated, Title 42, Chapter 1	Unclear

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.

The applicability of *Obergefell* to American Samoa is unclear. Although fundamental rights from the U.S. Constitution apply to unincorporated territories, see *Balzac v. Porto Rico*, 258 U.S. 298, 312–13 (1922), a determination of whether a right is fundamental for application to unincorporated territories is different from the analysis used for determining whether a right is fundamental under the Fourteenth Amendment, see *Corp. of Presiding Bishop of Church of Jesus Christ of Latter-Day Saints v. Hodel*, 830 F.2d 374, 385–86 (D.C. Cir. 1987). The American Samoa Attorney General has stated that they are “reviewing the decision to determine its applicability to American Samoa.” As of August 31, 2015, there are no reports of applications for same-sex marriage licenses in American Samoa following the U.S. Supreme Court’s June 26, 2015, ruling.

Sources:

- American Samoa Code Annotated, Title 42, Domestic Relations: Ch. 1 (Marriage); Ch. 2 (Divorce and Annulment).
- *Obergefell v. Hodges*, 576 U.S. _____ (2015).
- *Balzac v. Porto Rico*, 258 U.S. 298 (1922).
- *Corp. of Presiding Bishop of Church of Jesus Christ of Latter-Day Saints v. Hodel*, 830 F.2d 374 (D.C. Cir. 1987).
- Fili Sagapolutele & Jennifer Sinco Kelleher, *American Samoa Is Lone US Territory Questioning Gay Marriage Validity; No Licenses Sought*, US News & World Report (July 10, 2015), <http://www.usnews.com/news/us/articles/2015/07/10/american-samoa-questions-gay-marriage-validity-in-territory>.
- Omar Gonzalez-Pagan, *No Same-Sex Couple Left Behind: SCOTUS Ruling for the Freedom to Marry Would Apply with Equal Force to U.S. Territories* (April 24, 2015), http://www.lambdalegal.org/blog/20150424__scotus-ruling-would-apply-to-us-territories.