



Name of Country and Jurisdiction:

United States Territory of Guam

- 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 Guam, 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 Guam for an authority to grant a divorce/ dissolution?
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1. What forms of legally recognized relationships are available?

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LEGAL RECOGNITION FOR OPPOSITE-SEX COUPLE	GEOGRAPHY	LAW	AVAILABLE TO SAME-SEX COUPLE?
Marriage, registered	Territory of Guam	10 Guam Code Ann. § 3207(h); 19 Guam Code Ann. § 3101 et seq.; ¹ <i>Obergefell v. Hodges</i> , 576 U.S. _____ (2015).	Yes ²

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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	Guam does not require a geographic link to the state in order to enter into marriage.

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¹ Until recently, Guam defined marriage as “the legal union of persons of opposite sex.” 10 Guam Code Ann. § 3207(h). On April 8, 2015, a same-sex couple attempted to apply for a marriage license, which was denied. The couple brought suit in the U.S. District Court for the District of Guam to challenge the constitutionality of § 3207(h). The district court, following Ninth Circuit precedent, which ruled unconstitutional laws restricting the definition of marriage to opposite-sex couples (*Latta v. Otter*, 771 F.3d 456 (9th Cir. 2014)), struck down Guam’s same-sex marriage ban on June 8, 2015 (*Aguero v. Calvo*). Guam thus became the first U.S. territory to recognize same-sex marriage.

On August 12, 2015, in response to the district court’s decision, the Guam legislature passed the Guam Marriage Equality Act of 2015, which amended § 3207(h)’s definition of marriage to apply to “two persons without regard to gender.” The Act also amended Title 19, Chapter 3, of the Guam Code, which governs marriage, to apply to same-sex couples. Although Guam’s governor refused on religious grounds to sign the Act into law, he did not actively contest it, and it took effect on August 27, 2015.

² 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 (6th Cir. 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.



(ii) Other substantive eligibility criteria:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	Marriages in Guam must be consented to, licensed, solemnized, authenticated, and recorded. 19 Guam Code Ann. §§ 3101, 3201. The written consent of a parent or guardian is required where parties to the marriage are between the ages of 16 and 18; where a female between the ages of 14 and 16 wishes to enter into a marriage, the Superior Court may also require a showing that she is capable of consent. <i>Id.</i> § 3102. Licenses will not be granted to “imbeciles” or the insane, who are deemed unable to consent. <i>Id.</i> § 3202(b).

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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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FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
(a)–(c)	Not applicable. Guam does not recognize civil unions and treats opposite-sex and same-sex couples the same regarding marriage.

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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	Marriages between parents and their children, ancestors and their descendants, half and whole brothers and sisters, and aunts/uncles and nieces/nephews are void. 19 Guam Code Ann. § 3104. First cousins, adoptive parents and their adopted children, stepparents and stepchildren, or guardians and their wards cannot obtain a marriage license without a court order granting permission. <i>Id.</i> § 3202(b). Married persons cannot remarry without first dissolving or annulling their previous marriages. <i>Id.</i> § 3105(a).

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5. When a couple comes to Guam, 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	Guam recognizes all marriages that are legally valid in the jurisdiction in which they were entered into. 19 Guam Code Ann. § 3107.

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

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FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	<p>The Guam Marriage Equality Act of 2015, which amended the Guam Code's definition of marriage to apply to same-sex couples, also extended the definition of divorce in 10 Guam Code Ann. § 3207(i) to include same-sex couples.</p> <p>A couple can be granted a divorce or dissolution of marriage if one of the parties has been a resident of Guam for at least 90 days before filing. 19 Guam Code Ann. § 8318(a). If both parties consent in writing to the divorce or dissolution, the waiting period is reduced to seven days. <i>Id.</i> § 8318(b).</p> <p>A court of competent jurisdiction can issue a decree of dissolution on any of the following grounds:</p> <ul style="list-style-type: none"> • Adultery. • Extreme cruelty. • Willful desertion. • Willful neglect. • Habitual intemperance. • Conviction of a felony. • Irreconcilable differences. <p><i>Id.</i> § 8203. A court must deny dissolution upon a showing of connivance, collusion, condonation, recrimination, or lapse of time. <i>Id.</i> § 8301.</p>

■ Sources:

- 10 Guam Code Ann. § 3207(h)–(i).
- 19 Guam Code Ann. § 3101 et seq.
- 19 Guam Code Ann. §§ 8101–8324.
- Bill No. 119-33 (COR) (Guam Marriage Equality Act of 2015).
- *Obergefell v. Hodges*, 576 U.S. _____ (2015).
- *Latta v. Otter*, 771 F.3d 456 (9th Cir. 2014).
- *Aguero v. Calvo*, No. 15-00009, 2015 U.S. Dist. LEXIS 74590, at *1 (D. Guam June 8, 2015).
- *Guam Becomes First US Territory to Recognise Same-Sex Marriage*, THE GUARDIAN (June 5, 2015, 7:34 a.m.), <http://www.theguardian.com/us-news/2015/jun/05/guam-us-territory-recognise-same-sex-marriage>.
- Jerick Sablan, *Guam's Marriage Equality Legislation Lapses into Law*, PACIFIC DAILY NEWS (Aug. 27, 2015, 12:10 a.m.), <http://www.guampdn.com/story/news/2015/08/26/guams-marriage-equality-legislation-lapses-into-law-0827/32381943/>.