



Name of Country and Jurisdiction:  
**Hawaii, 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 Hawaii, 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 Hawaii 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                      | Hawaii    | SB1, also known as the Hawaii Marriage Equality Act | Yes                           |
| Civil union, registered                   | Hawaii    | SB232, also known as Act 1                          | Yes                           |

**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. Because the Court found that the state laws at issue burden the liberty and abridge the equality of same-sex couples, they must be struck down.

**Q**

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

**A**

(i) Geographic requirements:

| FORM OF LEGAL RELATIONSHIP | REQUIREMENTS              |
|----------------------------|---------------------------|
| Marriage                   | No residency requirement. |
| Civil union                |                           |

(ii) Other substantive eligibility criteria:

| FORM OF LEGAL RELATIONSHIP | REQUIREMENTS  |
|----------------------------|---|
| Marriage                   | <ul style="list-style-type: none"> <li>• The legal age to marry is 18 years for both applicants.</li> <li>• Applicants of 16 or 17 years of age who wish to marry require the written consent of both parents, legal guardian, or the family court. The parents or legal guardian do not have to be residents of the state.</li> <li>• Applicants of 15 years of age who wish to marry require the written consent of both parents or legal guardian, and the written approval of a judge of the family court. The parents or legal guardian do not have to be residents of the state.</li> <li>• If previously married, proof of original divorce decree or death certificate needs to be presented to the marriage agent by the applicant if the divorce or death was final within 30 days of applying for a marriage license.</li> <li>• The blood relationship between the prospective applicants cannot be closer than first cousins.</li> </ul> |
| Civil union                | <ul style="list-style-type: none"> <li>• The legal age to enter a civil union is 18 years or older.</li> <li>• If previously married, proof of termination of that marriage must be presented to the civil union agent by the applicant if the divorce or death was final within 30 days of applying for a civil union license.</li> <li>• The parties cannot be: parent and child, grandparent and grandchild, two siblings, aunt and nephew, aunt and niece, uncle and nephew, uncle and niece, or persons who stand in relation to each other as ancestor and descendant of any degree whatsoever.</li> </ul>  |

**Q**

**3. If both marriage and civil unions exist:**

- Identify any significant differences in eligibility; and
- 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).
- 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.).



|          |     |   |
|----------|-----|---|
| <b>A</b> | (a) | Both marriages and civil unions may be celebrated and registered through religious or civil procedures.   |
|          | (b) | Being in a civil union or marriage with one partner makes one ineligible to enter into a civil union or marriage with a different partner.<br><br>Partners already in a civil union may elect to, but are not required to, convert their union into a marriage. This automatically dissolves the civil union. |
|          | (c) | Civil unions offer the same benefits and responsibilities as marriage in Hawaii, but only at a state level. Federal marriage benefits (tax, etc.) are available only to married couples.  |

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

| <b>A</b> | FORM OF LEGAL RELATIONSHIP | REQUIREMENTS   |
|----------|----------------------------|--|
|          | Marriage                   | <ul style="list-style-type: none"> <li>• If you are already married to the same or a different person, then you cannot marry again. Otherwise, anyone can marry.</li> <li>• Additionally, if you already have a civil union with a different person, then you cannot marry, but you may convert your civil union to a marriage.</li> </ul> |
|          | Civil union                | If you are already married or have a civil union with the same or a different person, then you cannot enter into a civil union.  |

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

| <b>A</b> | FORM OF LEGAL RELATIONSHIP | REQUIREMENTS   |
|----------|----------------------------|--|
|          | Marriage                   | Hawaii recognizes validly formed foreign marriages.    |
|          | Civil union                | Hawaii recognizes validly formed foreign civil unions. |



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



| FORM OF LEGAL RELATIONSHIP | REQUIREMENTS  |
|----------------------------|---|
| Marriage                   | A court will grant divorce to married same-sex couples who have resided in Hawaii for at least six months, and who have resided in the county granting divorce for at least three months. If the couple married in Hawaii, then Hawaii will grant divorce regardless of residency.                                  |
| Civil union                | A court will dissolve a civil union of same-sex couples who have resided in Hawaii for at least six months, and who have resided in the county granting the dissolution for at least three months. If the civil union was formed in Hawaii, then they can have their union dissolved there regardless of residency. |

**Sources:**

- SBI – the Hawaii Marriage Equality Act.
- SB232 – Act 1.
- *Obergefell v. Hodges*, 576 U.S. \_\_\_\_ (2015).