



Name of Country and Jurisdiction:
Arizona, United States

ALERT On June 26, 2015, the United States Supreme Court, in *Obergefell v. Hodges*, ruled that states are required to issue marriage licenses to same-sex couples on the same basis as to opposite-sex couples and to recognize marriages between same-sex couples that were lawfully married out-of-state. We are in the process of updating the Legal Recognition of Same-Sex Relationships Guide to reflect this ruling in each state and other affected jurisdiction.

- 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 Arizona, 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 Arizona 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	Arizona	Title 25 of the Arizona Revised Statutes. Marriage records are kept by the clerk of the superior court in the applicable county.	Yes, under federal court action striking down the state law ban.

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LEGAL RECOGNITION FOR OPPOSITE-SEX COUPLE	GEOGRAPHY	LAW	AVAILABLE TO SAME-SEX COUPLE?
Civil union, registered	Tucson, Bisbee, Jerome, Sedona, Clarkdale, and Cottonwood	These six cities adopted ordinances recognizing same-sex civil unions within their municipal jurisdictions and thereby extended certain benefits and rights to those couples.	Yes, but only in the six cities that passed ordinances recognizing same-sex civil unions.
Domestic partnership	Phoenix	<p>Not under state law.</p> <p>Phoenix recognizes and maintains a domestic partnership registry.</p> <p>There are also a few government employers—including the State of Arizona, Pima County, and the Cities of Phoenix, Scottsdale, Tempe, and Surprise—that provide benefits like health insurance to domestic partners.</p>	<p>Not under state law.</p> <p>Phoenix domestic partnerships are available to same-sex couples. Certain benefits provided by specific government employers are also available to same-sex couples in domestic partnerships in Phoenix.</p>
Forthcoming changes	<p>On October 17, 2014, the United States District Court for the District of Arizona held that the state's constitutional and statutory prohibitions against same-sex marriage (see Ariz. Const. art. 30, § 1; A.R.S. §§ 25-101(C), 25-125(A)) were unconstitutional, and it permanently precluded their enforcement. <i>Majors v. Horne</i>, 14 F. Supp. 3d 1313 (D. Ariz. 2014). The state proceeded to an appeal in the Ninth Circuit Court of Appeals, and on December 1, 2014, all parties asked the appellate court to suspend proceedings pending action by the U.S. Supreme Court in similar cases from the U.S. Court of Appeals for the Sixth Circuit.</p> <p>On January 16, 2015, the Supreme Court of the United States granted certiorari to the four cases from Ohio, Kentucky, Tennessee, and Michigan in which same-sex marriage bans were upheld by the Sixth Circuit Court of Appeals on November 6, 2014. The questions under review are whether the Constitution of the United States requires states to license a marriage between two people of the same sex and whether states must recognize a marriage between two people of the same sex when their marriage was lawfully licensed and performed out of state. The Supreme Court's decision, which is expected by late June 2015, may have an effect on the status of same-sex relationship rights in this state.</p>		

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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	No geographic link is required.
Civil union	No geographic link is required for those cities that maintain a civil union registry by city ordinance.
Domestic partnership	The Phoenix Domestic Partnership Registry requires both individuals to reside in Phoenix.

(ii) Other substantive eligibility criteria:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	To be legally married in Arizona, a couple must: <ul style="list-style-type: none"> • Have a marriage ceremony; • Obtain a marriage license; and • Have the marriage solemnized by someone authorized to do so under Arizona law.
Civil union	Generally, the civil ordinances require couples wishing to enter into a civil union to sign a notarized affidavit that they: <ul style="list-style-type: none"> • Live together, provide “mutual support,” and have a shared intent regarding the relationship; • Are not in a marriage or domestic partnership/civil union with another person; • Are not related by blood; • Are over 18 years old; and • Are mentally competent.
Domestic partnership	In Phoenix, to qualify for a domestic partnership, a couple must: <ul style="list-style-type: none"> • Both reside in the City of Phoenix; • Currently share a common residence; • Be in a committed relationship and share responsibility for each other’s common welfare; • Not be in a marriage or domestic partnership/civil union with another person; • Not be related by blood; • Be over 18 years old; and • Be mentally competent.

A 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)–(c)	<p>The cities recognizing civil unions provide limited rights for registered civil union partners.</p> <ul style="list-style-type: none"> • In Bisbee and Jerome, registered civil union partners have the right to be treated as family members for all purposes by the city (including cemetery operations, use of city facilities, etc.). Any registered civil union partner who is a city employee may designate his/her partner as a beneficiary of any benefits provided by the city to spouses. • In Tucson, Sedona, and Cottonwood, registered civil union partners have rights related to health care visitation; use of and access to city facilities; and, the same city employee benefits that are available to spouses are provided to the civil union partners of city employees. • In Clarkdale, registered civil union partners have rights to health care visitation, the same city employee benefits that are available to spouses are provided to the civil union partners of city employees. <p>In Phoenix, a registered domestic partner has health care visitation rights only.</p>
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Q 4. What kinds of pre-existing relationships make you ineligible to enter each kind of relationship?

A	FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
	Marriage	Certain close familial relationships may make people ineligible to marry. A person who knowingly marries another person while still married to someone else is guilty of a class 5 felony.
	Civil union	A person is ineligible to form a registered civil union if that person is married or already in a civil union with another person.
	Domestic partnership	A person is ineligible to register for a domestic partnership if that person is married or already in a domestic partnership or civil union with another person.



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5. When a couple comes to Arizona, 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	Valid marriages from other states or countries are recognized unless the marriage is prohibited under Arizona law.
Civil union and domestic partnership	For those cities recognizing a civil union or domestic partnership (discussed above), same-sex couples must register the relationship as a civil union or domestic partnership with the city to be entitled to the city's respective rights for a registered civil union or domestic partnership.

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

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FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	<p>A court can grant a divorce if it finds that:</p> <ul style="list-style-type: none"> at least one of the parties was domiciled in the state at the time of commencement; certain conciliation provisions have been met; the marriage is irretrievably broken; and the court has considered all child-support issues.
Civil union and domestic partnership	<p>In Tucson, Sedona, Cottonwood, and Clarkdale, a registered civil union may be terminated by any one of the following:</p> <ul style="list-style-type: none"> the death of one of the partners; a request by one or both of the partners to terminate the registration by submitting a signed and notarized statement of termination (noting that any contractual obligation or legal designation is not altered by the termination of the civil union); or the marriage, expressly recognized by Arizona, of either one of the civil union partners. <p>In Bisbee and Jerome, a registered civil union may be terminated if one or both partners submit a signed and notarized statement of termination (noting that any contractual obligation or legal designation is not altered by the termination of the civil union).</p> <p>In Phoenix, a registered domestic partnership may be terminated by:</p> <ul style="list-style-type: none"> the death of one of the partners; or a request by one or both of the partners, filed with the city, to terminate the registration.



■ Sources:

Statutes and Constitutions

- Ariz. Revised Statutes tit. 13.
- Ariz. Revised Statutes tit. 25.
- Ariz. Const. art. 30, § 1.

Government Websites and Ordinances

- City of Phoenix – Qualified Domestic Partnership Information Sheet.
- City of Tucson – Civil Union Registration Instructions.
- Arizona Department of Health.
- National Conference of State Legislatures – States Offering Benefits for Same-Sex Partners of State Employees.
- Sedona Town Code ch. 5.40, Civil Unions.
- Tucson Town Code § 17-70, Registered Civil Unions.
- Jerome Town Code ch. 17, Civil Unions.
- Bisbee Ordinance 0-13-08.
- Clarkdale, Town Code ch. 8, Business Regulations, Article 8-6, Civil Unions.
- Cottonwood Ordinance 604.
- Phoenix Ordinance G-5295.

Secondary Sources

- *Bisbee Council Approves Civil Unions Proposal*, available at <http://www.azcentral.com/news/politics/free/20130604bisbee-city-council-votes-civil-unions.html>.
- *Jerome Approves Civil Unions*, available at <http://www.cvbugle.com/main.asp?SectionID=1&SubsectionID=1&ArticleID=39569>.
- *Sedona Approves Local Ordinance on Civil Unions*, available at <http://www.azcentral.com/news/arizona/free/20130924sedona-approves-local-ordinance-on-civil-unions.html>.
- *Civil Unions Pass Unanimously in Clarkdale*, available at <http://verdenews.com/main.asp?SectionID=1&SubSectionID=1&ArticleID=57268>.
- *Cottonwood Approves Same-Sex Civil Unions*, available at <http://www.kpho.com/story/24240634/cottonwood-to-vote-on-same-sex-civil-unions>.
- *State Looks to Cut Cost of Gay Marriage Court Fight*, available at http://tucson.com/news/local/govt-and-politics/state-looks-to-cut-cost-of-gay-marriage-court-fight/article_3dd21b5d-0986-52f1-8f26-b0fb059c8388.html.