

# Survey of State Marriage Laws Related to Same-Sex Marriage

November 22, 2022

In 2015, the Supreme Court held in *Obergefell v. Hodges* that same-sex couples may [exercise the fundamental right to marry](#) in all states and that states must accordingly recognize marriages validly performed out-of-state. Many states still have unenforceable constitutional amendments or state statutes that ban marriage for same-sex couples. This Sidebar provides, in table form, a survey of current state constitutional amendments and state statutes that either prohibit or allow same-sex marriage. Other compilations may categorize the constitutional or statutory text differently; for example, two states do not explicitly define “marriage.” The Sidebar does not discuss or address the effect of judicial opinions, like *Obergefell* or prior state supreme court or lower federal court rulings, on these state statutes.

The table also provides a list of various state provisions that concern religious protections relating to marriage. This includes laws that provide that a religious official or organization may not be required to solemnize a marriage if doing so would conflict with or violate a religious tenet.

**Table 1. Survey of State Constitution Amendments and State Statutes Either Prohibiting or Allowing Same-Sex Marriage**

State	State Constitutional Amendments Prohibiting Same-Sex Marriage	State Statutes Prohibiting Same-Sex Marriage	State Constitutional Amendments Allowing Same-Sex Marriage	State Statutes Allowing Same-Sex Marriage	Religious Liberty Protections
Alabama	Ala. Const. art. I, § 36.03	Ala. Code § 30-1-19			
Alaska	Alaska Const. art. I, § 25	Alaska Stat. §§ 25.05.011, .013			
Arizona	Ariz. Const. art. XXX, § 1	Ariz. Rev. Stat. §§ 25-101(C), -125(A)			

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Arkansas	Ark. Const. amend. LXXXIII, § 1	Ark. Code Ann. §§ 9-11-109, -208			
California	Cal Const. art. I, § 7.5			Cal. Fam. Code § 300	Cal. Fam. Code § 400(a)
Colorado	Colo. Const. art. II, § 31	Colo. Rev. Stat. § 14-2-104			
Connecticut				Conn. Gen. Stat. § 46b-20(4)	Conn. Gen. Stat. §§ 46b-22b, -35a
Delaware				Del. Code Ann. tit. 13, § 129	Del. Code Ann. tit. 13, § 106(f)
Florida	Fla. Const. art. I, § 27	Fla. Stat. Ann. § 741.212			Fla. Stat. Ann. § 761.061
Georgia	Ga. Const. art. I, § IV, para. I	Ga. Code Ann. § 19-3-3.1			
Hawaii <sup>a</sup>				Haw. Rev. Stat. Ann. § 572-1	Haw. Rev. Stat. Ann. §§ 572-12.1, .2
Idaho	Idaho Const. art. III, § 28	Idaho Code §§ 32-201, -209			
Illinois				750 Ill. Comp. Stat. Ann. 5/201, 80/10	750 Ill. Comp. Stat. Ann. 5/209(a-5)-(a-10)
Indiana		Ind. Code Ann. § 31-11-1-1			
Iowa		Iowa Code § 595.2(1)			
Kansas	Kan. Const. art. XV, § 16	Kan. Stat. Ann. § 23-2501			
Kentucky		Ky. Rev. Stat. §§ 402.005, .020(1)(d)			
Louisiana	Ky. Const. § 233a				
	La. Const. art. XII, § 15	La. Civ. Code Ann. art. 86, 89			
Maine				Me. Rev. Stat. tit. 19-A, § 650-A	Me. Rev. Stat. tit. 19-A, § 655(3)
Maryland				Md. Code Ann., Fam. Law § 2-201	
Massachusetts <sup>b</sup>					

State	State Constitutional Amendments Prohibiting Same-Sex Marriage	State Statutes Prohibiting Same-Sex Marriage	State Constitutional Amendments Allowing Same-Sex Marriage	State Statutes Allowing Same-Sex Marriage	Religious Liberty Protections
Michigan	Mich. Const. art. I, § 25	Mich. Comp. Laws Serv. §§ 551.1, .271(2), .272			
Minnesota				Minn. Stat. Ann. §§ 517.01, .201(Subd. 2)	Minn. Stat. Ann. § 517.09(Subd. 2)-(Subd. 3)
Mississippi	Miss. Const. art. XIV, § 263A	Miss. Code Ann. § 93-1-1(2)			Miss. Code Ann. § 11-62-5(1)(a)
Missouri	Mo. Const. art. I, § 33	Mo. Rev. Stat. § 451.022			
Montana	Mont. Const. art. XIII, § 7	Mont. Code Ann. §§ 40-1-103, -401(1)(d)			
Nebraska	Neb. Const. art. I, § 29				
Nevada			Nev. Const. art. I, § 21(1)	Nev. Rev. Stat. Ann. § 122.020	Nev. Const. art. I, § 21(2)
New Hampshire				N.H. Rev. Stat. Ann. § 457:1-a	N.H. Rev. Stat. Ann. § 457:37
New Jersey				N.J. Stat. § 37:1-1(c)	
New Mexico <sup>b</sup>					
New York				N.Y. Dom. Rel. Law § 10-a	N.Y. Dom. Rel. Law §§ 10-b, 11(1)-(1-a)
North Carolina	N.C. Const. art. XIV, § 6	N.C. Gen. Stat. §§ 51-1, -1.2			N.C. Gen. Stat. § 51-5.5(a)
North Dakota	N.D. Const. art. XI, § 28	N.D. Cent. Code § 14-03-01			
Ohio	Ohio Const. art. XV, § 11	Ohio Rev. Code Ann. § 3101.01			
Oklahoma	Okla. Const. art. II, § 35	Okla. Stat. tit. 43, § 3.1			Okla. Stat. tit. 43, § 7.1
Oregon	Or. Const. art. XV, § 5a			Or. Rev. Stat. Ann. § 106.345	
Pennsylvania		23 Pa. Cons. Stat. Ann. §§ 1102, 1704			
Rhode Island				R.I. Gen. Laws § 15-1-1	R.I. Gen. Laws § 15-3-6.1
South Carolina	S.C. Const. art. XVII, § 15	S.C. Code Ann. §§ 20-1-10, -15			

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South Dakota	S.D. Const. art. XXI, § 9	S.D. Codified Laws §§ 25-1-1, -38			
Tennessee	Tenn. Const. art. XI, § 18	Tenn. Code Ann. § 36-3-113			
Texas	Tex. Const. art. I, § 32	Tex. Fam. Code § 2.001			Tex. Fam. Code §§ 2.601, .602
Utah	Utah Const. art. I, § 29	Utah Code Ann. § 30-1-4.1			Utah Code Ann. §§ 63G-20-201, -301
Vermont				Vt. Stat. Ann. tit. 15, § 8	Vt. Stat. Ann. tit. 9, § 4502(l), tit. 18, § 5144(c)
Virginia	Va. Const. art. I, § 15-A				
Washington				Wash. Rev. Code Ann. § 26.04.010(1), (3)	Wash. Rev. Code Ann. §§ 26.04.010(4)-(7), .020(5)-(6)
West Virginia		W. Va. Code § 48-2-603			
Wisconsin	Wis. Const. art. XIII, § 13	Wis. Stat. Ann. § 765.01			
Wyoming		Wyo. Stat. Ann. § 20-1-101			

**Source:** Based on a search, conducted on October 28, 2022, of state constitutions and state statutes in the Lexis+ subscription database for the terms *marriage AND (man OR woman OR male OR female OR husband OR wife OR individual OR person OR gender OR sex)* and *(marriage AND relig\*) AND (freedom OR liberty OR “free exercise” OR required)*.

- a. The Hawaii constitution grants the state legislature “the power to reserve marriage to opposite-sex couples” (Haw. Const. art. I, § 23).
- b. Massachusetts and New Mexico do not define marriage in either their state constitution or state statutes.

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