



Marriage Amendments and Same-Sex Union Recognition

Since 1998, voters in thirty states have approved constitutional amendments defining marriage as the union of one man and one woman, voting to protect marriage in every state where the issue has been put on the ballot, often by large margins. And while the language of the amendments varies from state to state, the absence of a marriage amendment appears to dramatically increase the likelihood that gay marriage will be recognized.

Of states without constitutional amendments on marriage, 45% (9 of 20) eventually recognize same-sex marriage, either by direct judicial decree, by legislative action, or by a ruling requiring that same-sex marriages from other states be treated as valid. Among the 30 states with marriage amendments, none have been repealed, with the result that none of the marriage states recognize same-sex marriages.

States without marriage amendments also appear somewhat more likely to adopt other forms of legal recognition for same-sex couples, with 7 out of 15 states doing so (excluding the 5 states that directly recognize SSM), compared to 7 out of 30 states with marriage amendments.

Overall, our survey finds that 21 states have adopted some form of legal recognition for same-sex couples, including five states (plus the District of Columbia) that recognize same-sex marriages (three by judicial ruling, three by legislative action), and another four states who may recognize same-sex marriages from other jurisdictions (although in Maryland, New Mexico and Rhode Island this policy is based on an attorney general opinion that has yet to be tested in the courts). Eight states have adopted marriage-equivalent civil unions, while another six states have narrower domestic partnership statuses which extend specific limited benefits to unmarried domestic partners.

Marriage Amendment States

States with Marriage Amendments:	30	60%
States without Marriage Amendments:	20	40%

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Marriage Amendment States with Same-Sex Marriage:	0	0%
Marriage Amendment States with Civil Unions (CA, HI, NV, OR):	4	13%
Marriage Amendment States with Limited Partnership Recognition (AK, CO, WI):	3	10%
Marriage Amendment States with No Partnership Recognition:	23	77%

No Marriage Amendments and Same-Sex Union Recognition

No Marriage Amendment States with Court-Ordered SSM (CT, IA, MA):	3	15%
No Marriage Amendment States with Legislative SSM (NH, VT):	2	10%
No Marriage Amendment States with SSM (combined):	5	25%
No Marriage Amendment States Recognizing Foreign SSM (MD*, NM*, NY, RI*)	4	20%
No Marriage Amendment States with Civil Unions (DE, IL, NJ, WA):	4	20%
No Marriage Amendment States with Limited Partnership Recognition (ME, MD, RI):	3	15%
No Marriage Amendment States with No Partnership Recognition (IN, MN, NC, PA, WV, WY):	6	30%

State	Marriage Amendment?	Marriage Statute?	SSM?	Foreign SSM Recognition?	Civil Unions?	Limited Partnerships?
Alabama	X	X				
Alaska	X	X				X
Arizona	X	X				
Arkansas	X	X				
California	X	X			X	
Colorado	X	X				X
Connecticut			X			
Delaware		X			X	
Florida	X	X				
District of Columbia*			X			
Georgia	X	X				
Hawaii	X	X			X	
Idaho	X	X				
Illinois		X			X	
Indiana		X				
Iowa			X			
Kansas	X	X				
Kentucky	X	X				
Louisiana	X	X				
Maine		X				X
Maryland		X		X*		X
Massachusetts			X			
Michigan	X	X				
Minnesota		X				
Mississippi	X	X				
Missouri	X	X				
Montana	X	X				
Nebraska	X					
Nevada	X	X			X	
New Hampshire			X			
New Jersey		X			X	
New Mexico				X*		
New York				X		
North Carolina		X				
North Dakota	X	X				
Ohio	X	X				
Oklahoma	X	X				
Oregon	X				X	
Pennsylvania		X				
Rhode Island				X*		X
South Carolina	X	X				
South Dakota	X	X				
Tennessee	X	X				
Texas	X	X				
Utah	X	X				
Vermont			X			
Virginia	X	X				
Washington		X			X	
West Virginia		X				
Wisconsin	X	X				X
Wyoming		X				

* Attorney General opinions in Maryland, New Mexico and Rhode Island indicate that these states may recognize same-sex marriages from other states, but there have been no published judicial opinions addressing the issue.