

The Marriage Basics

- **When Can I Get Married?** Most official's estimates of when marriage licenses will be available are **June 15 or 16th 2008**. Registrars are waiting for direction from the Secretary of State. That guidance is expected in the next two weeks and will allow the final changes to licenses and applications. When that guidance has been offered, directions for how to apply will be posted on the **San Diego Registrar-Recorder/County Clerk website**: <http://arcc.co.san-diego.ca.us> .
- **How Do I Get Married?** Basic information about cost and procedures is offered on the Gay & Lesbian Times website. <http://www.gaylesbiantimes.com/?id=12285> . First you need to get a marriage license from the office of the Registrar-Recorder/County Clerk of any California county. License applications are available from most counties' Web sites, or can be completed in the county clerk's office. Both partners must go *together* to the county office and present a government-issued picture ID and proof that you are over 18 years old. Marriage license fees for San Diego County are currently \$50. The license will be valid for 90 days and the marriage can be performed anywhere in California. Neither a blood test nor a health certificate is required. Call ahead or visit the county's Web site to learn the hours and locations of the five county offices that issue licenses. **San Diego Registrar-Recorder/County Clerk**: <http://arcc.co.san-diego.ca.us>
- **First Days of Marriage: What Can I Expect?** Many loving, committed couples have waited decades for this day, and the entire community is excited for them! Lines at the Registrar's office are expected to be long in the first few weeks and it's important that you are prepared for the wait. The San Diego LGBT Community Center and The Center Advocacy Project will provide volunteers who can help provide coffee or water, and can help couples receive the dignity and respect that this day deserves. If you are interested in helping or volunteering, please contact kshaw@thecentersd.org or cdessert@thecentersd.org.
- **What About The Constitutional Amendment?** A proposed amendment to change the California constitution to *exclude* same-sex marriages is tentatively slated for the November 2008 ballot. Official confirmation of the qualification of that measure will come from the Secretary of State's office at the end of June. For more information on the campaign to defeat the ballot amendment please go to www.centeradvocacy.org AND www.equalityforall.com .
- **How Can I Volunteer To Help?** Educating and helping to engage all fair-minded Californians will take thousands of volunteers. You can volunteer locally by going to www.centeradvocacy.org and filling out the volunteer form. You can volunteer statewide by going to www.equalityforall.com .
- **I Have Read that the Extremists Are Saying That Ministers Will Be Arrested and/or Forced to Perform Ceremonies: Is That True? No.** The court's decision said the government may not discriminate against same-sex couples by barring them from civil marriage – a legal institution established and regulated by the government. Religious groups and clergy members remain free to recognize or refuse to recognize marriages within their religion as each sees fit. While some faiths do not permit same-sex couples to marry within that faith, a growing number do. As a result of the court's decisions, same-sex couples may choose to be married by a clergy person in a welcoming community of faith or by a civil servant such as a judge or authorized deputy.
- **Shop for Your Wedding at LGBT-Affirmative Businesses and To Those Donating to Support Marriage Equality.** California is expected to see an unprecedented number of weddings this summer. Weddings mean: hotel and other venues, florists, jewelers, photographers, wardrobes, entertainment, print shops, attorneys, and countless gifts. That translates into an enormous amount of business. The businesses that support the LGBT community and those that are willing to support marriage equality deserve your business! As you shop, please choose vendors who are showing their support by supporting our community, and if you aren't sure: **ASK!** This is an opportunity for businesses who may not already belong to GSDBA (www.gsdba.org) to join, for those not giving to our charitable organizations to begin giving, and for those who take positions on political issues to join in support, both financially and visibly! If

you own a marriage-related business and want to get more involved, please email djacobs@thecentersd.org

- **Where Do I Get More Information About the Court Decision?** FAQ's and downloads are available at www.centeradvocacy.org or www.nclrights.org or www.equalityforall.com.

What do I need to know about getting married in California?

Published Thursday, 22-May-2008 in The Gay & Lesbian Times [issue 1065](#)

Source: National Center for Lesbian Rights: www.nclrights.org

Visit the San Diego Registrar-Recorder/County Clerk's website: <http://arcc.co.san-diego.ca.us>

1. Can same-sex couples marry in California?

Yes. On May 15, 2008, the California Supreme Court ruled that barring same-sex couples from marriage is unconstitutional. It is possible that beginning as soon as June 16, same-sex couples will be able to marry in California.

2. Can the court's decision be appealed?

No. The California Supreme Court has the final say in cases brought under the California Constitution, like this case, and there can be no more appeals.

3. Does the court's decision affect the rights of heterosexual couples?

No. The rights of heterosexual couples to marry and the rights and responsibilities of those who are married remain exactly the same. The decision simply ensures equality and fairness for same-sex couples.

4. Does this ruling require religious groups or clergy members to marry same-sex couples?

No. The court's decision said the government may not discriminate against same-sex couples by barring them from civil marriage – a legal institution established and regulated by the government. Religious groups and clergy members remain free to recognize or refuse to recognize marriages within their religion as each sees fit. While some faiths do not permit same-sex couples to marry within that faith, a growing number do. As a result of the court's decisions, same-sex couples may choose to be married by a clergy person in a welcoming community of faith or by a civil servant such as a judge or authorized deputy.

5. Should we get married now?

Marriage is a serious legal and personal commitment that should not be entered into lightly. Before getting married, couples should educate themselves about the legal consequences of marriage, in addition to other considerations.

Same-sex couples also face some additional considerations that heterosexual couples do not face, due to discrimination by the federal government as well as by a number of states. Deciding whether to marry is an important decision for everyone, gay or straight, but lesbian and gay couples have to be prepared for and be willing to take on those additional challenges.

A period of legal uncertainty is likely. For example, if you marry in California, you cannot be certain whether your marriage will be respected if you live in, travel to, or move to a state that has laws or constitutional amendments limiting marriage to heterosexual couples.

In addition, current federal law prohibits the federal government from recognizing marriages of same-sex couples for purposes of the many federal rights and benefits given to married heterosexual couples, such as the right to file joint federal income taxes and the right to social security benefits as a surviving spouse. Being excluded from these federal protections, and often state protections as well, is a serious hardship and can cause significant legal problems.

Important note: Bi-national couples in which one member does not have permanent legal resident status in this country and anyone serving in the U.S. military should consult with an attorney with expertise in these areas of law before getting married.

6. If we're already in a registered domestic partnership in California, do we have to dissolve our domestic partnership before we can marry?

No. The California domestic partnership statutes permit an individual to be both married and in a registered domestic partnership, so long as it is to the same person. In addition, there may be legal protections that are available through domestic partnership but not through marriage. For example, some states that will not honor marriages of same-sex couples may honor domestic partnerships.

7. Do you have to be a California resident to marry in California?

No. There is no residency requirement to marry in California.

8. If my partner and I are from another state and marry in California, will our marriage be valid in our home state?

If you live in another state and get married in California, you will be *legally married*.

However, depending on where you live, your home state may not respect your marriage. Many states have passed discriminatory marriage laws, and in those states, state and local governments likely will not respect your California marriage. But even in those states, it is highly likely that at least some private businesses and other private third parties will respect your marriage – particularly those that already recognize same-sex couples through domestic partnership or a similar system.

Couples who are considering getting married in California are urged to proceed with caution. Get educated about laws that vary by state.

9. Can we file lawsuits if our marriages are not respected in other states or by the federal government?

Some types of unfair treatment can be the basis of a lawsuit, and other times the unfairness may not be suitable for a court to address. Even when litigation is an option, it is not the only option. It is always necessary to weigh the chances of success or failure because bad results in lawsuits can cause set backs and hurt the entire GLBT community.

Individuals who feel they have been discriminated against should contact a GLBT legal organization that can help to figure out what options you have to protect your rights.

10. What do we have to do to marry in California?

First you need to get a marriage license from the office of the Registrar-Recorder/County Clerk of any California county. License applications are available from most counties' Web sites, or can be completed in the county clerk's office. Both partners must go together to the county office and present a government-issued picture ID and proof that you are over 18 years old. Marriage license fees for San Diego County are currently \$50. The license will be valid for 90 days and the marriage can be performed anywhere in California. Neither a blood test nor a health certificate is required. Call ahead or visit the San Diego Registrar-Recorder/County Clerk's website: <http://arcc.co.san-diego.ca.us> to learn the hours and locations of the five county offices that issue licenses.

11. Who can marry us?

In California, clergy members, active and retired judges and court commissioners, and the Commissioner and Deputy Commissioners of Civil Marriages are authorized to perform legal marriages.

Any couple wishing to marry can also have a friend deputized to perform their marriage ceremony through a county "Deputy Commissioner for a Day" program. If you choose this option, you will need at least two months advance notice and the person to be deputized to perform your ceremony will have to pay a fee and visit the county office in person to be sworn in. Visit the county Web site San Diego Registrar-Recorder/County Clerk: <http://arcc.co.san-diego.ca.us> to see how.

The person who performs your ceremony must complete and sign your marriage license after the ceremony. In addition, at least one witness 18 years old or older must sign the marriage license. The license then becomes your marriage certificate, which has to be returned promptly to the county for filing.

12. What happens if we marry in California and then wish to divorce?

The only legal way to end a marriage is to get a divorce. If you marry in California and live in California, you can divorce by filing a petition with a California court. However, if you move to another state, or if you already live in another state, getting a divorce could be difficult. Currently, the only state other than California in which same-sex married couples have an established right to divorce is Massachusetts; however, Massachusetts has a one-year residency requirement before a person can petition a Massachusetts court for a divorce. States with civil unions or comprehensive domestic partnerships, like Connecticut, New Hampshire, New Jersey, Oregon, and Vermont, may also allow married same-sex couples to divorce, but those states also have one-year residency requirements. That means that at least one spouse must be a resident of the state for a year prior to the divorce.

Couples who are unable to obtain a divorce remain legally married. Therefore, being unable to divorce may cause serious legal problems and complications for same-sex couples who find themselves in this situation.

13. Could right-wing forces take away the freedom to marry at the ballot box in California?

Yes. Because the court based its decision on rights guaranteed by the California Constitution, right-wing groups are trying to amend our state Constitution to eliminate these fundamental constitutional protections and take away the basis for the decision.

These groups, which have received significant funding from out-of-state right-wing organizations, are placing an initiative on the November 2008 ballot that will ask voters to amend the California constitution to reverse the court's decision and deny gay and lesbian couples the freedom to marry. Already, many state leaders are expressing their opposition to this proposed constitutional amendment. In a public statement on April 11, 2008, Governor Schwarzenegger stated that an initiative to amend the California Constitution to ban same-sex couples from marriage was "a waste of time," adding "I will always be there to fight against that. It will never happen."

For more information about how to get involved, contact The Center Advocacy Project: www.centeradvocacy.org AND Equality For All at www.equalityforall.com.

14. What can we do to help preserve the freedom to marry we have just won?

GLBT activists believe the fight to keep the rights recently gained is going to be one of the most expensive fights to date. All people who value families and fairness have a stake in preserving the freedom to marry for same-sex couples. Everyone is encouraged to get involved to stop the antifamily initiative set to be on the ballot in November.

For more information about the court's ruling, legal information for couples, and action steps to help protect the freedom to marry, please contact:

The Center Advocacy Project: www.centeradvocacy.org
National Center for Lesbian Rights: www.nclrights.org
Equality California: www.eqca.org
Lambda Legal: www.lambdalegal.org
The American Civil Liberties Union: www.aclu.org
Equality For All: www.equalityforall.com