



## Compliance Bulletin

# U.S. Supreme Court Legalizes Same-sex Marriage Nationwide

Provided by Cottingham & Butler

### Quick Facts

- On June 26, 2015, the Supreme Court issued its ruling on same-sex marriage.
- The ruling affects same-sex marriage laws across the country.
- The Supreme Court ruled that same-sex couples have a constitutional right to marry and to have their marriages recognized as valid, no matter where they live in the United States.

The Supreme Court's ruling means that same-sex couples have a constitutional right to marry in the United States, regardless of which state they live in.

On June 26, 2015, the U.S. Supreme Court issued its much-anticipated decision on same-sex marriage. In a landmark decision, the Supreme Court ruled 5-4 that the U.S. Constitution **guarantees same-sex couples the right to marry**.

This case, [\*Obergefell v. Hodges\*](#), involved challenges to same-sex marriage bans from four states—Ohio, Tennessee, Michigan and Kentucky. Even though the Supreme Court's decision involves these four states, the ruling affects same-sex marriage laws in every state.

The Supreme Court's ruling means that same-sex couples have the right to be married in their own states and to have their marriages recognized as valid in every other state.

The Supreme Court's ruling is effective immediately, which means all states must start (or continue) issuing marriage licenses to same-sex couples on the same terms as opposite-sex couples.

### Legal Debate on Same-sex Marriage

Up until two years ago, the federal Defense of Marriage Act (DOMA) banned federal recognition of same-sex marriages by solely defining "marriage" as the legal union between one man and one woman as husband and wife.

On June 26, 2013, the U.S. Supreme Court [\*struck down\*](#) a key part of DOMA, ruling that the law's definition of "marriage" violated the U.S. Constitution. As a result of the Supreme Court's DOMA ruling, legally married same-sex couples are entitled to the same benefits and protections under federal law as opposite-sex married couples.

At the time of the Supreme Court's DOMA ruling, the majority of states had laws that prohibited same-sex couples from getting married. Most states also refused to recognize same-sex marriages that were legally entered into in other jurisdictions.

Due to the Supreme Court's DOMA ruling, numerous lawsuits were filed across the country to challenge the constitutionality of state bans on same-sex marriage. Courts reviewing these challenges overwhelmingly ruled that the state bans on same-sex marriage were unconstitutional.

As of the Supreme Court's ruling, same-sex marriage was legal in 37 states and the District of Columbia. In the majority of these states (Florida, Wisconsin, Kansas and Virginia, for example) same-sex marriage was legalized by a court decision following the Supreme Court's DOMA ruling.

On Nov. 6, 2014, the 6th Circuit Court of Appeals [upheld](#) state bans on same-sex marriage in Michigan, Ohio, Tennessee and Kentucky. The 6th Circuit ruled that the same-sex marriage issue should be decided in each state through the regular political process and not through the court system. The 6th Circuit's decision conflicted with the decisions from other federal appeals courts, and the Supreme Court stepped in to resolve this conflict.

### **Supreme Court Decision**

The Supreme Court was asked to rule on two specific issues—the power of the states to ban same-sex marriages and the power of the states to refuse to recognize same-sex marriages performed in other states.

The Supreme Court held that marriage is a fundamental right under the Constitution for both opposite-sex and same-sex couples. Thus, the Supreme Court ruled that every state must allow marriages between two people of the same sex and must also recognize a marriage between two people of the same sex when their marriage was lawfully licensed and performed out-of-state.

The Supreme Court noted that the institution of marriage has evolved over time in response to developments in law and society. The Supreme Court outlined four legal principles that supported its ruling that marriage is a fundamental right for both same-sex and opposite-sex couples. These legal principles are as follows:

- The right to personal choice regarding marriage is inherent in the concept of individual autonomy;
- The right to marry supports a two-person union unlike any other in its importance to the committed individuals;
- Marriage safeguards children and families; and
- Marriage is a keystone to our social order.

### **Impact of Supreme Court Decision**

The Supreme Court's decision impacts the legality of same-sex marriages throughout the country.

By ruling that state laws prohibiting same-sex marriage are unconstitutional, the Supreme Court has effectively legalized same-sex marriage in all 50 states. Same-sex couples will be allowed to marry in any state, and will be entitled to all the rights, benefits and obligations given to opposite-sex spouses under both federal and state law.

Also, due to the Supreme Court's ruling, employers will generally be required to treat employees in same-sex marriages the same as employees in opposite-sex marriages for many federal and state law purposes.

Many federal laws have already been interpreted to include both same-sex and opposite-sex marriages due to the Supreme Court's decision on DOMA. The Supreme Court's most recent ruling will expand these legal rights and protections to additional couples.

Also, many state law leave rights for legally married spouses should extend to employees with same-sex spouses. Same-sex married couples should also be subject to the same state tax rules as opposite-sex married couples. State insurance laws may require employers with insured health plans to offer equal health plan coverage to opposite-sex and same-sex couples.

The Supreme Court did not consider whether federal nondiscrimination laws should be expanded to protect workers from discrimination based on sexual orientation or gender identity. However, a number of states have laws that prohibit such workplace discrimination. Employers should keep any applicable laws in mind when providing any rights or benefits to employees.

