# Overturn of Obergefell could strip marriage rights from 60% of LGBTQ+ Americans



More than half of the United States could see marriage equality abruptly disappear if the Supreme Court overturns its landmark 2015 decision in Obergefell v. Hodges, which established same-sex marriage as a constitutional right nationwide. According to data from the Movement Advancement Project (MAP), 31 states continue to have laws or constitutional amendments on the books explicitly banning marriage between same-sex couples. These bans have been unenforceable since Obergefell but would immediately become active again if the ruling were reversed, potentially stripping over 60% of Americans of marriage equality at the state level.

Obergefell v. Hodges, decided in a narrow 5-4 ruling, was a watershed moment in LGBTQ+ rights history, with the Supreme Court’s majority opinion linking the fundamental right to marry with individual liberty and equality under the Fourteenth Amendment. Justice Anthony Kennedy’s opinion emphasised that the freedom to marry is essential to personal dignity and autonomy, paving the way for nationwide recognition of same-sex marriage. However, the political and legal landscape remains fragile. In recent years, a wave of legislative efforts and court signals suggest ongoing challenges to this ruling.

While states could reinstate marriage bans, the federal landscape offers some continued protection. The Respect for Marriage Act, signed into law in 2022 during the Biden administration, mandates federal recognition of same-sex marriages and requires states to accept marriages performed elsewhere. Yet the Act stops short of compelling states to issue marriage licenses to same-sex couples within their own borders, leaving potential disparities in access and rights intact if Obergefell is overturned.

The 31 states retaining bans include a mix of constitutional amendments and statutory bans predating Obergefell. For example, Alabama’s Amendment 774 (passed in 2006), Florida’s Amendment 2 (2008), Texas’s Proposition 2 (2005), and Oregon’s Measure 36 (2004) are constitutional safeguards against same-sex marriage that would require referendum votes to repeal. Meanwhile, states such as Indiana, Pennsylvania, West Virginia, and Wyoming rely on older laws to uphold these bans. Iowa stands out as a sole exception; its state Supreme Court struck down the prohibition, meaning reversal would require that court to revisit its decision.

Recent political activity underscores the persistent threat to marriage equality. At least nine states, including Michigan, Idaho, Montana, North Dakota, and South Dakota, have introduced nonbinding resolutions urging the U.S. Supreme Court to reconsider Obergefell. In North Dakota, for instance, a Republican-led House resolution aiming to overturn the decision awaits Senate approval, reflecting ongoing partisan efforts to challenge marriage equality. Some states, like Missouri, Oklahoma, Tennessee, and Texas, have even proposed legislation creating alternative “covenant marriage” categories aimed at restricting marriage to opposite-sex couples. These legislative moves reveal a broader strategy to chip away at the ruling through state-level action while encouraging judicial reconsideration.

Justice Clarence Thomas, in a concurring opinion following the 2022 overturning of Roe v. Wade, explicitly suggested the Court should also revisit landmark decisions on contraception, sodomy, and Obergefell itself, labeling these rulings “demonstrably erroneous.” This legal argument has both emboldened anti-equality activists and alarmed LGBTQ+ advocates, who warn that reversing Obergefell would consign marriage rights back to a fragmented and unequal patchwork of state laws.

If Obergefell were overturned, many same-sex couples would face the precarious necessity of marrying in more permissive states and relying solely on federal recognition when returning home. Such a scenario would revive the inequalities activists fought to dismantle over the past decade. The country would once again grapple with a fractured legal terrain where marriage rights depend heavily on geography—a deeply unsettling prospect for millions of LGBTQ+ Americans and their families. Source: [Noah Wire Services](https://www.noahwire.com)

## Bibliography

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2. <https://www.lgbtmap.org/equality-maps/recognition/marriage_relationship_laws/bans> - The Movement Advancement Project's Equality Maps provide a comprehensive overview of marriage and relationship recognition laws across the United States. The 'Marriage Bans' map illustrates the states that have constitutional amendments or statutes banning same-sex marriage. While these bans were unenforceable following the 2015 Supreme Court decision in Obergefell v. Hodges, they remain on the books, potentially becoming enforceable if the ruling is overturned. The map categorizes states based on the presence of statutory and constitutional bans, highlighting the legal landscape of marriage equality in the U.S.
3. <https://www.history.com/this-day-in-history/obergefell-v-hodges-ruling-same-sex-marriage-legalized-nationwide> - This article from History.com provides an in-depth look at the Supreme Court's landmark decision in Obergefell v. Hodges, which legalised same-sex marriage nationwide in 2015. The piece details the background of the case, the arguments presented, and the Court's reasoning in its 5-4 ruling. It also discusses the broader context of same-sex marriage rights in the U.S., including previous state-level legalisations and the political climate surrounding the issue. The article offers a comprehensive understanding of the significance of this historic ruling.
4. <https://www.them.us/story/states-scotus-overturn-obergefell-v-hodges-same-sex-marriage> - An article from Them discusses the legislative actions in several states aiming to overturn the Supreme Court's decision in Obergefell v. Hodges. It highlights that at least five states—Michigan, Idaho, Montana, North Dakota, and South Dakota—have introduced measures urging the Supreme Court to reverse the ruling that legalised same-sex marriage nationwide. The piece also mentions other states, including Missouri, Oklahoma, Tennessee, and Texas, that have proposed legislation creating 'covenant marriage' categories, which could restrict marriage to opposite-sex couples. The article provides insight into the ongoing legal challenges to marriage equality in the U.S.
5. <https://www.britannica.com/event/Obergefell-v-Hodges> - Encyclopaedia Britannica offers a detailed overview of the Obergefell v. Hodges case, which legalised same-sex marriage in the United States. The article covers the background of the case, the legal arguments presented, and the Supreme Court's 5-4 decision. It explains how the Court's majority opinion, written by Justice Anthony Kennedy, connected the fundamental right to marry with individual liberty and equality under the Fourteenth Amendment. The piece also touches on the dissenting opinions and the broader implications of the ruling for same-sex couples across the country.
6. <https://www.axios.com/2025/06/25/obergefell-decade-lgbtq-rights-threat> - Axios reports on the state of LGBTQ+ rights a decade after the Obergefell v. Hodges decision. The article highlights ongoing threats to these rights, including legislative actions in various states aiming to challenge or overturn the ruling. It discusses the introduction of nonbinding resolutions in nine states urging the Supreme Court to revisit Obergefell, as well as the federal government's response through the Respect for Marriage Act, which ensures federal recognition of same-sex marriages but does not compel states to issue marriage licenses to same-sex couples. The piece provides a comprehensive look at the current challenges to marriage equality in the U.S.