



County of Santa Cruz

COUNTY CLERK / ELECTIONS

701 OCEAN STREET, ROOM 210, SANTA CRUZ, CA 95060-4076
831-454-2060 TOLL-FREE: 866-282-5900 FAX: 831 454-2445 TDD: 831-454-2123
E-MAIL: gail.pellerin@co.santa-cruz.ca.us
Web Sites: www.scco clerk.com & www.votescount.com

GAIL L. PELLERIN, COUNTY CLERK

Same Sex Marriage Information

Updated August 12, 2010

Subject to change

County Clerk Hours: 8 a.m. to 5 p.m., Monday – Friday

What happened with the Proposition 8 court case?

On August 4, 2010 the U.S. District Court ruled in the case entitled *Perry V. Schwarzenegger, Case No. C 09-2292VRW*, that Proposition 8 is unconstitutional.

The decision directs state and local officials who offer marriage services to permit couples to marry regardless of gender. However, the court issued a stay on the order overturning Prop 8, in order to allow supporters of the measure to argue why it should remain in effect while they pursue an appeal.

For information related to the gender neutral marriage court ruling and up-to-date status reports on the court's decisions please visit the Federal Courts website at:

<https://ecf.cand.uscourts.gov/cand/09cv2292/>

When will the County Clerk be able to issue marriage licenses to same-sex couples?

On August 12, 2010, Judge Walker denied the Motion to Stay. He ordered that judgment stayed until August 18, 2010 at 5 p.m. at which time defendants and all persons under their control or supervisors shall cease to apply or enforce Proposition 8. Barring intervention by the 9th Circuit Court of Appeals or the Supreme Court of the United States, County Clerks in the State of California can begin to issue marriage licenses and conduct weddings for same sex couples beginning at 5:01 p.m. on August 18, 2010. The court's ruling does not require counties to remain open after normal business hours on that date, but they will be required to issue same sex marriage licenses during regular business hours beginning August 19, 2010.

The Santa Cruz County Clerk's Office will begin issuing same-sex marriage licenses and conduct same-sex marriage ceremonies at 5:01 p.m. on Wednesday, August 18, 2010.

Couples wishing to obtain a license that day may call the department at 831-454-2060 to make an appointment. The office will be open regular business hours after August 18,

2010 and will add extended hours as needed.

What is happening August 18 in Santa Cruz County?

We have arranged our staff and schedule to issue marriage licenses and conduct wedding ceremonies from 5:01 p.m. to 8 p.m. on Wednesday, August 18, 2010.

We are proud to have the support of Out in Our Faith, as well as each of our Board of Supervisors: Ellen Pirie, John Leopold, Mark Stone, Tony Campos, and Neal Coonerty as well as Santa Cruz City Council members Ryan Coonerty and Tony Madrigal who have offered to help conduct wedding ceremonies if needed.

At this time, all ceremonies are for individual couples. We are not planning any group weddings.

What do we need to do to be legally married?

1. Apply for and purchase a California marriage license at a California County Clerk's Office in person, and
2. Have a ceremony on or within 90 days from the issue date of the marriage license; and
3. Have the marriage solemnized by a person authorized by California Family Code §400-402. See <http://www.sccoclerk.com/civilmarriage.htm> for who is authorized to perform wedding ceremonies.

How do we apply for a "public" marriage license in Santa Cruz County?

- The fee for a public marriage license is \$75.00, cash or check only.
- Each person must present one form of valid photo identification with proof of age.
- A blood test is not required.

How do we apply for a "confidential" marriage license in Santa Cruz County?

- Both parties must swear in writing that they have already been living together.
- The marriage ceremony may be performed ONLY in Santa Cruz County.
- The marriage record will be maintained as Confidential and ONLY the couple may obtain copies of the marriage certificate, EXCEPT by order of the Superior Court.
- The cost of a Confidential Marriage License is \$90.00, cash or check only.

What is the difference between a "Public" and "Confidential" marriage license?

- **A public** marriage license allows you to get married anywhere in the State of California. You need at least one witness during your ceremony and the marriage record is made available to the public.
- **A confidential** marriage license requires couples to get married in the county where they purchased the license, no witness is required, and the marriage record is only available to either of the marriage partners.

Do the State prescribed forms have to be changed to reflect the Court's decision?

No. The forms were changed in 2008 to be gender neutral. No changes to applications or marriage licenses need to be made to include same sex couples.

How do we have a civil ceremony at the County Clerk's Office?

The cost of a civil ceremony at the County Clerk's Office is \$75, cash or check only. Currently, the office performs ceremonies by appointment every day. However, to meet the needs of our couples, we will be open Wednesday, August 18, 2010 from 5:01 p.m. to 8 p.m. to issue licenses and perform ceremonies.

Can we get a marriage license anywhere else?

Yes. The court's decision is effective for the entire State of California. But we highly recommend Santa Cruz as a perfect wedding destination!

What changes need to be made to California statutes?

Statutes that currently refer to "husband, wife, bride, or groom" are being reviewed by the County Clerk Legislative Committee. The Committee and the California Association of Clerks and Election Officials Legislative Advocates representing County Clerks are working together to do what is necessary to make sure the sections requiring "clean up" to make them gender neutral are identified and the necessary legislative contacts to propose the amendments are made. Legislative changes do not need to occur prior to the issuance of same sex marriage licenses.

If we get married now will it be legal in the future if there is a court ruling against same sex marriage?

We strongly believe that marriages based on Judge Walker's decision should be valid, even if the decision is later overturned on appeal. In his stay order, Judge Walker also supported that position, stating, "The court has the authority to enjoin defendants from enforcing Proposition 8. It appears, then, that marriages performed pursuant to a valid injunction would be lawful, much like the 18,000 marriages performed before the passage of Proposition 8 in November 2008. See *Strauss v Horton*, 46 Cal 4th 364, 472 (2009) (holding that married couples' rights vest upon a lawful marriage).

That said, to be safe, the National Center for Lesbian Rights strongly encourage same-sex couples in California who marry based on Judge Walker's decision to also register as domestic partners to ensure that you are protected in the event your marriage is ever challenged. California law permits a couple both to marry and register as domestic partners, so long as it is with the same person. Also, you do not have to be a California resident to marry in California or to register as domestic partners.

What if we were married legally out of State or Country and want to get married in California?

Since same-sex marriages are recognized as legal in California, couples may not obtain a marriage license and get remarried. They can have a renewal of vows ceremony here, but it will not be recorded in California. Moreover, a foreign marriage certificate cannot be recorded in California. If the couple needs to establish a record of the marriage in California, they can file a petition in Superior Court to establish a Court Order Delayed Certificate of marriage.