AN ALLY'S GUIDE TO

ISSUES FACING LGBT AMERICANS

MAP movement advancement project

HUMAN RIGHTS CAMPAIGN

LOG CABIN REPUBLICANS

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VICTORY

This report was authored by:

Movement Advancement Project
The Movement Advancement Project (MAP) is an independent think tank that provides rigorous research, insight and analysis that help speed equality for LGBT people. MAP works collaboratively with LGBT organizations, advocates and funders, providing information, analysis and resources that help coordinate and strengthen their efforts for maximum impact. MAP also conducts policy research to inform the public and policymakers about the legal and policy needs of LGBT people and their families. For more information, visit www.lgbtmap.org.

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HRC seeks to improve the lives of LGBT Americans by advocating for equal rights and benefits in the workplace, ensuring families are treated equally under the law and increasing public support among all Americans through innovative advocacy, education and outreach programs. HRC works to secure equal rights for LGBT individuals and families at the federal and state levels by lobbying elected officials, mobilizing grassroots supporters, educating Americans, investing strategically to elect fair-minded officials and partnering with other LGBT organizations. For more information, visit www.hrc.org.

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National Stonewall Democrats
National Stonewall Democrats is the national voice of lesbian, gay, bisexual, transgender and allied Democrats, with more than 80 local affiliates across the nation. Stonewall Democrats works to elect more pro-equality Democrats regardless of their sexual orientation or gender identity - and to improve the Democratic Party on issues important to LGBT Democrats. For more information, visit www.stonewalldemocrats.org.

Gay & Lesbian Victory Fund and Institute
The Gay & Lesbian Victory Institute works to achieve full equality for lesbian, gay, bisexual and transgender people by building, supporting, and advancing a diverse network of LGBT public leaders. Through its training and professional development programs, the Victory Institute assists hundreds of individuals who go on to influential careers in politics, government, business and advocacy each year. Many of the Victory Institute's trainees join the more than 1,000 openly LGBT elected and appointed officials now serving around the world. The Gay & Lesbian Victory Fund works to elect LGBT leaders to public office. For more information, visit www.victoryinstitute.org.

About this report:

An Ally's Guide to Issues Facing LGBT Americans is a primer for allies that introduces the major areas in which LGBT Americans face challenges in fully participating in life and provides a summary of what advocates are doing to work for change. This report incorporates information current as of December 1, 2012.

MAP thanks the following funders, without whom this report would not have been possible.

David Bohnett Foundation
David Dechman
David Geffen Foundation
Ford Foundation
Gill Foundation
Esmond Harmsworth
Jim Hormel
Johnson Family Foundation
Amy Mandel and Katina Rodis
Weston Milliken
Kevin J. Mossier Foundation
The Palette Fund
Mona Pittenger
Two Sisters and a Wife Foundation
H. van Ameringen Foundation

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Note to Reader: This report aims to provide a high-level, easy-to-read summary of many of the key issues facing LGBT Americans. The authors advise the reader that this type of snapshot report cannot adequately do justice to the nuance and complexity of the issues—nor the LGBT community. This report aims only to lay some basic groundwork and create a high-level understanding. For readers wishing to deepen their understanding, we provide a resource list and link to an online resource page at the end of this report.

INTRODUCTION

People who are unfamiliar with how current laws and social stigma affect lesbian, gay, bisexual and transgender (LGBT) Americans often have a simple question—what exactly is it that LGBT Americans want? The answer is just as simple. LGBT Americans want the same chance as everyone else to pursue health and happiness, earn a living, be safe in their communities, serve their country, and take care of the ones they love (see *Figure 1*).

Unfortunately, unfair laws, lack of legal protections and stigma stand in the way of this very basic goal. This report provides a high-level overview of the added burdens facing LGBT Americans, as well as a look at how those who believe all Americans should be treated equally and fairly are working to make things better.

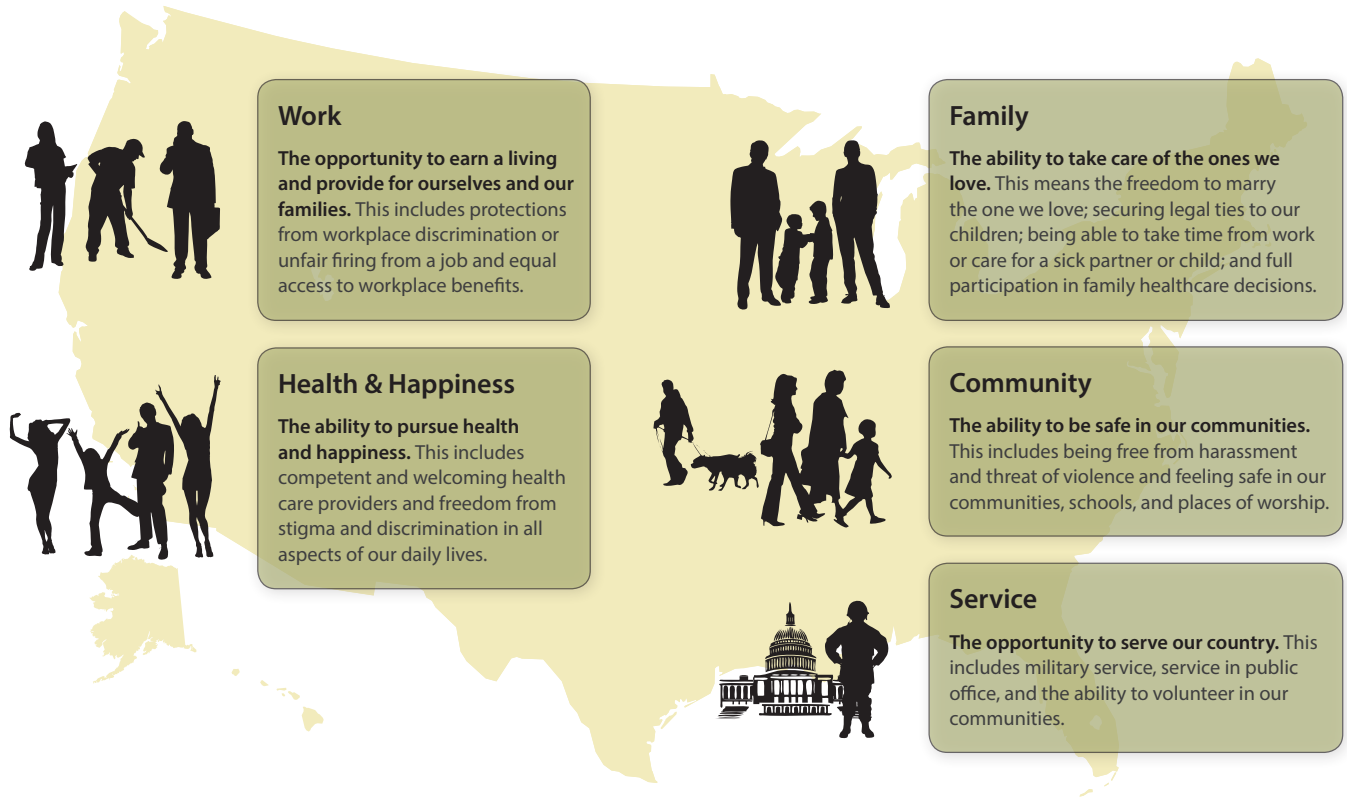
Who are LGBT Americans?

Just like other Americans, LGBT Americans have families, work hard to earn a living, pay taxes, and serve their communities and their country. Recent research by the Williams Institute finds that approximately 3.5% of the adult U.S. population identifies as lesbian, gay or bisexual, and 0.3% identifies as transgender.[1] Applying these figures to the total number of adults in the U.S., this research suggests that there are nearly 9 million LGBT adults.[2]

The LGBT community is diverse and lives throughout the U.S.; same-sex couples can be found in every state and in 93% of all U.S. counties.[3] Data from the Census show that one in five same-sex couples (21%) are interracial or interethnic compared to 10% of married heterosexual couples.[4] A recent survey of more than 6,400 transgender Americans found that 24% identified as people of color.[5]

LGBT people are neighbors, partners, parents, coworkers and service members. Today there are roughly 2 million children living with LGBT parents.[6] More than 1 million lesbians and gay men are veterans, and an estimated 71,000 currently serve in the U.S. military.[7] Despite the fact that LGBT people have higher levels of education and are more likely to be employed than straight Americans,[8] research finds that LGBT Americans, particularly LGBT families with children and LGBT families of color, have higher rates of poverty.[9]

Figure 1: The Goal: Equal Opportunity to Participate in American Life



EQUAL OPPORTUNITY FOR LGBT AMERICANS

The Opportunity to Earn a Living and Provide for Ourselves and Our Families

Fair and Inclusive Workplaces

The vast majority of Americans (73% according to the latest poll by the Center for American Progress) believe that workers should be treated fairly and equally and that no one should be fired for reasons that have nothing to do with their job performance.[10] Yet LGBT people continue to face pervasive discrimination in the workplace. According to an analysis of the 2008 General Social Survey by the Williams Institute, more than one-in-four lesbian, gay and bisexual (LGB) employees (27%) reported experiencing employment discrimination based on their sexual orientation in the past five years.[11] The National Transgender Discrimination Survey found that 50% of transgender employees had been harassed at work.[12] There is **no federal law explicitly prohibiting discrimination** based on sexual orientation or gender identity. Decisions by a number of federal courts, as well the Equal Employment Opportunity Commission (EEOC), however, indicate that transgender people are protected by federal sex discrimination laws.[13]

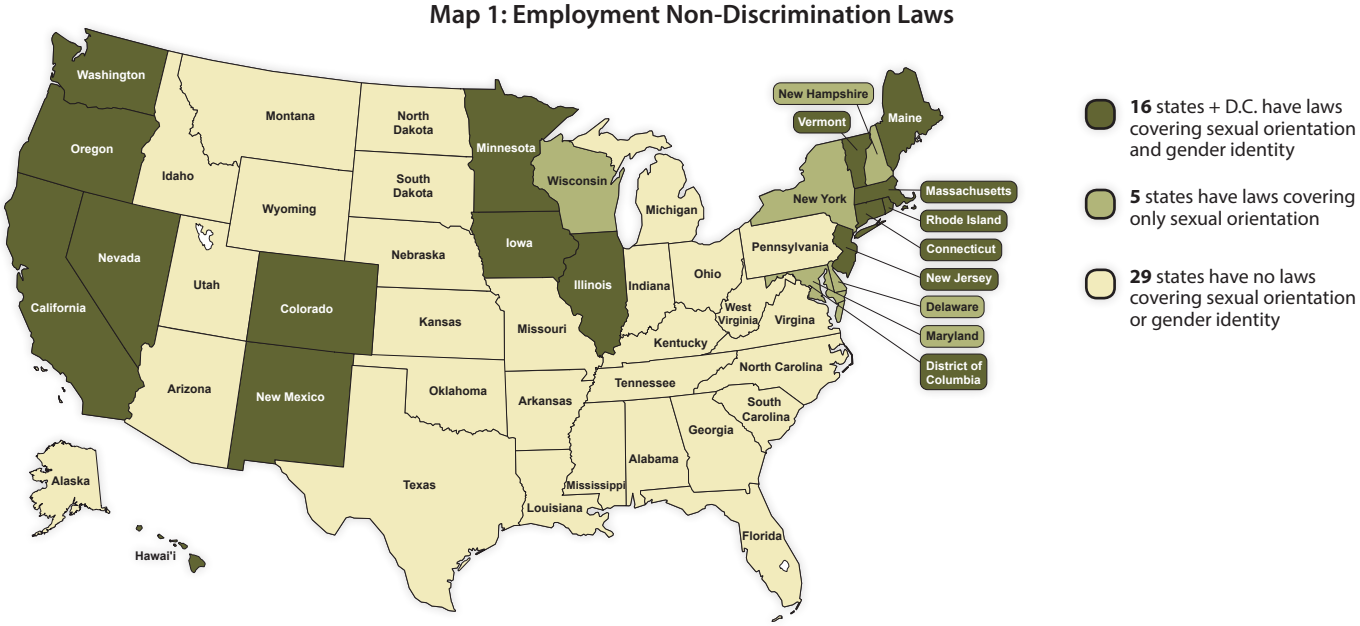
Understanding the Terminology: Lesbian, Gay, Bisexual and Transgender

The terms *lesbian*, *gay*, and *bisexual* describe a person's sexual orientation. *Lesbian* and *gay* refer, respectively, to women and men who are attracted to individuals of the same sex; bisexual refers to those who are attracted to both men and women.

The term *transgender* is independent of sexual orientation and describes individuals whose gender identity (their inner sense of being male or female) and/or gender expression (their behavior, clothing, haircut, voice and body characteristics) is different from what is stereotypically associated with the sex that was assigned to them at birth. At some point in their lives, most transgender people decide they must live their lives as the gender they know themselves to be, and often transition to living as that gender.

As shown in *Map 1*, only a minority of states have legislation that protects workers for being unfairly fired just because they are transgender, though a small majority protect workers who are gay. In remaining states, advocates are working to pass **non-discrimination laws**. At the federal level, advocates are

Map 1: Employment Non-Discrimination Laws



Note: A 2012 ruling by the federal Equal Employment Opportunity Commission extends Title VII's prohibition on sex discrimination to prohibit discrimination against transgender people.

working to pass the **Employment Non-Discrimination Act (ENDA)**, which would protect workers across the country from unfair discrimination based on sexual orientation and gender identity. At the local level, advocates are working with cities and counties to pass non-discrimination ordinances that prohibit employment discrimination by local governments and businesses. An estimated 149 cities and counties in states that lack legislation protecting LGBT workers have passed such ordinances.

Access to Workplace Benefits

LGBT people are less likely to have health insurance coverage.[14] No federal law requires employers to offer health benefits to the same-sex spouses or partners of LGBT employees, and most employers do not offer such benefits.[15] Even when employers do offer such benefits, LGBT employees (unlike married straight employees) and employers are **taxed on the value of domestic partner health insurance benefits,** making health insurance more expensive for LGBT employees and their families. The federal government's unfair taxation and treatment of employer health benefits for domestic partners also punishes businesses for granting domestic partner benefits by imposing higher payroll taxes and administrative burdens. As a result, businesses are discouraged from offering domestic partner benefits and fewer LGBT people have health insurance coverage. It is estimated that an LGBT employee with a partner receiving benefits pays, on average, over $1,000 per year in taxes–taxes that their straight coworkers are not required to pay.[16] Advocates are working to pass the **Tax Parity for Health Plan Beneficiaries Act**, which would end the taxation of health benefits for same-sex couples.

The Ability to Pursue Health and Happiness

Access to Health Insurance

Transgender employees face extreme challenges in obtaining health insurance coverage for even the most basic care. Many insurance plans contain exclusions that deny transgender people coverage for care related to being transgender such as hormone therapy or certain surgical procedures.[17] In fact, some insurers have refused to provide them with health coverage entirely.

Physical and Mental Health

Adding to the burden of lesser rates of health insurance, LGBT people also face some significant health disparities. These include increased incidence of HIV/AIDS, mental health disorders, and chronic physical conditions. LGB adults indicate that they are more likely to delay medical care, in part because of a fear of discrimination or lack of understanding by healthcare providers, which may explain why LGB adults are more likely to have serious health conditions, including cancer.[18]

HIV-related care remains costly, and securing adequate funding for care, prevention, and research is a constant challenge. Advocates are working to improve treatment and care services, especially for often overlooked at-risk communities, including older adults, people in correctional facilities, people of color and transgender people.[19]

Access to Competent and Welcoming Health Care Providers

Even when LGBT people and their families can obtain health insurance, they may still face **inhospitable health care environments**. Some professional healthcare staff, including physicians, counselors, and receptionists, are hostile or unwilling to work with LGBT people, while others are not trained to do so. And while federal regulations require hospitals participating in Medicare and Medicaid to prohibit discrimination in visitation based on sexual orientation and gender identity, LGBT people still may face refusals to allow partners and children to visit in other facilities, such as nursing homes and private hospitals.

Access to Identity Documents Needed for Daily Living

Transgender people face substantial obstacles in daily life because they may be unable to obtain identity documents that reflect their gender. Many **states make it difficult to obtain a new birth certificate or other identity documents** with a corrected gender. Some states will only issue an obviously amended birth certificate which can draw attention to the changes. Additionally, states may require that transgender people have proof of surgery or a court order in order to obtain accurate documents, which present costly and intrusive burdens. A revised birth certificate may be required to make changes to a driver's license or other identification documents. When transgender

people's identity documents, such as a driver's license, don't reflect their current gender—or when a birth certificate is amended rather than reissued—transgender people are at risk for being "outed." This can result in discrimination; physical violence; denial of employment, housing, or public benefits; and more.

Freedom from Discrimination

Many LGBT people experience discrimination when just going about their daily activities–whether eating at a restaurant with their families or friends, trying to obtain safe, clean housing, or applying for a loan. One study found that in 27% of cases, same-sex couples encountered discrimination when trying to rent or buy a home, and another study found that 19% of transgender respondents had been refused a home or apartment because of their gender identity or expression.[20] Under federal law, LGBT people are not protected from discrimination in housing, public accommodations, credit or employment (which was discussed above). Advocates are working to pass both federal and state non-discrimination laws that would protect LGBT people from discrimination when seeking housing, accessing public accommodations (such as restaurants and hotels) or when applying for loans. A 2011 poll found that 79% of Americans supported non-discrimination protections in these areas.[21]

The Ability to Take Care of the Ones We Love

Freedom to Marry

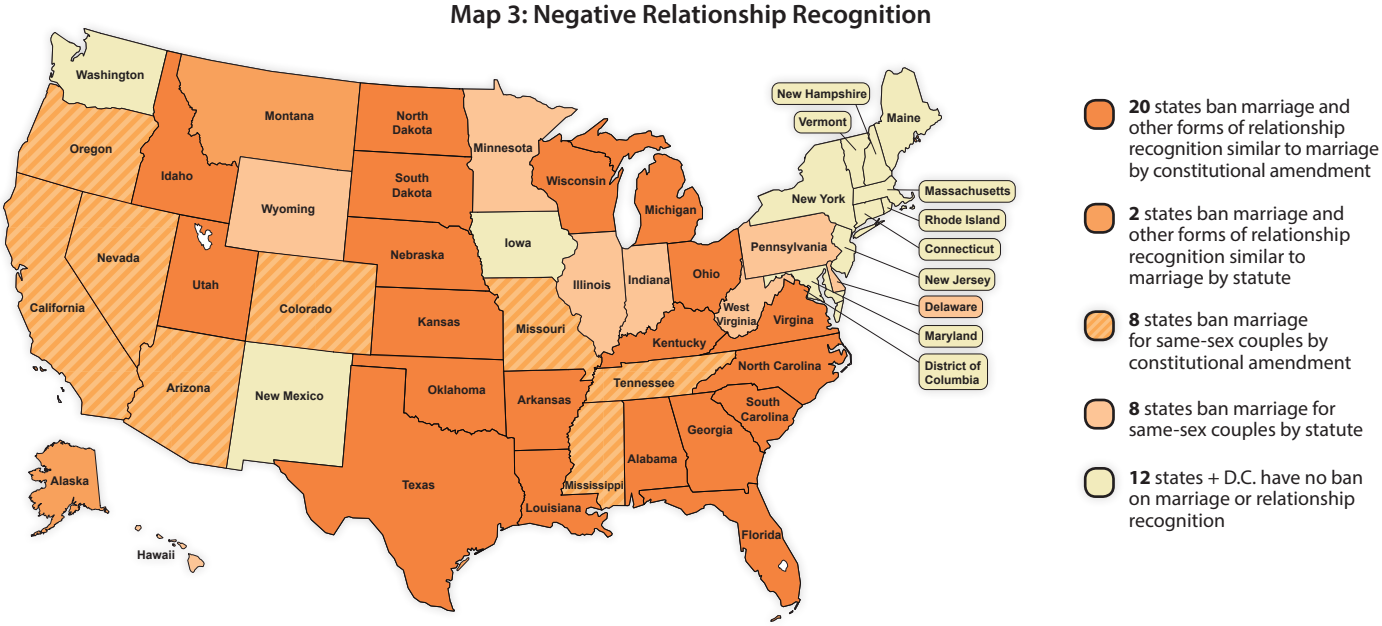
Same-sex couples make lifelong promises to take care of and be responsible for each other, but in most states, they cannot legally marry. *Map 2* shows the states where same-sex couples can legally marry or enter into a domestic partnership or civil union that provides some of the legal protections of marriage.[22] Advocates are working to extend the **freedom to marry** to same-sex couples throughout the country.

Many states in the U.S. have state-level laws banning same-sex couples from marriage and/or prohibiting other forms of relationship recognition. These state-level laws stand in the way of same-sex couples' ability to take care of one another and tell them that their relationships and families don't matter. *Map 3* on the next page shows the states that have **laws banning marriage** for same-sex couples. Denying marriage to same-sex couples is not only hurtful; it affects everything from the ability of a couple raising children to have both partners recognized as legal parents to the denial of medical-decision making authority for a child or partner in an emergency.

Map 2: Positive Relationship Recognition

Note: D.C. offers both marriage and comprehensive domestic partnership to same-sex couples.

Map 3: Negative Relationship Recognition



Note: Some states have multiple types of laws banning recognition of same-sex couples. States are shaded to reflect the law that most limits the ability of couples to be legally recognized. For a table showing which states have multiple laws, visit the Equality Maps.

Unfortunately, even when same-sex couples are legally married in their own state, the **federal government refuses to recognize their marriages** because of the federal Defense of Marriage Act (DOMA). Advocates are working to **repeal DOMA**, which, among other things, prevents married same-sex couples from accessing earned health insurance benefits, receiving Social Security survivor benefits, and filing joint federal tax returns. A 2011 poll found that 51% of Americans support repealing DOMA.[23] Recently, several federal courts have found Section 3 of DOMA, which defines marriage as a legal union of one man and one woman, to be unconstitutional, and the U.S. Department of Justice has refused to defend Section 3 in court. DOMA is now being defended by the Republican leadership of the House Bipartisan Legal Advisory Group and the constitutionality of Section 3 may soon be under review by the U.S. Supreme Court.[24]

Because of DOMA, LGBT Americans are **unable to sponsor their foreign-born partners or spouses** for the purposes of immigration. As a result, binational gay and lesbian couples who have been together for decades, even raising a family together, can be ripped apart. Advocates are urging Congress to pass the **Uniting American Families Act**, which would permit gay and lesbian Americans to sponsor their spouses or partners for immigration purposes just as married, straight Americans can.

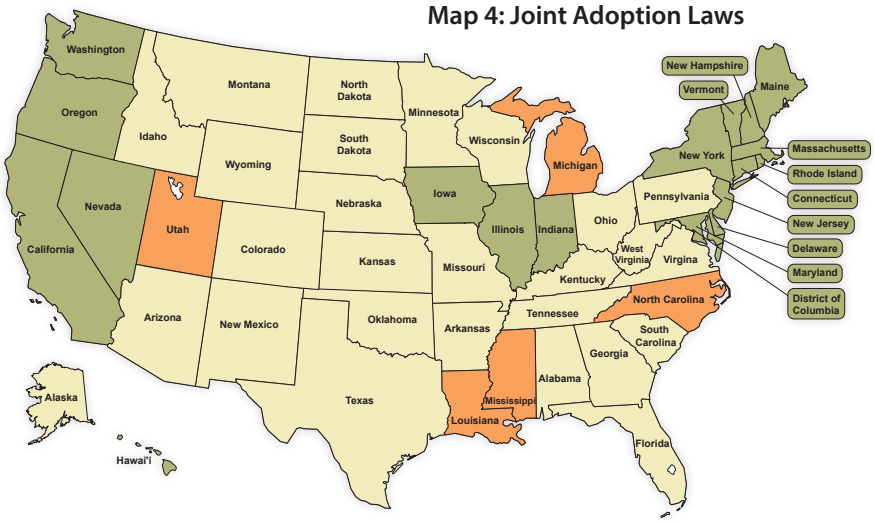
Securing Legal Ties between Parents and Children

Most Americans agree that the law should protect the best interests of children. However, for children with LGBT parents, the law does the opposite, acting to undermine family permanency, separating children from loving parents, and increasing family poverty rates.

For example, when a woman in a lesbian couple gives birth to a child, only 17 states and D.C. recognize both mothers as legal parents of the child. In the remaining states, the child is a legal stranger to a mother who has raised him or her since birth. Similarly, when same-sex couples form blended families (where one parent has a child from a prior relationship), the new parent is often barred from using existing simplified stepparent adoption processes to secure legal ties to her stepchild.

Despite the more than 400,000 children in foster care awaiting permanent forever homes,[25] only a minority of states allow lesbian and gay couples to **jointly adopt** children (as shown in *Map 4* on the next page). Some states do allow a parent without legal ties to his or her child to go to court to obtain a **second-parent adoption** or a **stepparent adoption**, allowing the second parent to become a legal parent of the child without terminating the rights of the existing parent. However, the availability of second-parent and stepparent adoption varies greatly across the country (see *Maps 5* and *6* on the next page).

Map 4: Joint Adoption Laws



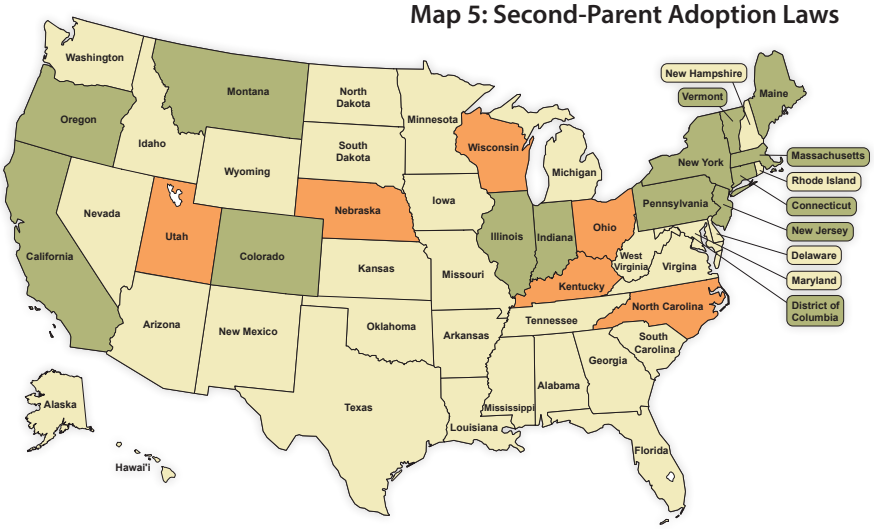
18 states + D.C. with joint adoption statewide

5 states where same-sex couples effectively prohibited

27 states where same-sex couples face uncertainty

Note: Access to joint adoption may require being in a legally recognized relationship, such as a marriage, civil union, or domestic partnership.

Map 5: Second-Parent Adoption Laws

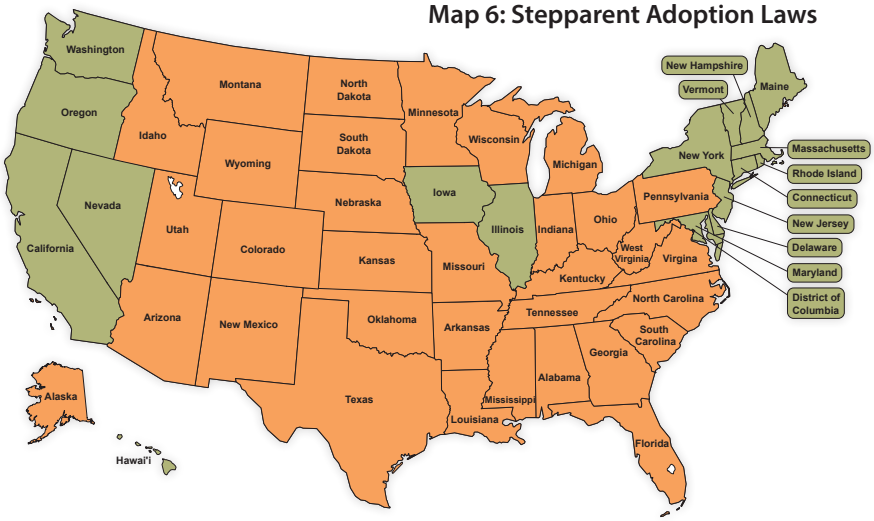


13 states + D.C. with second-parent adoption statewide

31 states where same-sex couples face uncertainty

6 states effectively ban second-parent adoption

Map 6: Stepparent Adoption Laws



17 states + D.C. allow same-sex petitions for stepparent adoption statewide

33 states do not allow same-sex petitions for stepparent adoption

Note: Access to stepparent adoption may require being in a legally recognized relationship, such as a marriage, civil union, or domestic partnership.

Advocates and legal organizations are working to **obtain family court judgments and pass legislation** that allows families to create legal ties between parents and children, including the federal **Every Child Deserves a Family Act**.

Because state parenting law frequently refuses to recognize two same-sex parents, children are often denied health insurance coverage through a parent who is not legally recognized. Children may be ripped away from the only home they've ever known if something happens to the legal parent. Low-income families may also have less access to government safety net programs. Finally, most lesbian and gay families are hurt economically by laws that deny them access to family tax credits.

Caring for a Sick Partner or Child

Federal and state laws make it possible for many employees to take time from work to care for a sick spouse, child or parent. Because the relationships of same-sex couples are not recognized by the federal government or by the majority of states, an **LGBT employee cannot take job-protected leave from work to care for a same-sex spouse or partner** under the Family and Medical Leave Act. A recent clarification of the law by the Department of Labor allows LGBT parents to take job-protected, unpaid time off from work to care for a child even if they are not recognized as the legal parent of that child.

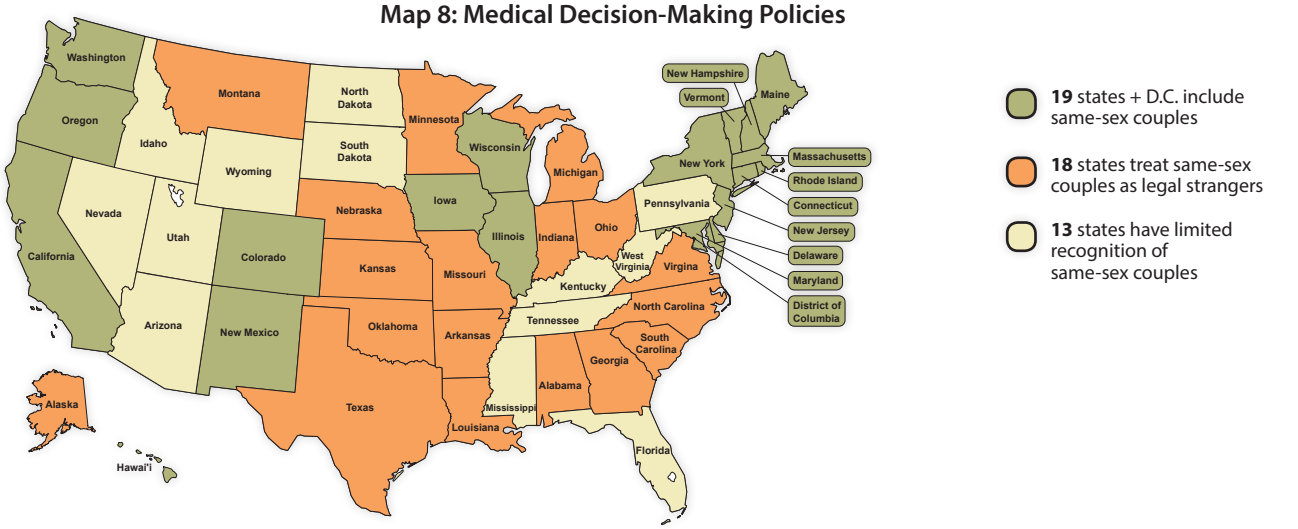
As shown in *Map 7*, 13 states have state-level medical leave laws that are inclusive of same-sex couples. In many states, LGBT couples are not guaranteed the ability to make medical decisions for one another as straight married couples are, as shown in *Map 8*.

Passage of **relationship recognition** at the state level and legislation such as the **Family and Medical Leave Inclusion Act** would ensure that LGBT couples can make medical decisions and take time off to take care of an ill family member.

Map 7: State Medical Leave Laws

Note: Some same-sex couples can access existing FMLA laws through marriage or comprehensive relationship recognition, while other states have explicitly expanded the definition of family to include same-sex partners.

Map 8: Medical Decision-Making Policies



The Ability to Be Safe in Our Communities

Inclusive Hate Crime Laws

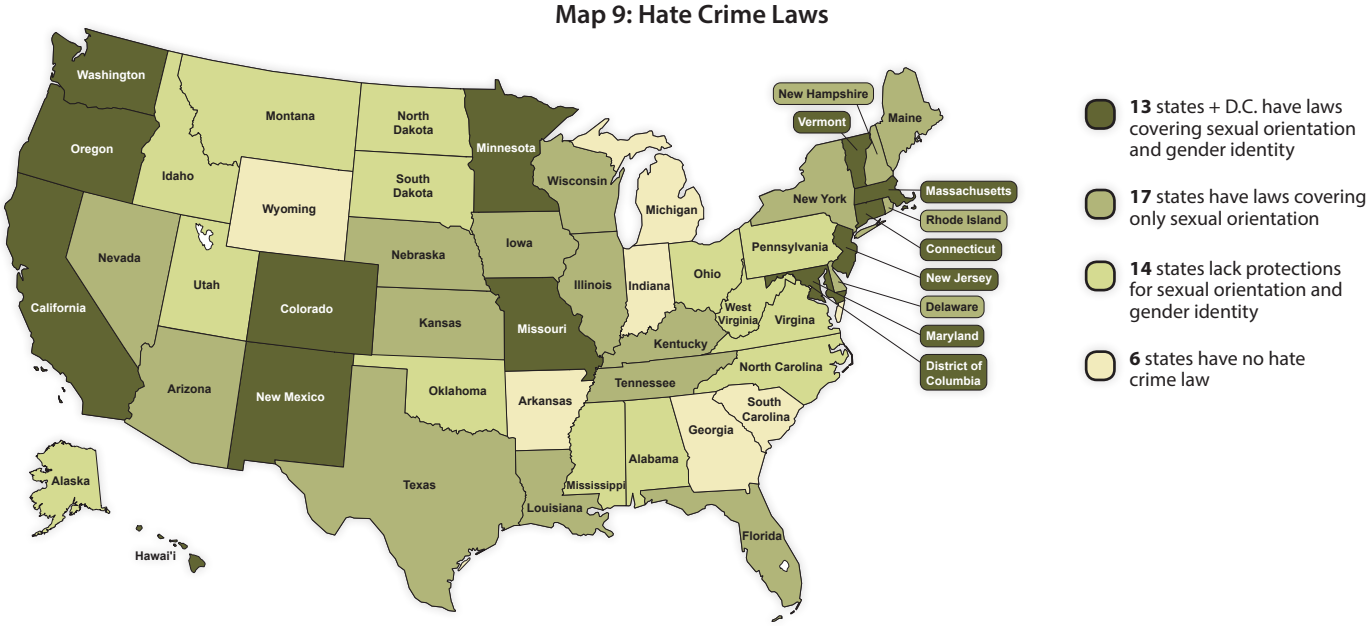
Recent statistics from the Federal Bureau of Investigation (FBI) and the National Coalition of Anti-Violence Programs (NCAVP) show that **crimes against LGBT** people remain a serious problem. According to the FBI, 19% of hate crimes in 2010 included some form of sexual orientation bias,[26] while a separate report found 26% of transgender people experienced physical assault because they were transgender.[27] The 2010 NCAVP report found that transgender people and people of color were two times more likely to experience hate-related violence than other individuals.[28]

Laws do exist to help protect LGBT Americans from crimes motivated by anti-LGBT bias. The **federal hate crimes law** gives the Justice Department the ability to investigate and prosecute crimes when an individual is targeted because of actual or perceived gender, sexual orientation or gender identity, along with a number of other categories. Thirty states and the District of Columbia have **state hate crimes laws** that cover individuals who are targeted because of their sexual orientation. Thirteen states and D.C. have laws addressing both sexual orientation and gender identity (see *Map 9*).[29] Advocates are working to ensure all states have fully inclusive hate crimes laws. Expanding state laws to include sexual orientation and gender identity helps protect people by sending a message that violence against LGBT people isn't okay.

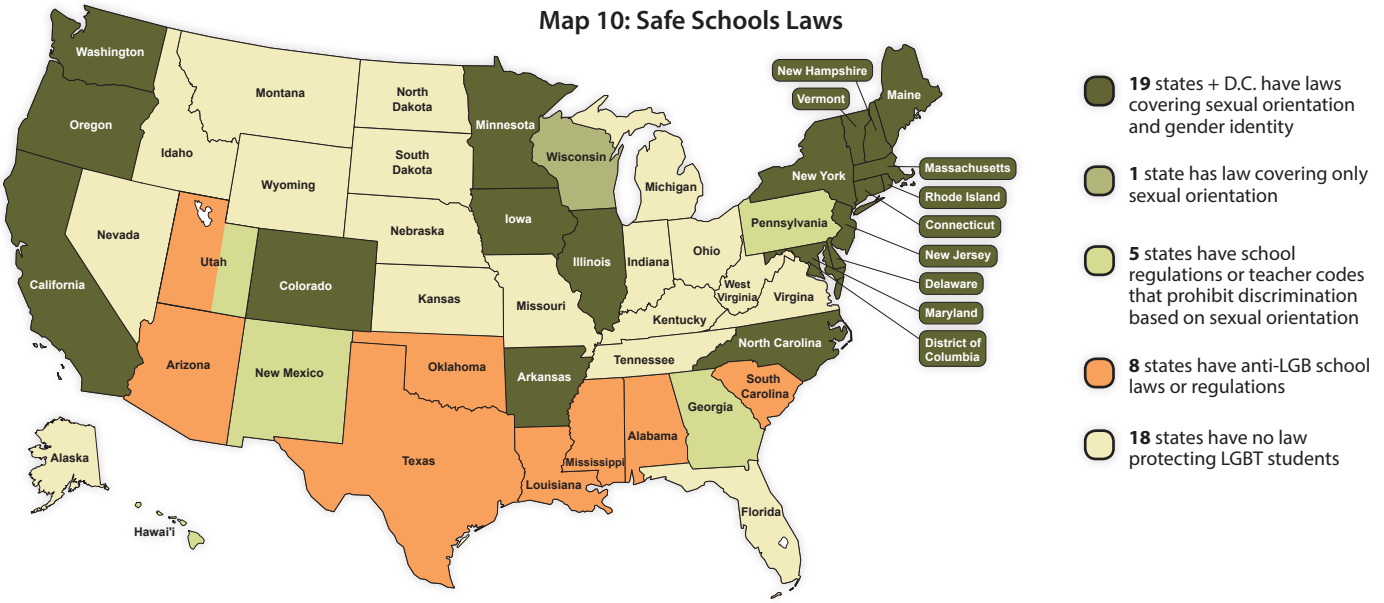
Safe Schools

Expansive news coverage of bullying and violence against youth known or believed to be LGBT has spurred unprecedented discussion about **bullying and harassment**. Currently, **safe schools laws** protect students from bullying and/or discrimination based on sexual orientation and/or gender identity in only 19 states and the District of Columbia (see *Map 10* on the next page).[30] Advocates continue to work for passage of stronger policies and additional state-level laws, but they are also advocating for the passage of the federal **Student Non-Discrimination Act** and **Safe Schools Improvement Act** (which would provide protections against discrimination and bullying in public schools) and the **Tyler Clementi Higher Education Anti-Harassment Act** (which would protect college students).

Map 9: Hate Crime Laws



Note: The Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act is a federal law that amended federal hate crime law to include gender, sexual orientation, gender identity, and disability. Several states have hate crime laws that require data collection for sexual orientation or gender identity and expression, but do not impose additional penalties: Indiana (sexual orientation), Michigan (sexual orientation) and Rhode Island (gender identity or expression).



Note: There are two types of safe schools laws: non-discrimination laws and anti-bullying laws. States with either kind of law are reflected on this map.

Welcoming Faith Communities

Many LGBT people have experienced alienation and disapproval stemming from faith communities. And yet, for many LGBT people, finding supportive and affirming faith communities is important and meaningful. A number of religious denominations explicitly support LGBT people —whether by ordaining openly LGBT clergy members, officiating weddings for same-sex couples, or by publicly supporting LGBT equality—including the Episcopal Church, the Unitarian Universalist Association, the United Church of Christ, the Metropolitan Community Church, and three of the four movements of Judaism.[31] According to a recent poll, 86% of Christians said their faith leads them to conclude that all people, including LGBT people, should be treated equally by the law.[32]

The Opportunity to Serve Our Country

Military Service

Many LGBT people serve America with honor and integrity. Since September 2011, gay, lesbian and bisexual Americans have been able to serve openly in the military following the repeal of the **"Don't Ask, Don't Tell" policy**, which prohibited service by openly gay, lesbian and bisexual service members. Despite risking their lives for their country, gay and lesbian service members still are not treated equally. For example, because of DOMA, gay and lesbian service members cannot access family housing, and cannot cover their spouse or partner under military medical care benefits. In addition to DOMA repeal, advocates are working to change **medical exclusion policies**, which still bar openly transgender Americans from serving.

Public Service

LGBT Americans, just like other Americans, want to contribute positively to society through public service and volunteerism. While the number of openly LGBT appointed and elected officials is growing, a glass ceiling remains at the highest levels of government and in many areas of the country. Stigma and discrimination make it more difficult for LGBT people to serve in local and state government positions in some parts of the U.S. In Virginia recently, an openly gay prosecutor lost a confirmation vote in the state legislature to become a district judge, even though he was highly qualified for the post and came recommended by members of both parties. An openly lesbian den mother of an Ohio Cub Scout chapter was removed from her volunteer post because of her sexual orientation. United States senators asked to comment on the possibility of an openly lesbian nominee for the U.S. Supreme Court in 2009 called the idea, "a bridge too far." Of the more than 12,000 Americans who have served in Congress, just 11 have been openly gay or lesbian.

PROGRESS TOWARD EQUALITY

While LGBT people in the U.S. still face many challenges, there has also been progress toward equality. In just the last decade, support for the freedom to marry has risen from 30% in 2003 to 53% in 2012,[33] and same-sex couples can marry in nine states and the District of Columbia. Gay men and lesbians can now serve openly in the military, and more than 50% of lesbian, gay, and bisexual Americans lives in states where they are protected from employment discrimination based on sexual orientation. Recent court and EEOC rulings bolster existing workplace protections that exist for transgender Americans in 16 states. Federal law addresses hate crimes based on sexual orientation and gender identity and expression.

There are many local, state, and national organizations working to make things better for LGBT people, and change is happening every day. This overview provides a high-level introduction to the issues facing LGBT people and the opportunities for change. For more detailed information about the challenges experienced by LGBT people, visit www.lgbtmap.org. For more about efforts to advocate for change, visit http://lgbtmap.org/resource-page. Additionally, for ways to talk to your friends and colleagues about these issues or about LGBT people more generally, see the Talking About LGBT Issues series at: http://lgbtmap.org/effective-messaging/talking-about-lgbt-issues-series.

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Photo credits: The authors are grateful to SLDN, GLAD and Alishia Ouellette, GSA Network, Kent Lacin and the Transgender Law Center for sharing photos for use in this report.

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2 Given that very few surveys collect information about sexual orientation or gender identity/expression, it is difficult to obtain an accurate estimate of the LGBT population in the U.S. Because the 9 million estimate relies on self-reported information from surveys, it is likely that this number undercounts the number of people of identify as LGBT.

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2215 Market Street
Denver, CO 80205
www.lgbtmap.org

1640 Rhode Island Ave NW
Washington, DC 20036-3278
www.hrc.org

1090 Vermont Ave NW, Suite 850
Washington, DC 20005
www.logcabin.org

PO Box 15653
Washington, DC 20003
www.stonewalldemocrats.org

1133 15th Street NW, Suite 350
Washington, DC 20005
www.victoryfund.org

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