

HUMAN
RIGHTS
CAMPAIGN®

BEYOND MARRIAGE EQUALITY

**A BLUEPRINT FOR FEDERAL
NON-DISCRIMINATION PROTECTIONS**

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LETTER FROM HUMAN RIGHTS CAMPAIGN PRESIDENT CHAD GRIFFIN

Dear friends,

Today, in 2014, no one can deny that the lesbian, gay, bisexual and transgender (LGBT) community is an essential part of the rich tapestry that is the United States of America. Ours is a diverse community, made up of families and friendships, leaders and mavericks. Since Stonewall, since Compton's Cafeteria Riots, since lifelong advocates and accidental activists from all across America began coming together in the name of equal rights and freedom for LGBT people, we have seen extraordinary advancements for our community. In four decades, we have moved past shame and fear, past scorn and derision, into a new era of freedom and openness.

That freedom has been hard-won, in battles fought in legislative chambers and corporate offices and on street corners and in front of the Supreme Court of the United States. Those who came before us struggled—at great, perhaps inconceivable, cost—for the basic rights we now are so lucky to enjoy. Their sacrifices cannot be, and will not be, forgotten.

We cannot forget them for a very simple reason. We cannot forget because our biggest struggle is still ahead of us.

Today, despite the progress of marriage equality, and sometimes because of it, discrimination against LGBT people is increasingly evident. In states like Oklahoma and Wyoming, same sex couples may marry but still risk being fired because of their sexual orientation or gender identity. In states across the South and Midwest, transgender people face discrimination in public places and have little to no legal recourse. This is wrong. And until these disparities are eliminated in a comprehensive way, LGBT people will continue to be second-class citizens.

It is for this reason that we propose a broad LGBT nondiscrimination bill, one that touches on the core civil rights categories in federal law—housing, public accommodations, employment, federal funding, jury service and the education we all need to thrive. The bill will provide the same protections all Americans

should enjoy, and make ours a more equal nation.

This report sets out a roadmap for such a bill. It serves as an expression of core principles and a reflection of current law. It tells us where we've come from—and it points us where we must go. It's a bridge, because as Justice Anthony Kennedy said in his sweeping 2003 opinion in *Lawrence v. Texas*, "as the Constitution endures, persons in every generation can invoke its principles in their own search for greater freedom."

These are no special rights. These are the same rights this country has sought to extend to all citizens since its founding. Since 1865, the federal government has taken action through legislation and through the courts dozens of times to address the needs of vulnerable groups of people. The time has come to do so again.

The reason why is simple. Because it is right.

Our fight for equality is for those who came before us and for those who shall follow us. In the words of President Kennedy, "of those to whom much is given, much is required." It is our duty, our obligation, to fight for the equal rights of every LGBT person in America.

The struggle will be long and arduous. It will not come easily or quickly or without sacrifice.

But it will be well worth it. And we've got to start now.

Yours,



Chad Griffin

EXECUTIVE SUMMARY

“I HAVE MUCH CONFIDENCE THAT WE SHALL PROCEED SUCCESSFULLY FOR AGES TO COME; AND THAT... IT WILL BE SEEN THAT THE LARGER THE EXTENT OF COUNTRY, THE MORE FIRM IT'S REPUBLICAN STRUCTURE, IF FOUNDED, NOT ON CONQUEST, BUT IN PRINCIPLES OF COMPACT & EQUALITY.”

– Thomas Jefferson, June 1817

The lesbian, gay, bisexual and transgender (LGBT) community has made tremendous progress at breakneck-speed over the last four decades. In the United States, LGBT employees of the federal government and federal contractors can work openly and honestly without fear of termination for who they are or who they love. LGBT Americans have explicit workplace and housing protections in 18 states and the District of Columbia. They have the right to marry the person they love in the District of Columbia and 33 states and counting. In numerous cities and towns across the country, laws protect LGBT people, young and old, black and white and Latino and Native American, from discrimination that would make them unsafe in our public spaces. These advances have been critical to ensuring the safety and security of LGBT people across the country.

And yet despite these significant steps forward, LGBT Americans lack basic legal protections in states across the country. The patchwork nature of current LGBT civil rights protections protects millions of people, but leaves millions more subject to uncertainty and potential discrimination that impacts their safety, their family, and their very way of life. A couple who moves from suburban Maryland to a suburban Georgia town when an employer relocates them loses not only recognition of their marriage, but also state-level protections against discrimination. A transgender man who moves from Iowa to Oklahoma to take care of a relative loses any safeguards in public accommodations, putting him at risk of being legally turned away at a restaurant or movie theater. Too often, LGBT Americans are forced to choose where to live based on the legal protections available in a particular jurisdiction.

Since 1980, the Human Rights Campaign has championed the rights of lesbian, gay, bisexual and transgender Americans and fought for equality and justice. To that end, when a new Congress is seated in January, the Human Rights Campaign will endorse and fight for a comprehensive LGBT civil rights and non-discrimination bill that will address discrimination in credit, education, employment, federal funding, housing, jury service and public accommodations—legislation that would finally provide guaranteed redress for LGBT people in all 50 states.

This legislation in each of these categories is necessary for the following reasons:

- **Credit:** There exist no explicit protections prohibiting the denial of credit based on sexual orientation or gender identity. The Equal Credit Opportunity Act currently prohibits credit discrimination on the basis of race, color, religion, national origin, sex, marital status, age or because a person receives public assistance. Credit protections would ensure that LGBT people who are credit worthy could not be denied home or school loans, car leases, or access to credit cards.
- **Education:** There are no explicit, consistent federal protections for students based on sexual orientation or gender identity. Discrimination on the basis of race, color, religion, sex, national origin, and disability in education is prohibited by several federal laws including the Civil Rights Act of 1964, the Education Amendments of 1972, and the Rehabilitation Act of 1973. Education protections would ensure that LGBT people have full access to K-12 and post-secondary educational programs that accept federal funds as well as remedies for harassment in educational settings.
- **Employment:** Nondiscrimination protections are not consistently available to all LGBT employees nationwide. Individual corporations or businesses, or even cities and municipalities, may have policies that protect LGBT workers, but a majority of Americans live in states without uniform protections based on

sexual orientation or gender identity. Discrimination on the basis of race, color, religion, sex, national origin, disability, and age in employment is prohibited by several federal laws including the Civil Rights Act of 1964, The Americans with Disabilities Act, and the Age Discrimination in Employment Act. Employment protections would ensure that qualified LGBT employees could not be discriminated against in hiring, promotions, and termination as well as providing remedies for harassment in the workplace.

- **Federal funding:** Despite nondiscrimination protections now available to the employees of federal contractors, entities receiving federal funding through other mechanisms, such as grants, can still discriminate against LGBT people based on sexual orientation or gender identity. Discrimination on the basis of race, color, national origin, and disability by entities receiving federal funds is prohibited by the Civil Rights Act of 1964 and the Americans with Disabilities Act. There are more limited protections from discrimination for entities accepting federal funds on the basis of sex and age. Protections in all programs receiving federal funding would reach LGBT people in a wide range of ways including, health care, homelessness services, child welfare, and education.
- **Housing:** Currently, federal law does not explicitly prohibit discrimination in private housing based on sexual orientation or gender identity. Discrimination on the basis of race, color, religion, sex, national origin, disability, and family status in housing is prohibited by the Fair Housing Act. Housing protections would ensure that qualified LGBT renters and prospective home buyers cannot be discriminated against in leasing or purchasing homes, securing home loans, or accessing brokerage services.
- **Jury service:** There exist no explicit protections based on sexual orientation or gender identity for jury discrimination at the federal level. Discrimination on the basis of race, color, religion, sex, national origin or economic status in jury service is prohibited by the Jury Selection and Services Act. Jury service protections would ensure that LGBT people are not at risk of being removed from federal jury pools.
- **Public accommodations:** There are no federal protections that prohibit discrimination against LGBT people in public spaces, leaving LGBT people at risk in restaurants, places of entertainment and hotels. Discrimination on the basis of race, color, religion, national origin or disability in public accommodations is prohibited by the Civil Rights Act of 1964 and the Americans with Disabilities Act. Public accommodations protections would ensure that LGBT people do not face discrimination or harassment while having dinner, visiting the theater or renting a room at motel.

Advancing comprehensive legislation to address these kinds of inequities is neither radical nor new. Legislation protecting core civil and human rights at the federal level has been proposed and enacted since the beginning of our nation's history. And the first LGBT civil rights bill was introduced in the House of Representatives in 1974. As America has grown and changed, so has the legislation that protects its citizens.

The following report details the legal and historical basis for The Human Rights Campaign's support for this manner of comprehensive federal legislation, broken down into specific subject areas.

The fight for comprehensive LGBT civil rights protections in federal law dates back four decades—and the idea has been borne forward by many hands since. It will be improved further by many minds to come. We stand arm-in-arm with all advocates fighting for full legal equality and, working together, we will succeed.

THE HISTORY OF CIVIL RIGHTS LEGISLATION IN THE UNITED STATES

“

AMERICA IS NOT THE SAME AS IT WAS 100 YEARS AGO, 50 YEARS AGO, OR EVEN A DECADE AGO. BECAUSE WE FIGHT FOR OUR IDEALS, AND WE ARE WILLING TO CRITICIZE OURSELVES WHEN WE FALL SHORT. BECAUSE WE HOLD OUR LEADERS ACCOUNTABLE, AND INSIST ON A FREE PRESS AND AN INDEPENDENT JUDICIARY. BECAUSE WE ADDRESS OUR DIFFERENCES IN THE OPEN SPACE OF DEMOCRACY - WITH RESPECT FOR THE RULE OF LAW, WITH A PLACE FOR PEOPLE OF EVERY RACE AND EVERY RELIGION, AND WITH AN UNYIELDING BELIEF IN THE ABILITY OF INDIVIDUAL MEN AND WOMEN TO CHANGE THEIR COMMUNITIES AND THEIR CIRCUMSTANCES AND THEIR COUNTRIES FOR THE BETTER.”

– President Barack Obama,
September 24, 2014

Since the end of the Civil War, the United States government has taken action at the federal level to address discrimination faced by minorities. Whether through laws passed by Congress, amendments to the Constitution, or rulings by the United States Supreme Court, the path taken by the federal government has been towards greater inclusiveness to guarantee full legal rights and privileges for each and every American.

Prior to the Civil War, federal legislation was limited in its scope and power. Political leaders viewed the role of government as limited and prioritized the rights of individual states over the federal government. Before transatlantic transportation, before the earliest inklings of interstate commerce on a massive scale, the dominant view of the duty of the federal government was to protect the borders and leave the states to govern themselves as they saw fit.

But the Civil War, the preservation of the Union and the collapse of the Confederacy gave the federal government fresh energy and the impetus to pass legislation that would redefine the nature of American citizenship.

On April 9, 1866, the Civil Rights Act of 1866 became law, for the first time defining United States citizenship and declaring that all citizens are equal under the law. The bill declared "That all persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are hereby declared to be citizens of the United States; and such citizens, of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right, in every State and Territory in the United States, to make and

enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property."¹

That momentous legislation provided the framework for future civil rights legislation, including the 14th Amendment, one of the most important ever included in the United States Constitution.

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws".

Passed in 1866 over the objections of President Andrew Johnson, the 14th Amendment was the first constitutional amendment to make clear that all citizens of the United States could not be deprived of life, liberty, property or the equal protection of the law. The amendment is one of three passed after the Civil War to grant former slaves basic civil rights, including personhood, citizenship, and the ability to

¹ Civil Rights Act of 1866, 14 Stat. 27 (1866). <http://www.arch.ksu.edu/jwkplan/law/civil%20rights%20acts%20of%201866,%201870,%201871,%201875.htm>

vote. The amendment protects national citizenship from interference from any individual state while emphasizing that the government cannot limit the rights granted by citizenship.

However, such advances in civil rights legislation were stymied by a crushing decision in the nation's highest court. In the 1896 Supreme Court case *Plessy v. Ferguson*, the U.S. Supreme Court upheld Louisiana's law permitting racial segregation on trains in a 7-1 decision.

Plessy would limit the effectiveness of legislation aimed at the prohibition of discrimination based on race for decades.

The rights of women found foothold in American society during this period. In 1920, the 19th amendment to the Constitution guaranteed to American women the right to vote. Passed by the House of Representatives in May of 1919 and by the Senate in June of that same year, the amendment was officially ratified after Tennessee became the 36th state to approve it. However, the right to vote was still effectively limited to white women in much of the country. Racial discrimination continued to be the norm, as Southern states used tactics like poll taxes and reading tests to infringe upon the rights of African-American voters.

But beginning in 1935, the Supreme Court took on a series of cases addressing discrimination based on race. *Norris v. Alabama*² and *Patterson v. Alabama*³ declared that discrimination in jury selection was a denial of equal protection; *Missouri ex rel Gaines v. Canada*⁴, *Sweatt v. Painter*⁵ and *McLaurin v. Oklahoma Board of Regents of Higher Education*⁶ addressed discrimination and segregation in educational settings, and the landmark case *Brown v. Board of Education of Topeka*⁷ declared segregation in public schools unconstitutional. In that May 14, 1954 decision, Chief Justice Earl Warren said, "In the field of public education, the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal."⁸

Congress also began to take action on civil rights legislation during this period. Breaking the logjam on civil rights, on September 9, 1957, Congress passed the Civil Rights Act of 1957, which established the Civil Rights Division of the Justice Department. The law also allowed federal prosecutors to prosecute individuals who interfered with "the right of such other person to vote or to vote as he may choose, or

of causing such other person to vote for, or not to vote for, any candidate."^{9, 10}

In 1963, Congress took yet another step to redress the needs of a discriminated class by passing the Equal Pay Act of 1963. The legislation prohibits "discrimination on the basis of sex with regard to the compensation paid to men and women for substantially equal work performed in the same establishment."¹¹ The bill declared that gender pay disparity "depresses wages and living standards for employees necessary for their health and efficiency, prevents the maximum utilization of available labor resources, tends to cause labor disputes...burdens commerce and the free flow of goods in commerce; and constitutes an unfair method of competition."¹²

The Civil Rights Amendment of 1964

"THIS IS A PROUD TRIUMPH. YET THOSE WHO FOUNDED OUR COUNTRY KNEW THAT FREEDOM WOULD BE SECURE ONLY IF EACH GENERATION FOUGHT TO RENEW AND ENLARGE ITS MEANING... AMERICANS OF EVERY RACE AND COLOR HAVE DIED IN BATTLE TO PROTECT OUR FREEDOM. AMERICANS OF EVERY RACE AND COLOR HAVE WORKED TO BUILD A NATION OF WIDENING OPPORTUNITIES. NOW OUR GENERATION OF AMERICANS HAS BEEN CALLED ON TO CONTINUE THE UNENDING SEARCH FOR JUSTICE WITHIN OUR OWN BORDERS."

—PRESIDENT LYNDON B. JOHNSON

On July 2, 1964, President Lyndon B. Johnson signed the Civil Rights Act (CRA) of 1964 into law, perhaps the best-known piece of civil rights legislation ever passed.¹³ Overall, the bill enforced the constitutional right of all citizens to vote and authorized the Attorney General and U.S. District Courts to provide relief against discrimination in public accommodations, public

² *Norris v. Alabama*, 294 U.S. 587 (1935)

³ *Patterson v. Alabama*, 294 U.S. 600 (1935).

⁴ *Missouri ex rel Gaines v. Canada*, 305 U.S. 337 (1938)

⁵ *Sweatt v. Painter*, 339 U.S. 629 (1950)

⁶ *McLaurin v. Oklahoma Board of Regents of Higher Education*, 339 U.S. 637 (1950)

⁷ *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954)

⁸ *Brown v. Board of Education of Topeka*, Opinion; May 17, 1954; Records of the Supreme Court of the United States; Record Group 267; National Archives.

⁹ Emanuel Celler and William McCulloch, *The Civil Rights Act of 1957*, PL 85-315, 1957, http://www.eisenhower.archives.gov/research/online_documents/civil_rights_act/Civil_Rights_Bill.pdf.

¹⁰ Clarence Mitchell, "The Civil Rights Scene 1954-1969," *The Crisis*, November 1980, 351.

¹¹ Jody Feder, *Federal Civil Rights Statutes: A Primer* (Washington, D.C.: Congressional Research Service, November 21, 2012), <http://www.senate.gov/CRSReports/crs-publish>.

¹² "Equal Pay Act of 1963," Equal Opportunity Commission, n.d., <http://www.eeoc.gov/eeoc/history/35th/thelaw/epa.html>.

¹³ Emanuel Celler, *Civil Rights Act of 1964*, PL 88-352, 1964, <http://www.ourdocuments.gov/doc.php?doc=97&page=transcript>.

facilities, public education and federally assisted programs. The bill also established a Commission on Equal Employment Opportunity (EEOC) through which individuals could file a complaint regarding discrimination in employment. The Equal Employment Opportunity Act of 1972 gave the EEOC the ability to sue in federal court if it found employment discrimination.¹⁴

Title I of the Civil Rights Act prohibited the unequal application of voter registration requirements to all eligible voters, stating that “No person acting under color of law shall in determining whether any individual is qualified under State law or laws to vote in any Federal election, apply any standard, practice, or procedure different from the standards, practices, or procedures applied under such law or laws to other individuals within the same county, parish, or similar political subdivision who have been found by State officials to be qualified to vote.”¹⁵ Title I also prohibited the use of literacy tests “as a qualification for voting in any Federal election unless ... such test is administered to each individual and is conducted wholly in writing,” effectively ending the use of literacy tests in Southern states.

Title II prohibits “discrimination or segregation on the ground of race, color, religion or national origin” in public accommodations, defined as lodgings, restaurants, and places of entertainment.¹⁶ However, provisions of Title II only apply to public establishments and do not apply to “a private club or other establishment not in fact open to the public.”¹⁷ Title III prohibits the segregation of public facilities. If an individual sends a written complaint to the Attorney General arguing that he or she is “being deprived of or threatened with the loss of his right to the equal protection of the laws, on account of his race, color, religion or national origin, by being denied equal utilization of any public facility,” the Attorney General can authorize a civil suit for purposes of desegregation against the public facility.¹⁸ Title IV of the Civil Rights Act authorizes the Commissioner of Education to conduct a survey to determine the lack of availability of equal educational opportunities for students because of their race, color, religion or national origin.¹⁹ The bill also authorized short-term grants for institutions of higher education to give training sessions to elementary and secondary school personnel to deal with the problems of desegregation.

In addition, the Civil Rights Act established rules and procedures for a civil rights commission, barred discrimination on the basis of race, color, religion

and national origin in federally funded programs or activities and prohibited employers under Title VII from refusing “to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual’s race, color, religion, sex, or national origin.”²⁰

Following the passage of the Civil Rights Act and with the intention of fully addressing discriminating in voting, President Lyndon B. Johnson signed the 1965 Voting Rights Act, declaring that “no voting qualifications or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote on account of race or color.”²¹

In 1967, President Johnson called for a bill that would prohibit “arbitrary and unjust discrimination in employment for workers between 45 and 65 years old.” Congress passed the Age Discrimination in Employment Act (ADEA) that same year to forbid employment discrimination on the base of age. The bill protects individuals who are age 40 or older and only applies to employers with 20 or more employees.²² The legislation makes it illegal to retaliate against an individual for opposing discriminatory employment practices and advertise a preference for applicants of a certain age.²³ The bill also authorized the Secretary of Labor to craft an education program to reduce employment barriers for older workers. In 1975, the Age Discrimination Act barred discrimination based on age in federally funded programs or activities.

In 1968, President Johnson signed the Jury Selection and Service Act of 1968 to prohibit the exclusion of an individual from a grand or petit jury in the U.S. District Courts on the basis of race, color, religion, sex, national origin or economic status.²⁴

To address the issue of housing discrimination and to pay tribute to the late Dr. Martin Luther King, Jr., who championed such legislation, Congress passed the Fair Housing Act (FHA) in 1968 to prohibit discrimination on the basis of race, color, religion and national origin in the sale or rental of housing.²⁵ The FHA applied to both public and private housing, including single-family homes, apartments, condominiums, mobile homes, and others. However, the law contains two exemptions: one excusing senior housing from the Familial Status provision of the law; the other, known as the “Mrs. Murphy”

¹⁴ “Equal Employment Opportunity Act of 1972,” US Legal, n.d., <http://definitions.uslegal.com/e/equal-employment-opportunity-act/>.

¹⁵ Celler, Civil Rights Act of 1964.

¹⁶ Celler, Civil Rights Act of 1964.

¹⁷ Celler, Civil Rights Act of 1964.

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Ibid.

²¹ Mike Mansfield and Everett Dirksen, Voting Rights Act of 1965, PL 89-110, 1965, http://library.clerk.house.gov/reference-files/PPL_VotingRightsAct_1965.pdf.

²² Feder, Federal.

²³ Age Discrimination in Employment Act of 1967, PL 90-202, n.d., <http://www.gpo.gov/fdsys/pkg/STATUTE-81/pdf/STATUTE-81-Pg602.pdf>.

²⁴ The Jury Selection and Service Act of 1968, 1968, <http://www.gpo.gov/fdsys/pkg/STATUTE-82/pdf/STATUTE-82-Pg53-2.pdf>.

exception, provides that if the dwelling has four or fewer units for rent and the owner of the building lives in one of the units, the dwelling is exempt from the FHA.²⁶ In 1974, Congress amended the FHA to add sex to the list of groups prohibited from discrimination.

Over the next decade, Congress once again broadened the scope of non-discrimination legislation. The Voting Rights Act Amendments of 1970 lowered the voting age to 18 years of age, the Rehabilitation Act prohibited discrimination on the basis of disability in federally funded or conducted programs, the Equal Credit Opportunity Act prohibited discrimination based on race, color, religion, national origin, sex, age, marital status or income source for people applying for credit and the Pregnancy Discrimination Act prohibited employment discrimination based on pregnancy, childbirth, and related medical conditions.

Among the most critical laws passed addressing sex discrimination was Title IX of the Education Amendments of 1972, which prohibited discrimination based on sex in any educational program or activity – including athletics – that received federal money. Title IX applies to all educational programs accepting federal funds—public and private, parochial and secular—and every aspect of a school's educational structure.

However, despite the fact that the lesbian, gay, bisexual and transgender (LGBT) movement was already in full swing (the Stonewall Rebellion, perhaps the best-known early moment in the LGBT movement, took place in 1969) civil rights legislation of this era largely ignored the LGBT community. In fact, the LGBT community was often actively excluded. For example, the 1990 Americans with Disabilities Act explicitly excludes LGBT Americans.²⁷ As a result, to this day LGBT people are still subject to patchwork non-discrimination protections on the federal level, and lack any protections at all in many states.

“ON THE STATUE OF LIBERTY IT SAYS: ‘GIVE ME YOUR TIRED, YOUR POOR, YOUR HUDDLED MASSES YEARNING TO BE FREE...’ IN THE DECLARATION OF INDEPENDENCE IT IS WRITTEN: ‘ALL MEN ARE CREATED EQUAL AND THEY ARE ENDOWED WITH

CERTAIN INALIENABLE RIGHTS...’ AND IN OUR NATIONAL ANTHEM IT SAYS: ‘OH, SAY DOES THAT STAR-SPANGLED BANNER YET WAVE O’ER THE LAND OF THE FREE.’ FOR MR. BRIGGS AND MRS. BRYANT AND MR. STARR AND ALL THE BIGOTS OUT THERE: THAT’S WHAT AMERICA IS!”

– HARVEY MILK, JUNE 25, 1978

In 1969, the U.S. Court of Appeals for the District of Columbia, in *Norton v. Macy*²⁸ held that lesbian and gay federal service workers could not be fired solely based on their sexual orientation. The Associated Press headline for the story reporting on the verdict was “Can’t Fire Deviates, U.S. Told.” When Representative Bill Dannemeyer (R-CA) was confronted with the beginnings of the AIDS crisis in 1981, his response was to hold a press conference supporting efforts to round up and quarantine gay men on an island in the South Pacific, later saying during hearings in the House of Representatives, “When are we going to get names (of gay men) and force these people to register so that we have a list?”²⁹ Since before the modern LGBT civil rights movement, LGBT people have been confronted by hate and discrimination at the highest echelons of government, often espoused by the very representatives elected to defend their rights. Only in recent years has the tide begun to turn in favor of equality.

Following the declassification of homosexuality as a mental illness by the American Psychiatric Association in 1973, Representatives Bella Abzug and Edward Koch, both Democrats of New York, introduced the Equality Act of 1974³⁰, the first national legislation intended to prohibit discrimination against lesbians and gay men. However, this bill and subsequent legislation, such as the Civil Rights Amendment Act, failed to become law in an era where social conservatives rallied to candidates who vigorously opposed LGBT rights.

In the early 1990s, the federal government debated – and in several cases, passed into law – pieces of legislation that curtailed the rights of LGBT people. In 1993, in response to President Bill Clinton’s attempt to allow open service for lesbian, gay and bisexual service members, Congress passed a statute codifying a compromise policy. Department of Defense Directive 1304.26³¹ modified the existing ban on homosexuals in the

²⁵ Feder, Federal.

²⁶ “Fair Housing Act” Fair Housing Council of Suburban Philadelphia. <http://www.fhcsp.com/Laws/>

²⁷ Americans with Disabilities Act of 1990 as Amended. Section 12211. <http://www.ada.gov/pubs/adastatute08.htm#12211>

²⁸ *Norton v. Macy*, 417 F.2d 1161 (1969).

²⁹ Waxman, Henry. “The Waxman Report: How Congress Really Works.” Grand Central Publishing, 2009. <http://bit.ly/YMzFc0>

³⁰ H.R. 14752: Equality Act. <https://www.govtrack.us/congress/bills/93/hr14752>

³¹ National Defense Authorization Act for Fiscal Year 1994, Pub. L. No. 103-160, § 571, 107 Stat. 1547, 1670 (1993) (codified at 10 U.S.C. § 654 (2000)).

military by permitting closeted LGB people to serve, and also prohibited military officials from asking servicemembers about their orientation without “credible evidence.”³² Gay men, bisexuals and lesbians could serve in the military, but could not disclose their sexual orientation, speak about any homosexual relationships, or attempt to marry someone of the same sex.³³ In 1996, Congress passed by overwhelming majorities the Defense of Marriage Act (DOMA)³⁴, which permitted states to refuse to acknowledge same-sex marriages performed in other states and limited recognition of marriage for federal purposes (insurance benefits, social security benefits, immigration) to opposite-sex couples. President Clinton, despite objecting privately and saying that such legislation was “divisive”³⁵, signed the bill into law.

Under President George W. Bush, two more pieces of legislation designed to limit the rights of LGBT people were introduced in Congress but ultimately failed to become law. The Marriage Protection Act of 2004³⁶ would have prevented any federal court from hearing or deciding on cases that related to the interpretation of the Defense of Marriage Act, effectively shutting down legal opposition to laws that limited same-sex marriage. The Federal Marriage Amendment (FMA), introduced for the first time in 2002 but re-introduced in each Congress since, would amend the Constitution of the United States to state that marriage was solely the union of a man and a woman and no judicial body could provide the rights associated with marriage to same-sex couples or unmarried heterosexual couples. The measure failed to secure the necessary two-thirds votes in both the House and Senate in 2004 and 2006.

Laws made or suggested at the federal level are not alone in stigmatizing and isolating LGBT people. In many schools across the country, teachers are subject to “no promo homo” laws that require them to either denigrate homosexuality or ignore it entirely. In Alabama, Section 16-40A-2 requires teachers explain “in a factual manner and from a public health perspective, that homosexuality is not a lifestyle acceptable to the general public and that homosexual conduct is a criminal offense under the laws of the state,”³⁷ as a part of sex education classes. Alabama joined eight other states, including Texas, Utah and South Carolina, in enacting such laws.

Fortunately, individuals at all levels of government have made efforts over the last decade to support

the needs of LGBT people. The Defense of Marriage Act was largely scuttled by the *Supreme Court in United States v. Windsor*, finding that DOMA violated the Due Process Clause of the Fifth Amendment³⁸, while other laws, including “Don’t Ask, Don’t Tell” have been repealed by legislation. In December of 2010, President Barack Obama signed the Don’t Ask, Don’t Tell Repeal Act of 2010,³⁹ ending the discriminatory policy following the certification of the President, the Secretary of Defense and the Chairman of the Joint Chiefs of Staff that the policy would not harm military readiness. “Don’t Ask, Don’t Tell” officially ended on September 20, 2011⁴⁰. Other pieces of legislation have been modified to include LGBT people, including the Violence Against Women Act (VAWA) reauthorization in 2013⁴¹—the first time Congress passed a nondiscrimination law that explicitly protects LGBT people.

Beginning in 1992, legislators attempted to pass an act of Congress to expand hate-crime statutes to include crimes committed against LGBT people because of their sexual orientation or gender identity. Eventually entitled the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act, the act expanded current federal hate-crime laws to include gender, sexual orientation, gender identity and disability and give federal authorities purview over hate crimes investigations, even if local or state police choose not to pursue. Included as part of the National Defense Authorization Act for Fiscal Year 2010, it became law on October 28, 2009.

In short, piecemeal protections for the LGBT community have been achieved. But a comprehensive guarantee of legal equality remains elusive. That is the challenge ahead of us. The following chapters present—category by category—where these protections are absent, and how they may best be obtained to guarantee truly equal protection for all.

32 Interim Report of the ROTC Task Force: Section 2. February 1, 1996. <http://web.mit.edu/committees/rotc/report-2.html>

33 Department of Defense Directive E1.2.8. <http://biotech.law.lsu.edu/blaw/dodd/corres/html2/d130426x.htm#cp250>

34 Defense of Marriage Act, Pub.L. 104–199, 110 Stat. 2419 (1996) (codified at 1 U.S.C. § 7 and 28 U.S.C. § 1738C)

35 Letter from Bill Clinton. August 7, 1996. <http://www.qrd.org/qrd/usa/federal/doma/1996/clinton.letter-08.07.96>

36 H.R. 3113 – Marriage Protection Act of 2004. <https://www.congress.gov/bill/108th-congress/house-bill/3313>

37 ALA CODE § 16-40A-2 : Alabama Code - Section 16-40A-2: MINIMUM CONTENTS TO BE INCLUDED IN SEX EDUCATION PROGRAM OR CURRICULUM. <http://codes.lp.findlaw.com/al-code/16/40A/16-40A-2#st-hash.EQG8S5HZ.dpuf>

38 *United States v. Windsor*, 570 U.S. (2013). June 26, 2013. <https://supreme.justia.com/cases/federal/us/570/12-307/>

39 H.R.6520 -- Don't Ask, Don't Tell Repeal Act of 2010 (Introduced in House - IH). <http://thomas.loc.gov/cgi-bin/query/z?c111:H.R.6520>

40 *United States Army*, “Don’t Ask, Don’t Tell.” <http://www.army.mil/dadt/>

41 “Frequently Asked Questions: Nondiscrimination Grant Condition in the Violence Against Women Reauthorization Act of 2013.” United States Department of Justice. April 9, 2014.

CREDIT AND THE LGBT COMMUNITY: WHERE WE ARE

“
THERE CAN BE NO PLAUSIBLE JUSTIFICATION FOR BASING CREDITWORTHINESS DETERMINATIONS UPON A PERSON'S GENDERED APPEARANCE. INDEED, THIS IS THE PRECISE EVIL THAT THE ECOA (EQUAL CREDIT OPPORTUNITY ACT) WAS DESIGNED TO ADDRESS. THERE IS NO RELATIONSHIP BETWEEN CREDITWORTHINESS AND APPEARANCE.”

– Brief for the Plaintiff-Appellant Lucas Rosa, *Lucas Rosa v. Park West Bank and Trust Company*, June 2000

Denial of credit limits LGBT people's financial possibilities and makes them less able to obtain credit. But the laws protecting LGBT people's right to credit are very limited, at best.

CURRENT STATUS OF FEDERAL LAW

Currently, federal law prohibits credit discrimination – denying access to mainstream credit, such as credit cards, auto loans or home mortgages – on the basis of race, color, religion, national origin, sex, marital status, age, or an individuals' acceptance of public assistance. However, there are currently no explicit federal protections based on sexual orientation or gender identity for credit discrimination.

The Equal Credit Opportunity Act (ECOA), passed in 1974, prohibits credit discrimination on the basis of race, color, religion, national origin, sex, marital status, age or because a person receives public assistance.⁴² ECOA does not explicitly bar discrimination based on sexual orientation or gender identity.

The Department of Housing and Urban Discrimination adopted new regulations in 2012 that ensure "equal access to housing in HUD programs regardless of sexual orientation or gender identity."⁴³ These regulations bar providers and lenders from using gender identity or sexual orientation as a basis for denying applications. These regulations apply to any lenders that are insured by the Federal Housing Administration, and to housing providers that have loans insured by the FHA.⁴⁴

UPDATING THE FEDERAL CODE

Currently, there are no federal laws explicitly prohibiting denial of credit based on sexual orientation or gender identity. However, a federal court found in June 2000 that a transgender

person dressed in feminine attire in Massachusetts may have experienced sex discrimination when a bank employee told her to return in male clothing after she requested a loan application.⁴⁵ The Supreme Court of the United States has yet to address the issue.

Under HUD's equal access regulation, the Fair Housing Act protects against discrimination based on sexual orientation and gender identity only by lenders that receive funding from HUD; and even then, those lenders who violate the equal access rule must only pay a fine.⁴⁶

The Human Rights Campaign supports efforts to prohibit credit discrimination based on sexual orientation or gender identity. The Equal Credit Opportunity Act, which currently prohibits credit discrimination on the basis of race, color, religion, national origin, sex, marital status, age or because a person receives public assistance, should be amended to include sexual orientation and gender identity. Although some courts have ruled in the past that ECOA does protect LGBT people, it should be made explicit under federal law.

OVERVIEW OF INDIVIDUAL STATE STATUTES

12 states and the District of Columbia currently prohibit credit discrimination for LGBT individuals in all transactions. New York and Maine prohibit credit discrimination on the basis of sexual orientation only. The remaining 38 states do not explicitly prohibit credit discrimination against LGBT individuals.

⁴² "Consumer Information: Your Equal Credit Opportunity Rights," Government, Federal Trade Commission, accessed August 18, 2014, <http://www.consumer.ftc.gov/articles/0347-your-equal-credit-opportunity-rights>.

⁴³ Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity, 77:23 FR 5662, 2012, <https://www.federalregister.gov/articles/2012/02/03/2012-2343/equal-access-to-housing-in-hud-programs-regardless-of-sexual-orientation-or-gender-identity>.

⁴⁴ "Ending Housing Discrimination Against Lesbian, Gay, Bisexual and Transgender Individuals and Their Families," US Department of Housing and Urban Development, accessed August 18, 2014, http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/LGBT_Housing_Discrimination.

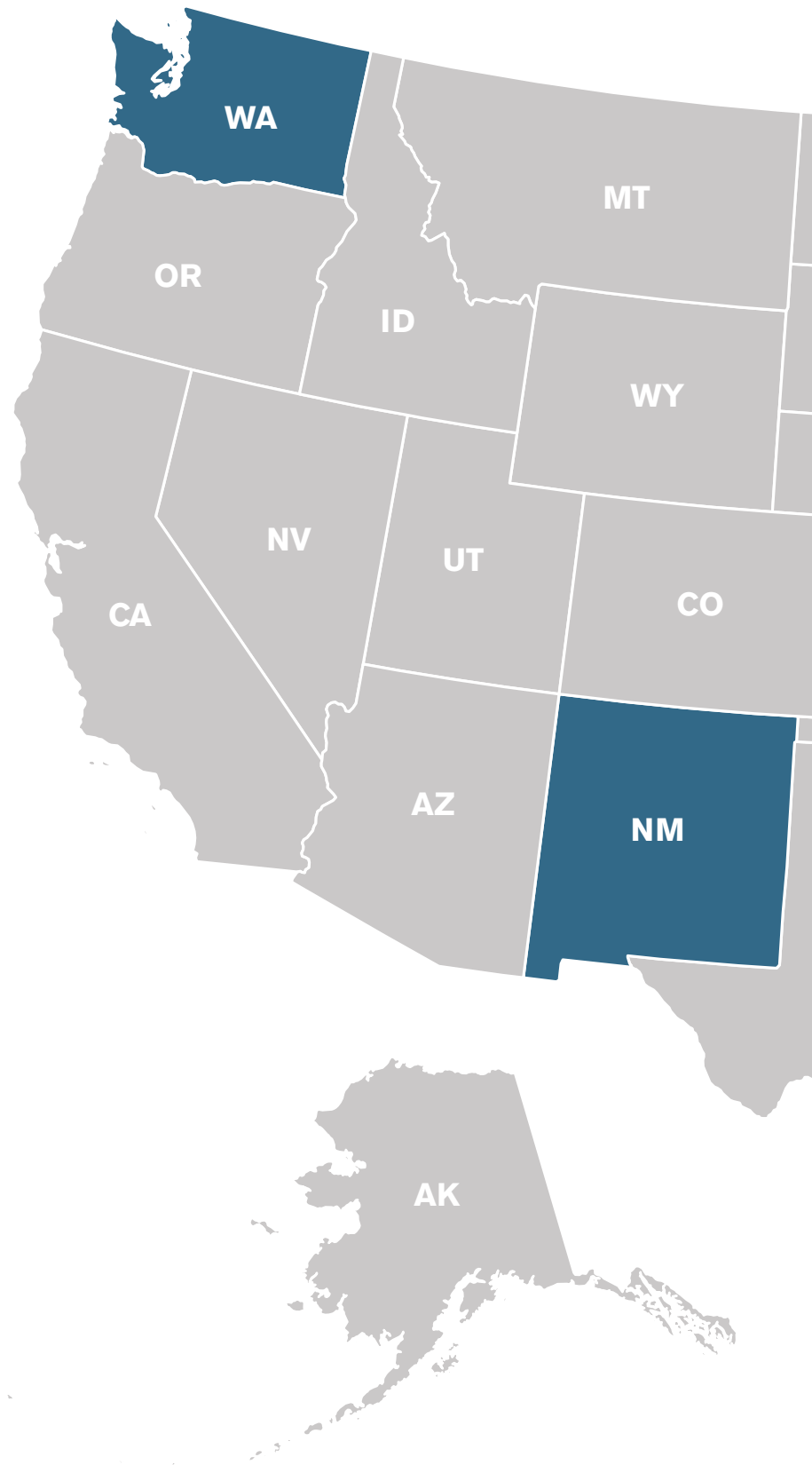
⁴⁵ "Rosa v. Park West Bank," Gay & Lesbian Advocates & Defenders, December 31, 2000, <http://www.glad.org/work/cases/rosa-v-park-west-bank>.

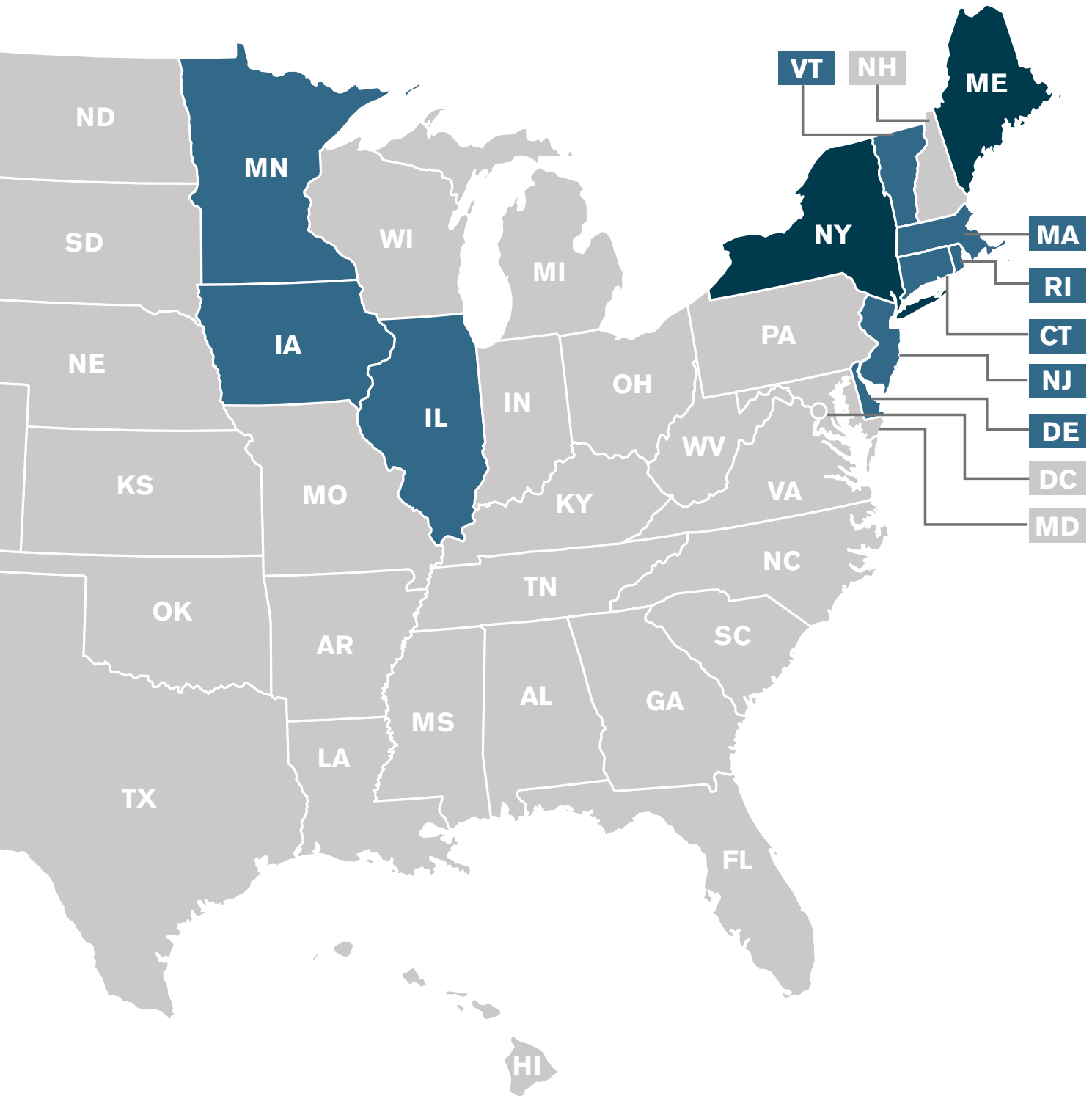
⁴⁶ "HUD ANNOUNCES AGREEMENT WITH BANK OF AMERICA TO SETTLE LGBT DISCRIMINATION CLAIM" Department of Housing and Urban Development, January 2, 2013, http://portal.hud.gov/hudportal/HUD?src=/press/press_releases_media_advisories/2013/HUDNo.13-001

MAP OF CREDIT NON-DISCRIMINATION LAWS BY STATE

**Sexual orientation
and gender identity**

Sexual orientation only





LIST OF CREDIT NON-DISCRIMINATION LAWS BY STATE

WHO IS COVERED?

Connecticut	Sexual orientation and gender identity ⁴⁷
DC	Sexual orientation and gender identity ⁴⁸
Illinois	Sexual orientation and gender identity ⁴⁹
Iowa	Sexual orientation and gender identity ⁵⁰
Maine	Sexual orientation only ⁵¹
Massachusetts	Sexual orientation and gender identity ⁵²
Minnesota	Sexual orientation and gender identity ⁵³
New Jersey	Sexual orientation and gender identity ⁵⁴
New Mexico	Sexual orientation and gender identity ⁵⁵
New York	Sexual orientation only ⁵⁶
Rhode Island	Sexual orientation and gender identity ⁵⁷
Vermont	Sexual orientation and gender identity ⁵⁸
Washington	Sexual orientation and gender identity ⁵⁹

⁴⁷ Chapter 814c, Sec. 46a-81f. Sexual orientation discrimination: Credit practices.

⁴⁸ § 2-1401.02. Definitions., DC CODE § 2-1401.02

⁴⁹ 140/1a. Denial of credit card on account of unlawful..., IL ST CH 815 § 140/1a

⁵⁰ Iowa Code § 216.10

⁵¹ 5 M.R.S. § 4596

⁵² ALM GL ch. 151B, § 4

⁵³ Minn. Stat. § 593.32

⁵⁴ N.J. Stat. § 10:5-12

⁵⁵ N.M. Stat. Ann. § 28-1-7

⁵⁶ § 296. Unlawful discriminatory practices, NY EXEC § 296

⁵⁷ R.I. Gen. Laws § 34-37-4.3

⁵⁸ 8 V.S.A. § 10403

⁵⁹ 49.60.176. Unfair practices with respect to credit transactions, WA ST 49.60.176

CURRENT & PREVIOUS LEGISLATION

Federal Legislation

The Freedom from Discrimination in Credit Act was introduced in 2013 by Representative Steve Israel (D-NY) in the House of Representatives and Senator Patty Murray (D-WA) in the Senate. The bill would amend the Equal Credit Opportunity Act to prohibit discrimination in the provision of credit based on sexual orientation or gender identity. Rep. Israel previously introduced the bill in each Congressional session from 2009-2013. In the 103rd Congress, Representative Henry Waxman (D-CA) also included a prohibition on credit discrimination based on sexual orientation in legislation he introduced, the Civil Rights Act of 1993.⁶⁰

Bill Name	Bill Number(s)	Gender Identity Included?	Congress	Status
Freedom from Discrimination in Credit Act	HR 2364; S. 1159	Yes	113th	House: Introduced ⁶¹ Senate: Introduced ⁶²

⁶⁰ Henry Waxman, Civil Rights Act of 1993, 1993, <https://www.congress.gov/bill/103rd-congress/house-bill/431>.

⁶¹ Steve Israel, Freedom from Discrimination in Credit Act of 2013, 2013, <https://beta.congress.gov/bill/113th-congress/house-bill/2364>.

⁶² Patty Murray, Freedom from Discrimination in Credit Act of 2013, 2013, <https://beta.congress.gov/bill/113th-congress/senate-bill/1159>.

EDUCATION AND THE LGBT COMMUNITY: WHERE WE ARE

“

TODAY, EDUCATION IS PERHAPS THE MOST IMPORTANT FUNCTION OF STATE AND LOCAL GOVERNMENTS. COMPULSORY SCHOOL ATTENDANCE LAWS AND THE GREAT EXPENDITURES FOR EDUCATION BOTH DEMONSTRATE OUR RECOGNITION OF THE IMPORTANCE OF EDUCATION TO OUR DEMOCRATIC SOCIETY. IT IS REQUIRED IN THE PERFORMANCE OF OUR MOST BASIC PUBLIC RESPONSIBILITIES, EVEN SERVICE IN THE ARMED FORCES. IT IS THE VERY FOUNDATION OF GOOD CITIZENSHIP. TODAY IT IS A PRINCIPAL INSTRUMENT IN AWAKENING THE CHILD TO CULTURAL VALUES, IN PREPARING HIM FOR LATER PROFESSIONAL TRAINING, AND IN HELPING HIM TO ADJUST NORMALLY TO HIS ENVIRONMENT. IN THESE DAYS, IT IS DOUBTFUL THAT ANY CHILD MAY REASONABLY BE EXPECTED TO SUCCEED IN LIFE IF HE IS DENIED THE OPPORTUNITY OF AN EDUCATION. SUCH AN OPPORTUNITY, WHERE THE STATE HAS UNDERTAKEN TO PROVIDE IT, IS A RIGHT WHICH MUST BE MADE AVAILABLE TO ALL ON EQUAL TERMS.”

– Chief Justice Earl Warren, Opinion of the Court in *Brown v. Board of Education of Topeka*, May 17, 1954

LGBT students face discrimination because of their sexual orientation or gender identity in thousands of schools across the country, putting them at risk for losing the educational opportunities that make it possible to succeed. Explicit nondiscrimination regulations are essential for America's youth.

CURRENT STATUS OF FEDERAL LAW

Currently, federal law prohibits discrimination in education on the basis of race, color, religion, national origin, sex, and disability. However, there are no explicit federal protections for students based on sexual orientation or gender identity.

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, religion, and national origin in federally funded programs or activities, including education.⁶³ It covers public and private elementary, secondary, and higher education institutions, along with vocational education programs, that accept federal funds.⁶⁴ Title IX of the Education Amendments of 1972 prohibits sex discrimination in any education program or activity receiving federal funding.⁶⁵ The Rehabilitation Act of 1973 prohibits discrimination on the basis of disability in federally funded programs and federally conducted programs, including education.⁶⁶

UPDATING THE FEDERAL CODE

Title IX of the Education Amendments of 1972 does not explicitly prohibit discrimination based on sexual orientation or gender identity. However,

courts have ruled that students who faced assault or harassment because of their sexual orientation or gender identity can make a claim under Title IX.⁶⁷ In 2000, in *Ray v. Antioch Unified School District*, the United States District Court for the Northern District of California found "no material difference between the instance in which a female student is subject to unwelcome sexual comments and advances due to her harasser's perception that she is a sexual object, and the instance in which a male student is insulted and abused due to his harasser's perception that he is homosexual, and therefore a subject of prey." This decision was consistent with the determination of the Supreme Court of the United States that same-sex sexual harassment in the employment context was a violation of Title VII of the Civil Rights Act of 1964.⁶⁸ In other instances, courts have ruled that discrimination on the basis of sexual orientation violates the equal protection clause of the 14th amendment.⁶⁹

The U.S. Department of Education issued guidance in October 2010 clarifying that Title IX of the Education Amendments of 1972 protects all students, including LGBT students, from gender-

⁶³ Emanuel Celler, Civil Rights Act of 1964, PL 88-352, 1964, <http://www.ourdocuments.gov/doc.php?doc=97&page=transcript>.

⁶⁴ Ibid.

⁶⁵ "Title IX, Education Amendments of 1972," US Department of Labor, 1972, <http://www.dol.gov/oasam/regs/statutes/titleix.htm>.

⁶⁶ "Section 504 of the Rehabilitation Act of 1973," U.S. Department of Health and Human Services, <http://www.hhs.gov/ocr/civilrights/resources/factsheets/504.pdf>

⁶⁷ Austin, Don; Gittins, Naomi. "Prohibiting Sexual Orientation Discrimination and Harassment Against Students." Healthy Lesbian, Gay and Bisexual Students Project. American Psychological Association. <http://www.apa.org/pi/lgbt/programs/safe-supportive/prohibiting-discrimination.pdf>

⁶⁸ *Oncale v. Sundowner Offshore Services, Inc.* 523 U.S. 75 (1998).

⁶⁹ *Romer v. Evans*, 517 U.S. 620 (1996)

⁷⁰ United States Department of Education Office for Civil Rights, "Dear Colleague Letter: Harassment and Bullying," Oct. 26, 2010. <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf>

⁷¹ United States Department of Education Office for Civil Rights, "Questions and Answers on Title IX and Sexual Violence," April 29, 2014. <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>

⁷² United States Department of Justice, Civil Rights Division, "Educational Opportunities Cases." <http://www.justice.gov/crt/about/edu/documents/casesummary.php>

⁷³ Kosciw, Joseph G., et al. "GLSEN: The 2013 National Safe School Climate Survey." <http://www.glsen.org/sites/default/files/2013%20National%20School%20Climate%20Survey%20Full%20Report.pdf>

⁷⁴ Austin, Don; Gittins, Naomi. "Prohibiting Sexual Orientation Discrimination and Harassment Against Students." Healthy Lesbian, Gay and Bisexual Students Project. American Psychological Association. <http://www.apa.org/pi/lgbt/programs/safe-supportive/prohibiting-discrimination.pdf>

⁷⁵ Ibid.

based harassment, which can include verbal, nonverbal, physical aggression, intimidation, or hostility based on a student's nonconformity with gender stereotypes, gender expression, and gender identity.⁷⁰ In April 2014, the Department clarified their original guidance, noting that "Title IX's sex discrimination prohibition extends to claims of discrimination based on gender identity or failure to conform to stereotypical notions of masculinity or femininity."⁷¹ Over the past several years, the U.S. Department of Justice and the U.S. Department of Education have entered settlements or consent decrees with several school districts regarding discrimination against or harassment of LGBT students.⁷² To date, the Supreme Court of the United States has yet to issue a decision regarding sexual orientation or gender identity discrimination under Title IX.

Currently, 35 states offer little or no explicit protections for LGBT students. Although a few states, including New Mexico and Hawaii, address discrimination based on sexual orientation or gender identity in public school district rules, regulations or

ethical codes, these protections are patchwork at best, leaving thousands of LGBT students at risk. According to a study conducted in 2013 by the Gay, Lesbian & Straight Education Network (GLSEN), over 30% of LGBT students surveyed missed at least one entire day of school in the past month because they felt unsafe or uncomfortable, and over a tenth missed four or more days in the past month. More than half (55.5%) of LGBT students surveyed reported personally experiencing any LGBT-related discriminatory policies or practices at school, and almost two-thirds (65.2%) said other students had experienced these policies and practices at school.⁷³

Furthermore, students who reported experiencing victimization or discrimination because of their sexual orientation or gender expression were more than twice as likely to report that they did not plan to pursue post-secondary education.⁷⁴ Though increased awareness and support for LGBT students has led to a decrease in anti-LGBT remarks, harassment and assault⁷⁵, LGBT students still encounter significant levels of bullying and discrimination. According to GLSEN, the

experiences of LGBT youth differ wildly depending on region and locale, with students in the South and Midwest and in rural areas and smaller towns facing more victimization and feeling less safe in school than students in the Northwest or the West or in urban and suburban areas.

The Human Rights Campaign supports efforts to explicitly include LGBT students in overall civil rights protections at the federal level. These protections would consistently prohibit discrimination based on sexual orientation or gender identity in education.

OVERVIEW OF INDIVIDUAL STATE STATUTES

Currently, twelve states and the District of Columbia have enacted laws to prohibit discrimination on the basis of sexual orientation or gender identity in education. California, Colorado, Connecticut, Illinois, Iowa, Maine, Massachusetts, Minnesota, New Jersey, Vermont, Washington and Oregon all have laws that ban discrimination based on sexual orientation and gender identity. Wisconsin enacted a law to prohibit discrimination in education on the basis of sexual orientation alone.

LIST OF STUDENT NON-DISCRIMINATION LAWS BY STATE⁷⁷

WHO IS COVERED?

California	Sexual orientation and gender identity ⁷⁸
Colorado	Sexual orientation and gender identity ⁷⁹
Connecticut	Sexual orientation and gender identity ⁸⁰
District of Columbia	Sexual orientation and gender identity ⁸¹
Illinois	Sexual orientation and gender identity ⁸²
Iowa	Sexual orientation and gender identity ⁸³
Maine	Sexual orientation and gender identity ⁸⁴
Massachusetts	Sexual orientation and gender identity ⁸⁵
Minnesota	Sexual orientation and gender identity ⁸⁶
Nevada	Sexual orientation and gender identity ⁸⁷
New Jersey	Sexual orientation and gender identity ⁸⁸
Oregon	Sexual orientation and gender identity ⁸⁹
Vermont	Sexual orientation and gender identity ⁹⁰
Washington	Sexual orientation and gender identity ⁹¹
Wisconsin	Sexual orientation ⁹²

⁷⁷ "Maps of State Laws & Policies," Human Rights Campaign, accessed August 18, 2014, <http://www.hrc.org/resources/entry/maps-of-state-laws-policies>.

⁷⁸ Cal Ed Code § 200

⁷⁹ C.R.S. 22-32-109.1

⁸⁰ Chapter 814c. Sec. 46a-81m. Sexual orientation discrimination: Educational and vocational programs of state agencies.

⁸¹ 2-1402.41. Prohibitions., DC CODE § 2-1402.41

⁸² 5/5-101. Definitions, IL ST CH 775 § 5/5-101

⁸³ Iowa Code § 216.9

⁸⁴ 5 M.R.S. § 4602

⁸⁵ ALM GL ch. 76, § 5

⁸⁶ Minn. Stat. § 363A.13

⁸⁷ NRS § 651.050

⁸⁸ N.J. Stat. § 10:5-12

⁸⁹ ORS 659.850 Discrimination in education prohibited; rules

⁹⁰ 9 V.S.A. § 4501

⁹¹ 28A.642.010. Discrimination prohibited--Definitions, WA ST 28A.642.010

⁹² Wis. Stat. § 118.13

CURRENT & PREVIOUS LEGISLATION

Federal Legislation

The Student Non-Discrimination Act (SNDA), introduced in 2013 by Representative Jared Polis (D-CO) and Senator Al Franken (D-MN), would prohibit discrimination on the basis of "actual or perceived sexual orientation or gender identity in public elementary and secondary schools."⁹³ SNDA was also introduced in 2010 and 2011. The bill is also included in the Strengthening America's Schools Act of 2013, which the Senate Health, Education, Labor and Pensions Committee approved in 2013.⁹⁴

Earlier comprehensive legislation prohibiting discrimination based on sexual orientation also included provisions on education, including the Equality Act (1974)⁹⁵, the Civil Rights Amendments Act (1975-1978)⁹⁶, the Civil Rights Protection Act of 1988⁹⁷, and the Civil Rights Act of 1993.⁹⁸

Bill Name	Bill Number(s)	Gender Identity Included?	Congress	Status
Student Non-Discrimination Act	HR 1652/ S1088	Yes	113th	House: Introduced ⁹⁹ Senate: Introduced ¹⁰⁰
Strengthening America's Schools Act	S 1094	Yes	113th	On Senate Calendar ¹⁰¹

⁹³ Jody Feder, The Student Non-Discrimination Act (SNDA): A Legal Analysis (Washington, D.C.: Congressional Research Service, June 20, 2013), <http://fas.org/sgp/crs/misc/R42652.pdf>.

⁹⁴ Tom Harkin, Strengthening America's Schools Act of 2013, 2013, <https://www.congress.gov/bill/113th-congress/senate-bill/1094>.

⁹⁵ Bella Azbug, Equality Act, 1974, <https://www.congress.gov/bill/93rd-congress/house-bill/14752>.

⁹⁶ William Green, Civil Rights Amendment Act, 1978, <https://www.congress.gov/bill/95th-congress/house-bill/12149>.

⁹⁷ John Kerry, Civil Rights Protection Act of 1988, 1988, <https://www.congress.gov/bill/100th-congress/senate-bill/2109>.

⁹⁸ Henry Waxman, Civil Rights Act of 1993, 1993, <https://www.congress.gov/bill/103rd-congress/house-bill/431>.

⁹⁹ Jared Polis, Student Non-Discrimination Act of 2013, 2013, <https://www.congress.gov/bill/113th-congress/house-bill/1652>.

¹⁰⁰ Al Franken, Student Non-Discrimination Act of 2013, 2013, <https://www.congress.gov/bill/113th-congress/senate-bill/1088>.

¹⁰¹ Tom Harkin, Strengthening America's Schools Act of 2013, 2013, <https://www.congress.gov/bill/113th-congress/senate-bill/1094>.

EMPLOYMENT AND THE LGBT COMMUNITY: WHERE WE ARE

“

(THE AGE
DISCRIMINATION IN
EMPLOYMENT ACT)
DOES REQUIRE
THAT ONE SIMPLE
QUESTION BE
ANSWERED
FAIRLY: WHO
HAS THE BEST
QUALIFICATIONS
FOR THE JOB?”

– President Lyndon B. Johnson,
December 16, 1967

LGBT people lack explicit protections against employment discrimination based on their sexual orientation or gender identity in a majority of American states. The protections that do exist only apply to federal employees and contractors; within and among individual states, nondiscrimination ordinances and laws are sporadic. Thus, LGBT people working for private employers could very well marry the person they love and risk being fired based on their sexual orientation or gender identity on the same day.

CURRENT STATUS OF FEDERAL LAW

Currently, federal law under Title VII of the Civil Rights Act of 1964 prohibits public and private employers from discriminating against employees because of their race, color, religion, sex, national origin. The Americans with Disabilities Act provides employment protections based on disability, and the Age Discrimination in Employment Act provides employment protections to employees over the age of 40. However, there are limited explicit protections for LGBT people at the federal level.¹⁰²

UPDATING THE FEDERAL CODE

The Obama administration made considerable strides in its efforts to make federal employment law more inclusive of LGBT people. In January 2010, the Office of Personnel Management (OPM)

added gender identity to the equal employment opportunity policy governing all federal jobs – affecting 2.7 million employees. In September 2011, the OPM issued guidance to federal managers to provide for the equal treatment of transgender employees. In October 2011, the U.S. Agency for International Development (USAID) enacted a policy “strongly encouraging” companies contracting with USAID to have non-discrimination policies to protect LGBT employees. In September 2013, the Department of Labor clarified that the terms “spouse” and “marriage” in Title I of the Employee Retirement Income Security Act include same-sex couples, extending same-sex spouses’ employer health insurance, retirement and pension plan protections. In July 2014, President Obama signed an executive order prohibiting

¹⁰² Jody Feder and Cynthia Brouger, Sexual Orientation and Gender Identity Discrimination in Employment: A Legal Analysis of the Employment Non-Discrimination Act (ENDA) (Washington, D.C.: Congressional Research Service, November 26, 2013), <http://fas.org/sgp/crs/misc/R40934.pdf>.

¹⁰³ <http://www.eeoc.gov/decisions/0120120821%20Macy%20v%20DOJ%20ATF.txt>

¹⁰⁴ "Statewide Employment Laws and Policies". Human Rights Campaign. http://hrc-assets.s3-website-us-east-1.amazonaws.com/files/assets/resources/statewide_employment_10-2014.pdf Updated October 9, 2014.

¹⁰⁵ Romero, Adam P.; Baumle, Amanda K.; Badgett, M.V. Lee; & Gates, Gary J. (2007). Census Snapshot: United States. The Williams Institute. UCLA: The Williams Institute. Retrieved from: <https://escholarship.org/uc/item/6nx232r4>

¹⁰⁶ Sears, Brad; Mallory, Christy. "Documented Evidence of Employment Discrimination & Its Effects on LGBT People." <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Sears-Mallory-Discrimination-July-2011.pdf>. The study was conducted prior to President Barack Obama's amendments to Executive Order 11478 and Executive Order 11246.

¹⁰⁷ Grant, Jaime; Mottet, Lisa; Tanis, Justin. "Injustice at Every Turn: A Report of the National Transgender Discrimination Survey." National Center for Transgender Equality. 2011. http://www.thetaskforce.org/static_html/downloads/reports/reports/ntds_full.pdf

federal contractors from discriminating based on sexual orientation or gender identity. That executive order also prohibited the federal government from discriminating on the basis of gender identity in its employment practices, building upon an executive order signed in 1998 by President Bill Clinton proving sexual orientation protections.

In 2012, the Equal Employment Opportunity Commission (EEOC) determined that employment protections based on sex must be understood to include protections for transgender people in the landmark case *Macy v. Holder*.¹⁰³ Since then, the EEOC has filed claims on behalf of transgender people under the Civil Rights Act in federal court. To date, the issue has not been heard by the Supreme Court of the United States.

However, these protections are not fully, consistently available to all LGBT employees nationwide. Though many corporations and individual localities and cities have nondiscrimination policies or laws, a majority of American workers live in states without explicit

protections for LGBT workers.¹⁰⁴ What protections do exist can be patchwork and confusing – some states, like New York and New Hampshire, offer protections against discrimination based on sexual orientation only; other states, like Pennsylvania and Oklahoma, have no explicit state-wide protections based on sexual orientation or gender identity despite having marriage equality.

Protections for LGBT workers are vitally important. Families headed by same-sex couples make an average of \$15,500 less per year than families headed by opposite-sex couples.¹⁰⁵ A 2011 study conducted by the Williams Institute found that nearly 40% of lesbian, gay and bisexual employees surveyed who were open about their sexual orientation had experienced discrimination in the workplace.¹⁰⁶ Furthermore, transgender people face considerably more discrimination while searching for jobs or in the workplace. Transgender people are twice as likely to be unemployed, and nearly 20% have been or are currently homeless.¹⁰⁷ 57% of transgender people report some form of harassment

while on the job.¹⁰⁸ In a study conducted by the Pew Research Center that surveyed 1,197 lesbian, gay, bisexual and transgender adults found that 57 % said that equal employment rights were a "top priority."¹⁰⁹

To combat employment discrimination, the Human Rights Campaign supports comprehensive, uniform nondiscrimination policies that would explicitly protect LGBT workers nationwide.

OVERVIEW OF INDIVIDUAL STATE STATUTES

State Legislation

Currently, 18 states and the District of Columbia prohibit discrimination by public and private employers on the basis of sexual orientation and gender identity. Three states – New Hampshire, New York, and Wisconsin – explicitly prohibit discrimination on the basis of sexual orientation alone. 29 states lack explicit, statewide laws

addressing discrimination on the basis of sexual orientation or gender identity. In Florida and New York, state courts have interpreted existing laws regarding sex discrimination to include protection against discrimination on the basis of gender identity.

In addition, some governors have issued executive orders prohibiting discrimination against public employees based on sexual orientation or gender identity in various states. The governors of Indiana, Kansas, Kentucky, Michigan, Pennsylvania, New York, and Virginia have all issued an executive order, administrative order, or personnel regulation banning discrimination against public employees due to their sexual orientation or gender identity. These orders are frequently limited to state employees, and these protections can be rescinded by future governors.

In Alaska, Arizona, Missouri, Montana, and Ohio, public employees are protected through an executive order from discrimination based on their sexual orientation only.

¹⁰⁸ Badgett, M.V. Lee; Lau, Holning; Sears, Brad; Ho, Deborah. "Bias in the Workplace: Consistent Evidence of Sexual Orientation and Gender Identity Discrimination." Williams Institute. June 2007. <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Badgett-Sears-Lau-Ho-Bias-in-the-Workplace-Jun-2007.pdf>

¹⁰⁹ Brown, Anna. "As Congress considers action again, 21% of LGBT adults say they faced workplace discrimination." Pew Research Center. November 4, 2013. <http://www.pewresearch.org/fact-tank/2013/11/04/as-congress-considers-action-again-21-of-lgbt-adults-say-they-faced-workplace-discrimination/>

MAP OF PUBLIC & PRIVATE EMPLOYMENT NON-DISCRIMINATION LAWS BY STATE ¹¹⁰

Updated October 9, 2014

States that prohibit discrimination based on sexual orientation and gender identity

18 States and D.C.

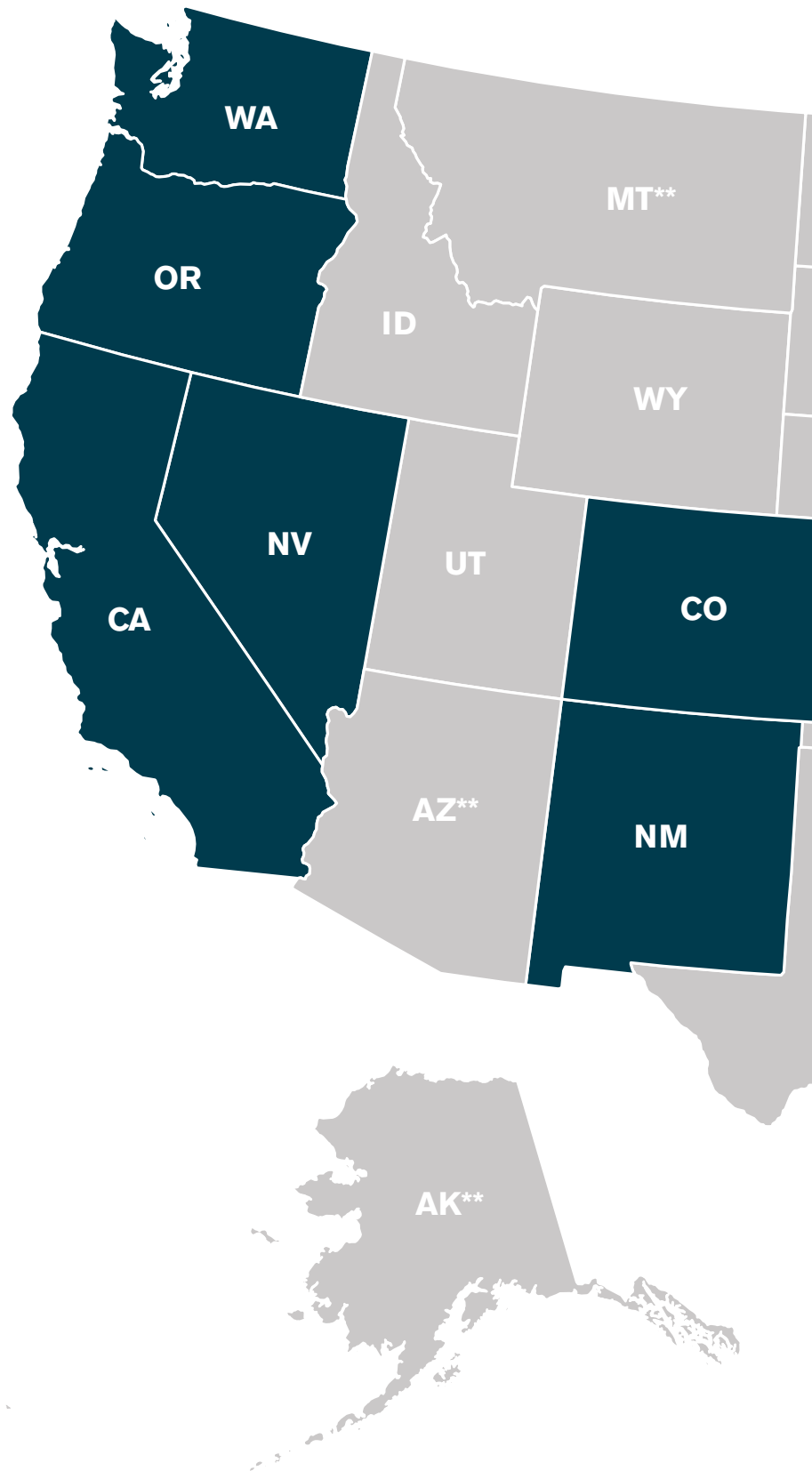
- State courts, commissions, agencies, or attorney general have interpreted the existing law to include some protection against discrimination against transgender individuals in Florida and New York.
- The Federal Equal Employment Opportunity Commission is now accepting complaints of gender identity discrimination in employment based on Title VII's prohibition against sex discrimination.

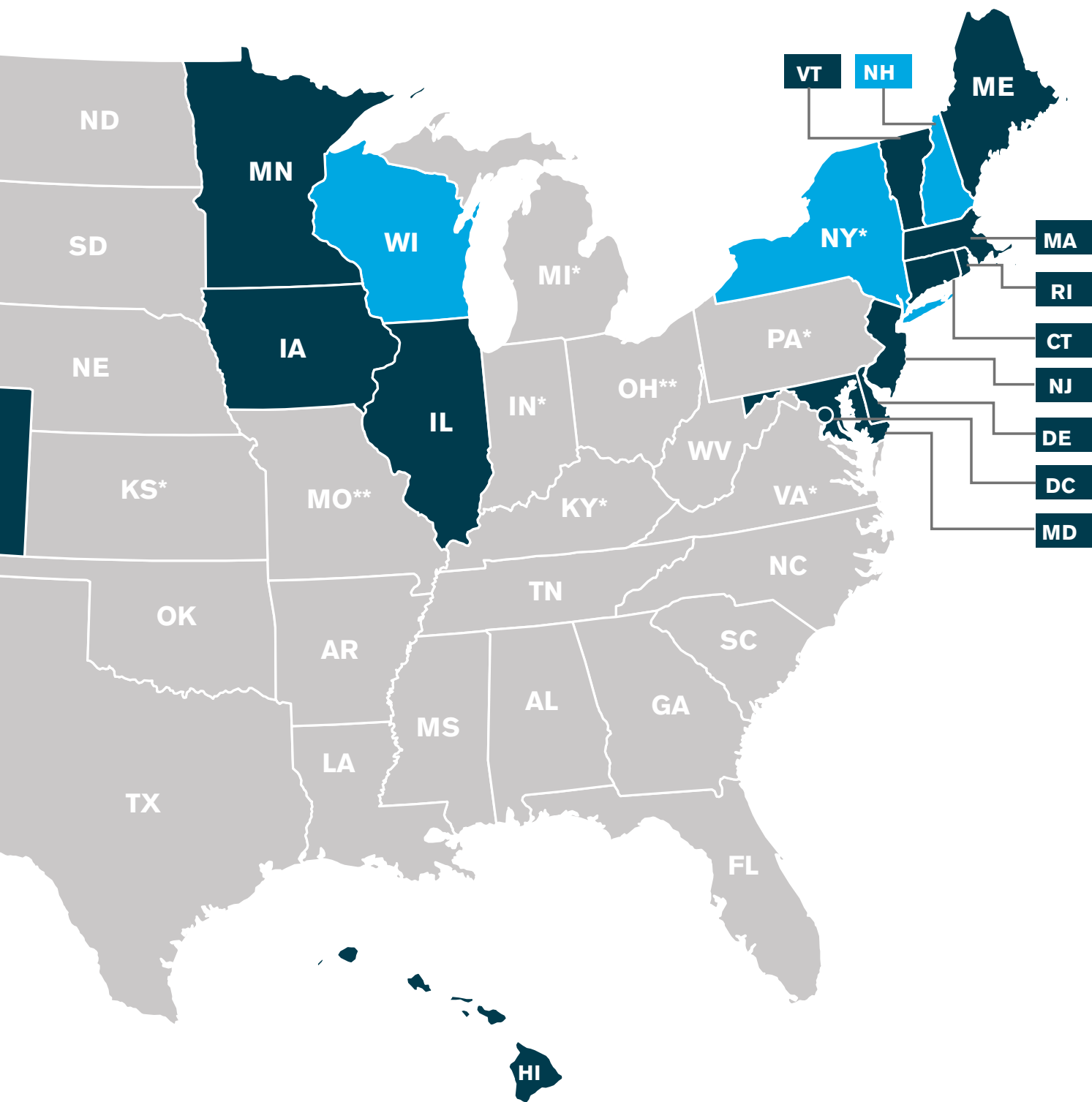
States that prohibit discrimination based on sexual orientation only

3 States

Laws and Policies Covering Public Employees Only:

The laws referenced above apply to public and private employers (with some limitations) in the respective states. Additionally, there are 7 states (*) that have an executive order, administrative order or personnel regulation prohibiting discrimination against public employees based on sexual orientation and gender identity, and 5 states (**) prohibit discrimination against public employees based on sexual orientation only (Missouri order only covers executive branch employees).





¹¹⁰ "Maps of State Laws & Policies," Human Rights Campaign, accessed August 18, 2014, <http://www.hrc.org/resources/entry/maps-of-state-laws-policies>.

LIST OF PUBLIC & PRIVATE EMPLOYMENT NON-DISCRIMINATION LAWS BY STATE¹¹¹

*Note: Highlighted clauses with refer to non-discrimination ordinances for public employees only.

WHO IS COVERED?

Alaska	EO: Sexual orientation ^{**112}
Arizona	EO: Sexual orientation ^{**113}
California	Sexual orientation and gender identity ¹¹⁴
Colorado	Sexual orientation and gender identity ¹¹⁵
Connecticut	Sexual orientation and gender identity ¹¹⁶
Delaware	Sexual orientation and gender identity ¹¹⁷
District of Columbia	Sexual orientation and gender identity ¹¹⁸
Hawaii	Sexual orientation and gender identity ¹¹⁹
Illinois	Sexual orientation and gender identity ¹²⁰
Indiana	EO: Sexual orientation and gender identity ^{*121}
Iowa	Sexual orientation and gender identity ¹²²
Kansas	EO: Sexual orientation and gender identity ^{*123}
Kentucky	EO: Sexual orientation and gender identity ^{*124}
Maine	Sexual orientation and gender identity ¹²⁵
Maryland	Sexual orientation and gender identity ¹²⁶
Massachusetts	Sexual orientation and gender identity ¹²⁷

¹¹¹“Maps of State,” Human Rights Campaign.

¹¹²Admin. Order No. 195 (2002)

¹¹³ § 41-1463. Discrimination; unlawful practices; definition, AZ ST § 41-1463

¹¹⁴ GOVERNMENT CODE SECTION 12940-12951

¹¹⁵ C.R.S. 24-34-402

¹¹⁶ Chapter 814c. Sec. 46a-81c. Sexual orientation discrimination: Employment.

¹¹⁷ 19 Del. C. § 711

¹¹⁸ § 2-1402.11. Prohibitions., DC CODE § 2-1402.11

¹¹⁹ HRS § 378-2

¹²⁰ 5/2-102. Civil Rights Violations--Employment, IL ST CH 775 § 5/2-102

¹²¹ 22-9-1-2 Public policy; construction of chapter, IN ST 22-9-1-2

¹²² Iowa Code § 216.6

¹²³ EXECUTIVE ORDER 07-24

¹²⁴ 344.050 Discrimination by employment agencies, KY ST § 344.050

¹²⁵ 5 M.R.S. § 4572

¹²⁶ § 20-606. Unlawful employment practices, MD STATE GOVT § 20-606

¹²⁷ ALM GL ch. 151B, § 4

Michigan	EO: Sexual orientation and gender identity* ¹²⁸
Minnesota	Sexual orientation and gender identity ¹²⁹
Missouri	EO: Sexual orientation** ¹³⁰
Montana	EO: Sexual orientation** ¹³¹
Nevada	Sexual orientation and gender identity ¹³²
New Hampshire	Sexual orientation ¹³³
New Jersey	Sexual orientation and gender identity ¹³⁴
New Mexico	Sexual orientation and gender identity ¹³⁵
New York	Sexual orientation ¹³⁶ EO: Sexual orientation and gender identity*
Ohio	EO: Sexual orientation** ¹³⁷
Oregon	Sexual orientation and gender identity ¹³⁸
Pennsylvania	EO: Sexual orientation and gender identity* ¹³⁹
Rhode Island	Sexual orientation and gender identity ¹⁴⁰
Vermont	Sexual orientation and gender identity ¹⁴¹
Virginia	Sexual orientation and gender identity* ¹⁴²
Washington	Sexual orientation and gender identity ¹⁴³
Wisconsin	Sexual orientation ¹⁴⁴

¹²⁸ 37.2202. Employer; prohibited acts, MI ST 37.2202

¹²⁹ Minn. Stat. § 363A.08

¹³⁰ 213.055. Unlawful employment practices--exceptions, MO ST 213.055

¹³¹ 49-2-303. Discrimination in employment, MT ST 49-2-303

¹³² Nev. Rev. Stat. Ann. § 613.330

¹³³ RSA 354-A:7

¹³⁴ N.J. Stat. § 10:5-12

¹³⁵ N.M. Stat. Ann. § 28-1-7

¹³⁶ § 296. Unlawful discriminatory practices, NY EXEC § 296

¹³⁷ Executive Order 2011-05K.

¹³⁸ 659A.030. Discrimination due to race, color, religion, sex, sexual..., OR ST § 659A.030

¹³⁹ "Equal Opportunity and Non-Discrimination Policy Statement" September 21, 2009.

¹⁴⁰ R.I. Gen. Laws § 28-5-7

¹⁴¹ 21 V.S.A. § 495

¹⁴² Senate Bill No. 701

¹⁴³ 49.60.180. Unfair practices of employers, WA ST 49.60.180

¹⁴⁴ Wis. Stat. § 106.52

¹⁴⁵ Lex18 News. "Vicco, Kentucky Approves LGBT Fairness Law." January 14, 2013. <http://www.lex18.com/news/vicco-kentucky-approves-lgbt-fairness-law>

¹⁴⁶ Bella Azbug, Equality Act, 1974, <https://www.congress.gov/bill/93rd-congress/house-bill/14752>.

¹⁴⁷ Jerome Hunt, "A History of the Employment Non-Discrimination Act," Center for American Progress, July 19, 2011, <http://www.americanprogress.org/issues/lgbt/news/2011/07/19/10006/a-history-of-the-employment-non-discrimination-act/>.

¹⁴⁸ Bella Azbug, Civil Rights Amendments, 1975, <https://www.congress.gov/bill/94th-congress/house-bill/166>.

¹⁴⁹ Paul Tsongas, A bill to prohibit employment discrimination on the basis of sexual orientation, 1979, <https://www.congress.gov/bill/96th-congress/senate-bill/2081>.

¹⁵⁰ Feder and Brougher, Sexual Orientation.

¹⁵¹ Gerry E. Studds, Employment Non-Discrimination Act of 1994, 1994, <https://www.congress.gov/bill/103rd-congress/house-bill/4636>.

Municipal Ordinances

In addition to statewide legislation, more than 200 cities and counties have issued ordinances that prohibit discrimination by public and private employers based on sexual orientation and gender identity. These cities and counties are both large and small; Vicco, Kentucky, home to just 334 residents, passed a nondiscrimination ordinance in January of 2013.¹⁴⁵ East Lansing, Michigan, was the first jurisdiction in the United States to offer sexual orientation protections in 1972. Minneapolis, Minnesota was the first to cover gender identity in 1975. However, the power of local nondiscrimination ordinances is limited, with little enforcement in many instances and limited penalties.

CURRENT & PREVIOUS LEGISLATION

Federal Legislation (ENDA)

Beginning in 1974, members of Congress have introduced legislation to prohibit employment discrimination on the basis of sexual orientation. As the LGBT movement expanded after the Stonewall Rebellion of 1969, some prominent lawmakers began to respond to the needs and demands of the LGBT community. On May 14, 1974, Representatives Bella Abzug (D-NY) and Ed Koch (D-NY) introduced the Equality Act of 1974, which would have amended the Civil Rights Act of 1964 to ban discrimination based on sex, marital

status, and sexual orientation in employment, public accommodations, public facilities, education, housing, and federally assisted programs.¹⁴⁶ This bill was the first piece of federal legislation that would have outlawed discrimination against gays and lesbians in the U.S.¹⁴⁷ In the next Congresses, Abzug and Koch introduced separate legislation to protect gays and lesbians, called the Civil Rights Amendments Act.¹⁴⁸ Variations of the Civil Rights Amendments Act were introduced in every Congress between 1975 and 2005. While the Civil Rights Amendments Act would have protected gays and lesbians against discrimination in many areas of life, in 1979 Senator Paul Tsongas (D-MA) introduced the first piece of legislation that would have provided that protection only in employment in 1979.¹⁴⁹

In 1994, Representative Gerry Studds (D-MA) and Senator Ted Kennedy (D-MA) introduced the Employment Non-Discrimination Act (ENDA) for the first time. ENDA would "prohibit discrimination based on an individual's actual or perceived sexual orientation by public and private employers in hiring, discharge, compensation, and other terms and conditions of employment."¹⁵⁰ Drafted as a parallel statute to Title VII of the Civil Rights Act of 1964, the bill exempted religious organizations, the armed forces, and employers with fewer than 15 employees from its provisions.

The initial bill made it illegal to discriminate against employees based on sexual orientation.¹⁵¹

No legislative action was taken during the first Congress in which it was introduced. In 1996, the Senate nearly passed the legislation, falling short by a single vote 49-50. Vice President Al Gore was present to cast the deciding vote. Unfortunately, Senator David Pryor (D-AR) missed the vote because he was at the hospital bedside of his son, now Senator Mark Pryor (D-AR). Also in 1996, the first House hearing was held by Government Programs Subcommittee of House Committee on Small Business. ENDA was reintroduced in each Congress since, except the 109th Congress (2005 to 2006). The Senate Health, Education, Labor & Pensions Committee held a hearing and reported the bill favorably in 2002.

For the first time, in 2007, Representative Barney Frank (D-MA) introduced a version of ENDA that included both sexual orientation and gender identity. The House Education and Labor Committee then held the first ENDA hearing since 2002. In October 2007, Rep. Frank announced that he did not believe that the House had the votes to pass an ENDA that included gender identity and that House Democrats would bring a sexual orientation-only bill to the floor for a vote. The Human Rights Campaign and other LGBT organizations objected to this course of action. For three weeks, there was intense lobbying and grassroots efforts to secure House votes for an inclusive bill. At the end of that period, House Democratic leaders decided to move forward with a floor vote on a non-inclusive bill. Some groups supported passage, some withdrew

support for the non-inclusive bill, and some urged House members to vote against it. The bill passed the House on a bipartisan vote of 235 to 184, with 35 Republicans voting in favor. No action was taken in the Senate.

Since 2007, all subsequent bills have included gender identity. Hearings were held in 2008, 2009 and 2012.

In 2013, Representative Jared Polis (D-CO) and Senator Jeff Merkley (D-OR) introduced ENDA. The bill passed the Senate on November 7, 2013 with a vote of 64-32.¹⁵² To date, the bill has not come to a vote in the House.

¹⁵² Jeff Merkley, Employment Non-Discrimination Act of 2013, 2013, <https://beta.congress.gov/bill/113th-congress/senate-bill/815>.

FEDERAL FUNDING AND THE LGBT COMMUNITY: WHERE WE ARE

“
SIMPLE JUSTICE
REQUIRES THAT
PUBLIC FUNDS,
TO WHICH ALL
TAXPAYERS
OF ALL RACES
[COLORS, AND
NATIONAL ORIGINS]
CONTRIBUTE, NOT
BE SPENT IN ANY
FASHION WHICH
ENCOURAGES,
ENTRENCHES,
SUBSIDIZES
OR RESULTS IN
RACIAL [COLOR OR
NATIONAL ORIGIN]
DISCRIMINATION.”

– President John F. Kennedy, 1963

CURRENT STATUS OF FEDERAL LAW

Though federal employers and contractors cannot discriminate based on sexual orientation or gender identity, many programs receiving federal funding can. Currently, federal law prohibits federally funded programs and activities from discriminating against individuals on the basis of race, color, religion, national origin, sex, age and disability. However, there is no explicit prohibition against discrimination based on sexual orientation or gender identity in the majority of federal programs. For example, private hospitals that receive federal funding through programs such as Medicaid and Medicare may discriminate against LGBT doctors, nurses, support staff or patients on the basis of their sexual orientation or gender identity. Religious organizations that receive federal funding, such as Catholic or Protestant charities that provide services like adoption, housing, and food assistance can discriminate against LGBT people on the basis of their sexual orientation or gender identity.¹⁵³

UPDATING THE FEDERAL CODE

The Obama Administration has adopted several regulations protecting federal grant beneficiaries from discrimination on the basis of sexual orientation and gender identity. The Department of Housing and Urban Development (HUD) published formal regulations prohibiting discrimination in all HUD-funded programs including public housing and FHA mortgage assistance. The Department of Health and Human Services published a more targeted formal regulation setting guidelines for hospitals participating in Medicaid and Medicare requiring respect for advanced directives and visitation requests regardless of sexual orientation. However, if a patient does not have a formal power of attorney, hospitals can still choose to defer to other family members or a court appointed guardian

in lieu of a same-sex spouse for medical decision-making depending on state marriage recognition.

Last summer's U.S. Supreme Court decision *U.S. v. Windsor* allowed, but did not require, federal programs to recognize same-sex spouses for the purposes of benefits and services. Although barriers persist for some same-sex spouses in accessing Social Security and Veterans benefits, the Obama administration has broadly implemented the policy across federal agencies providing almost full federal recognition for same-sex spouses regardless of where they live.

Every year, the federal government provides over \$400 billion dollars in grants to state and local governments, non-profits, and colleges and universities to provide a myriad of services. These include public welfare agencies and programs, housing and nutrition assistance, and public safety services. Despite significant progress by the Obama administration to end discrimination against LGBT people by the federal government, in many federally funded programs discrimination against beneficiaries remains unchecked. The Human Rights Campaign supports prohibiting discrimination based on sexual orientation or gender identity in all programs receiving federal funding. Under Title VI of the Civil Rights Act of 1964, programs and services receiving federal funds are prohibited from discriminating against beneficiaries on the basis race, color, or national origin. Given the far reach of federal programs and services—from unincorporated townships to major urban areas—the extension of this protection to LGBT beneficiaries would be life changing and would lend greater permanence to the limited regulatory changes undertaken by the Obama administration thus far.

¹⁵³ For example, providers receiving grants for services benefiting homeless youth are not prohibited from discriminating against youth based on sexual orientation or gender identity by the Reconnecting Homeless Youth Act.

EXAMPLES OF SOME OF THE MOST POPULAR FEDERALLY FUNDED PROGRAMS (WITH CITE TO REGULATORY SECTION IMPLEMENTING TITLE VI) THAT WOULD BE IMPACTED BY THIS CHANGE WOULD INCLUDE:

➔ POVERTY RELIEF AND ASSISTANCE

Nutrition Programs

- U.S. Department of Agriculture
 - Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) 7 CFR 246.8(a)
 - Supplemental Nutrition Assistance Program (SNAP) 7 CFR 272.6(a)
- U.S. Department of Health and Human Services
 - Temporary Assistance for Needy Families (TANF) 45 CFR 80

Housing Assistance

- U.S. Department of Housing and Urban Development (protected under the Equal Access Rule, however legislation would solidify these protections) 24 CFR 5.105
 - Community Development Block Grant (CDBG) 24 CFR 570.912
 - Public and Assisted Housing
- U.S. Department of Agriculture 7 CFR 15.1(a)
 - Rural Development
 - Single Family Housing Loans and Assistance

Job Training and Self Sufficiency Programs

- U.S. Department of Health and Human Services 45 CFR 80.3
 - Job training programs run by Welfare Benefit Providers
- U.S. Department of labor
 - Job Corps 29 CFR 37.3

➔ HEALTH CARE

Hospital and Emergency Care

- U.S. Department of Health and Human Services 45 CFR 80
 - Medicare Part B
 - Hospitals Receiving Medicare and Medicaid
 - Conditions of Participation

Federally Funded Mental Health Programs

- U.S. Department of Health and Human Services 45 CFR 80
 - Substance Abuse and Mental Health Services Administration (SAMSHA)

Aging and Disability Programs

- U.S. Department of Health and Human Services 45 CFR 80
 - Administration for Community Living

➔ EDUCATION

State Education Agencies and Subrecipients

- U.S. Department of Education 34 CFR 100

➔ PUBLIC WELFARE AND SAFETY

Child Welfare and Adoption

- U.S. Department of Health and Human Services 45 CFR 80
 - The Children's Bureau
 - The Children's Bureau supports state and tribal child welfare programs through funding, research, monitoring and special initiatives to promote positive outcomes for children and families involved in child welfare.
 - This bureau covers all foster care and adoption agencies¹⁵⁴

Police and Justice Programs

- U.S. Department of Justice 28 CFR 42
 - Corrections
 - Juvenile Justice
 - Crime Victim Services
 - Violence Against Women Response and Prevention

¹⁵⁴ For a discussion of Title VI and foster care and adoption agencies visit: <http://www.acf.hhs.gov/programs/cb/resource/mepa-powerpoint>.

¹⁵⁵ Patrick Leahy, Violence Against Women Reauthorization Act of 2013, 2013, <https://www.congress.gov/bill/113th-congress/senate-bill/47>.

¹⁵⁶ Patrick Leahy, Runaway and Homeless Youth and Trafficking Prevention Act, 2014, <https://www.congress.gov/bill/113th-congress/senate-bill/2646>.

¹⁵⁷ Gwen Moore, Runaway and Homeless Youth Inclusion Act of 2013, 2013, <https://www.congress.gov/bill/113th-congress/house-bill/2955>.

¹⁵⁸ Lucille Roybal-Allard, Health Equity and Accountability Act of 2014, 2014, <https://www.congress.gov/bill/113th-congress/house-bill/5294>.

¹⁵⁹ Bella Azbug, Equality Act, 1974, <https://www.congress.gov/bill/93rd-congress/house-bill/14752>.

¹⁶⁰ Edolphus Towns, Civil Rights Amendments Act of 2005, 2005, <https://www.congress.gov/bill/109th-congress/house-bill/288>.

CURRENT & PREVIOUS LEGISLATION

Federal Legislation

There are currently no bills that broadly address LGBT discrimination in all federally funded programs or activities. However, members of Congress have introduced bills to protect LGBT Americans in certain federally funded programs.

In 2013, Congress passed a reauthorization of the Violence Against Women Reauthorization Act, the newest version of which prohibited any program or activity funded by the bill from discriminating based on sexual orientation or gender identity. This is the first explicit non-discrimination provision in federal law.¹⁵⁵

Some pieces of legislation include provisions to prevent discrimination against LGBT people. Additionally in the 113th Congress, the Runaway and Homeless Youth and Trafficking Prevention Act, which passed the Senate Judiciary Committee, would prohibit discrimination based on sexual

orientation or gender identity in any program funded by the Administration for Children and Families.¹⁵⁶ The Runaway and Homeless Youth Inclusion Act would prohibit this discrimination in programs using Runaway and Homeless Youth Act funds.¹⁵⁷ The Every Child Deserves a Family Act would prohibit discrimination based on sexual orientation or gender identity by federally funded child welfare and foster care programs. The Health Equity and Accountability Act would prohibit discrimination in federally funded health care services and research programs.¹⁵⁸

Previously, comprehensive legislation prohibiting discrimination based on sexual orientation – first named the Equality Act and then the Civil Rights Amendments Act in subsequent years – was introduced in various forms in each Congress between 1974 and 2005.¹⁵⁹¹⁶⁰ A provision prohibiting discrimination in federally funded programs was included in these bills.

Bill Name	Bill Number(s)	Congress	Prohibition	Status
Violence Against Women Reauthorization Act	S 47	113th	Reauthorizes the Violence Against Women Act and adds a provision prohibiting discrimination in programs funded by the law.	Public law ¹⁶¹
Runaway and Homeless Youth and Trafficking Prevention Act	S 2646	113th	Prohibits discrimination under any program or activity funded by the Runaway and Homeless Youth Act or by the Administration for Children and Families of the Department of Health and Human Services	Senate: Passed Senate Judiciary Committee ¹⁶²
Runaway and Homeless Youth Inclusion Act	HR 2955	113th	Amends the Runaway and Homeless Youth Act to revise requirements for services provided under grants from the Secretary of Health and Human Services for centers for runaway and homeless youth and their families, including providing services for youth in minority categories related to sexual orientation or gender expression	House: Introduced ¹⁶³
Every Child Deserves A Family Act	HR 2028/ S 1069	113th	LGBT discrimination by child welfare agencies receiving federal financial assistance and LGBT discrimination against foster youth	House: Introduced ¹⁶⁴ Senate: Introduced ¹⁶⁵
Health Equity and Accountability Act	HR 5294	113th	Prohibits discrimination in federally funded health care services and research programs	House: Introduced ¹⁶⁶

¹⁶¹ Patrick Leahy, Violence Against Women Reauthorization Act of 2013, 2013, <https://www.congress.gov/bill/113th-congress/senate-bill/47>.

¹⁶² Patrick Leahy, Runaway and Homeless Youth and Trafficking Prevention Act, 2014, <https://www.congress.gov/bill/113th-congress/senate-bill/2646>.

¹⁶³ Gwen Moore, Runaway and Homeless Youth Inclusion Act of 2013, 2013. <https://www.congress.gov/bill/113th-congress/house-bill/2955>.

¹⁶⁴ John Lewis, Every Child Deserves a Family Act, 2013, <https://beta.congress.gov/bill/113th-congress/house-bill/2028>.

¹⁶⁵ Kirsten Gillibrand, Every Child Deserves a Family Act, 2013, <https://beta.congress.gov/bill/113th-congress/senate-bill/1069>.

¹⁶⁶ Lucille Roybal-Allard, Health Equity and Accountability Act of 2014, 2014, <https://www.congress.gov/bill/113th-congress/house-bill/5294>.

HOUSING AND THE LGBT COMMUNITY: WHERE WE ARE

“

NOW, WITH THIS BILL, THE VOICE OF JUSTICE SPEAKS AGAIN. IT PROCLAIMS THAT FAIR HOUSING FOR ALL—ALL HUMAN BEINGS WHO LIVE IN THIS COUNTRY—IS NOW A PART OF THE AMERICAN WAY OF LIFE.”

– President Lyndon B. Johnson, remarks on the signing of the Civil Rights Act of 1968, April 11, 1968

LGBT people are largely unprotected from housing discrimination based on sexual orientation or gender identity. That means that LGBT people risk being denied housing or removed from housing for reasons explicitly and exclusively linked to who they are or who they love.

CURRENT STATUS OF FEDERAL LAW

Currently, federal law prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, and disability. However, federal law does not explicitly prohibit housing discrimination based on sexual orientation or gender identity.

In 1968, Congress passed the Fair Housing Act (FHA), which prohibits discrimination on the basis of race, color, religion, and national origin in the sale or rental of housing.¹⁶⁷ The FHA applies to both public and private housing, including single-family homes, apartments, condominiums, mobile homes, and others. In 1974, Congress amended the FHA to add sex to the list of protected groups. In 1988, Congress amended the FHA again to add familial status and disability to the list of protected classes.

UPDATING THE FEDERAL CODE

In the 1980s and 1990s, community-based surveys showed that LGBT people experienced multiple forms of discrimination when searching for housing. In 2000, the Kaiser Family Foundation reported that 11% of lesbian, gay and bisexual people reported experiencing discrimination when renting an apartment or buying a home.¹⁶⁸ In 2009, data from a national study of lesbian, gay male and bisexual adults showed that 6.5% of gay men experienced discrimination when looking for housing.¹⁶⁹

In research conducted by the U.S. Department of Housing and Urban Development (HUD) in 2011, same-sex couples experience significant levels of discrimination when responding to advertised rental housing in metropolitan areas nationwide – heterosexual couples were favored over gay male or lesbian couples by 15.9 and 15.6%, respectively.¹⁷⁰ For transgender people, housing discrimination is even more prevalent. According to the National Center for Transgender Equality, one in five transgender people have been refused a home or apartment because of their gender identity or expression.¹⁷¹

The Obama administration has taken concrete steps to ensure LGBT people have fair and equal access to housing. In 2012, HUD published new regulations extending protections to LGBT people in federally subsidized housing and published guidance requiring

HUD program participants, including owners of affordable housing units, to comply with local and state non-discrimination laws that protect against discrimination on the basis of sexual orientation or gender identity. HUD prohibits inquiries into an individual's sexual orientation or gender identity for prospective tenants or applicants for assisted housing in all 50 states and DC. HUD has also adopted a model, inclusive definition of “family” for determining eligibility for HUD programs. This definition recognizes all LGBT families – including same-sex couples who are not married or whose marriages are not recognized by the state in which they reside – for federal housing programs and prohibits discrimination against LGBT individuals for federally insured mortgage loans. Federal housing programs are instructed to “not involve discrimination against any individual or family otherwise eligible for HUD-assisted or –insured housing” and ensure that “its policies serve as models for equal housing opportunity.”¹⁷²

Despite this clear federal action and strong commitment to nationwide implementation by the Obama administration, in the absence of legislative protections renters and homebuyers continue to face discrimination on the basis of sexual orientation without recourse in the private market in 29 states, and on the basis of gender identity in 32 states.

Given the patchwork nature of current nondiscrimination protections for LGBT people and the importance of fair housing policies for every American, the Human Rights Campaign supports comprehensive legislation that mandates housing nondiscrimination. The Fair Housing Act should include sexual orientation and gender identity.

OVERVIEW OF INDIVIDUAL STATE STATUTES

Currently, 18 states and the District of Columbia prohibit housing discrimination on the basis of sexual orientation or gender identity. Three states, including New Hampshire, New York, and Wisconsin, prohibit housing discrimination on the basis of sexual orientation only. In these states, both private and public housing providers are prohibited from discriminating against potential tenants or buyers. Twenty-nine states lack explicit laws regarding sexual orientation and gender identity protections from housing discrimination.

¹⁶⁷ Jody Feder, The Fair Housing Act (FHA): A Legal Overview (Washington, D.C.: Congressional Research Service, November 25, 2013), http://mspb-watcharchive.files.wordpress.com/2014/01/20131125_the-fair-housing-act-fha-a-legal-overview.pdf.

¹⁶⁸ “Inside Out: A Report on the Experiences of Lesbians, Gays and Bisexuals in America and the Public’s Views on Issues and Policies Related to Sexual Orientation”, THE KAISER FAMILY FOUNDATION 31 (2001).

¹⁶⁹ M. Davis and Company, Inc.; Friedman, Samantha; Reynolds, Angela; Scovill, Susan; Brassier, Florence R.; Campbell, Ron; Ballou, McKenzie “An Estimate of Housing Discrimination Against Same-Sex Couples.” June 2013. http://www.huduser.org/portal/publications/fair-hsg/discrim_samesex.html

¹⁷⁰ Ibid.

¹⁷¹ National Center for Transgender Equality, “Housing and Homelessness.” <http://transequality.org/Issues/homelessness.html>

¹⁷² Department of Housing and Urban Development. “Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity.” Federal Register, Friday, February 3, 2012.

MAP OF HOUSING NON-DISCRIMINATION LAWS BY STATE¹⁷³

Updated May 15, 2014

Federal Requirements

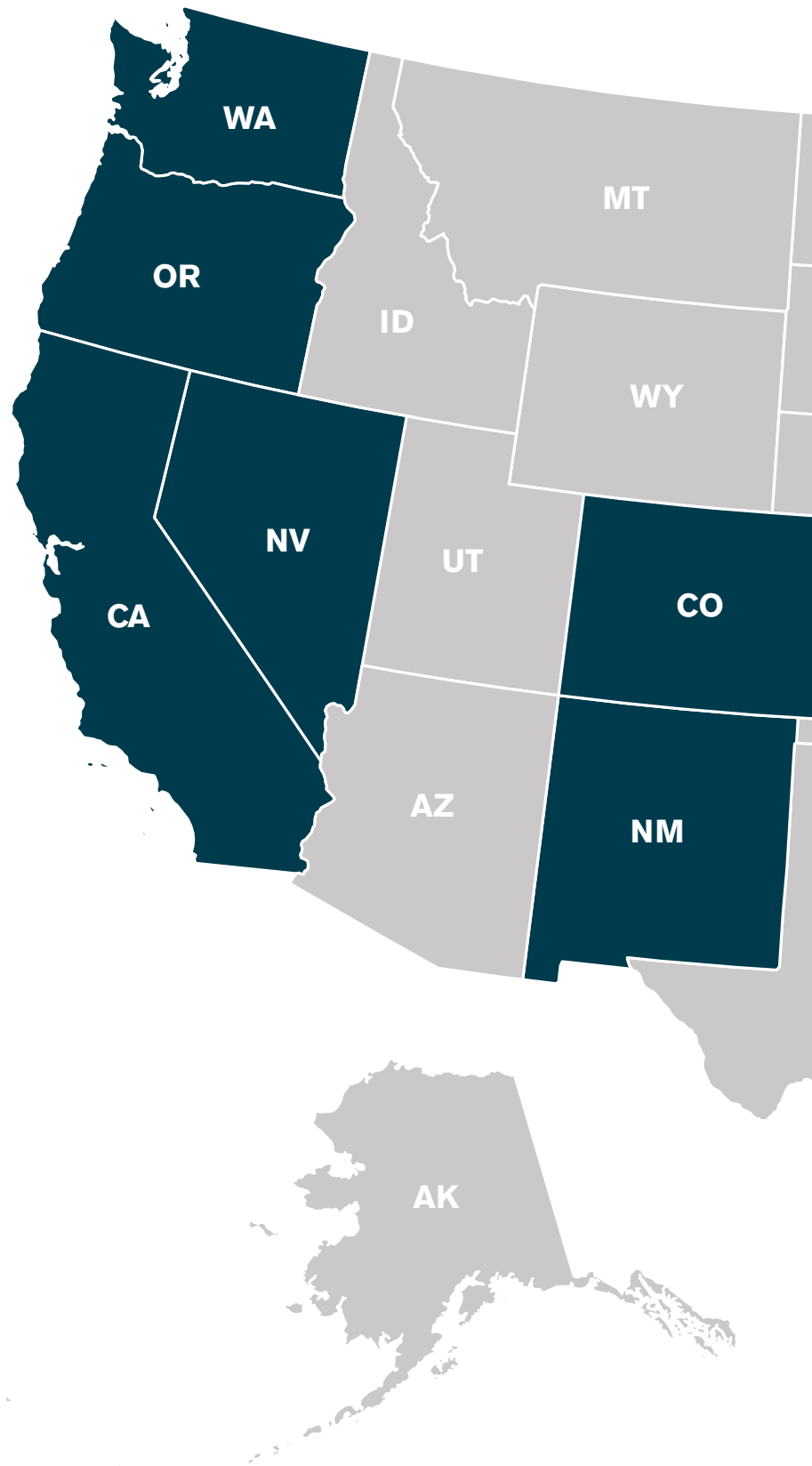
The Department of Housing and Urban Development (HUD) requires grantees and participants of HUD programs to comply with local and state non-discrimination laws that include sexual orientation and gender identity. HUD also prohibits inquiries regarding the sexual orientation or gender identity of a prospective tenant or applicant for assisted housing in every state (March 2012.)

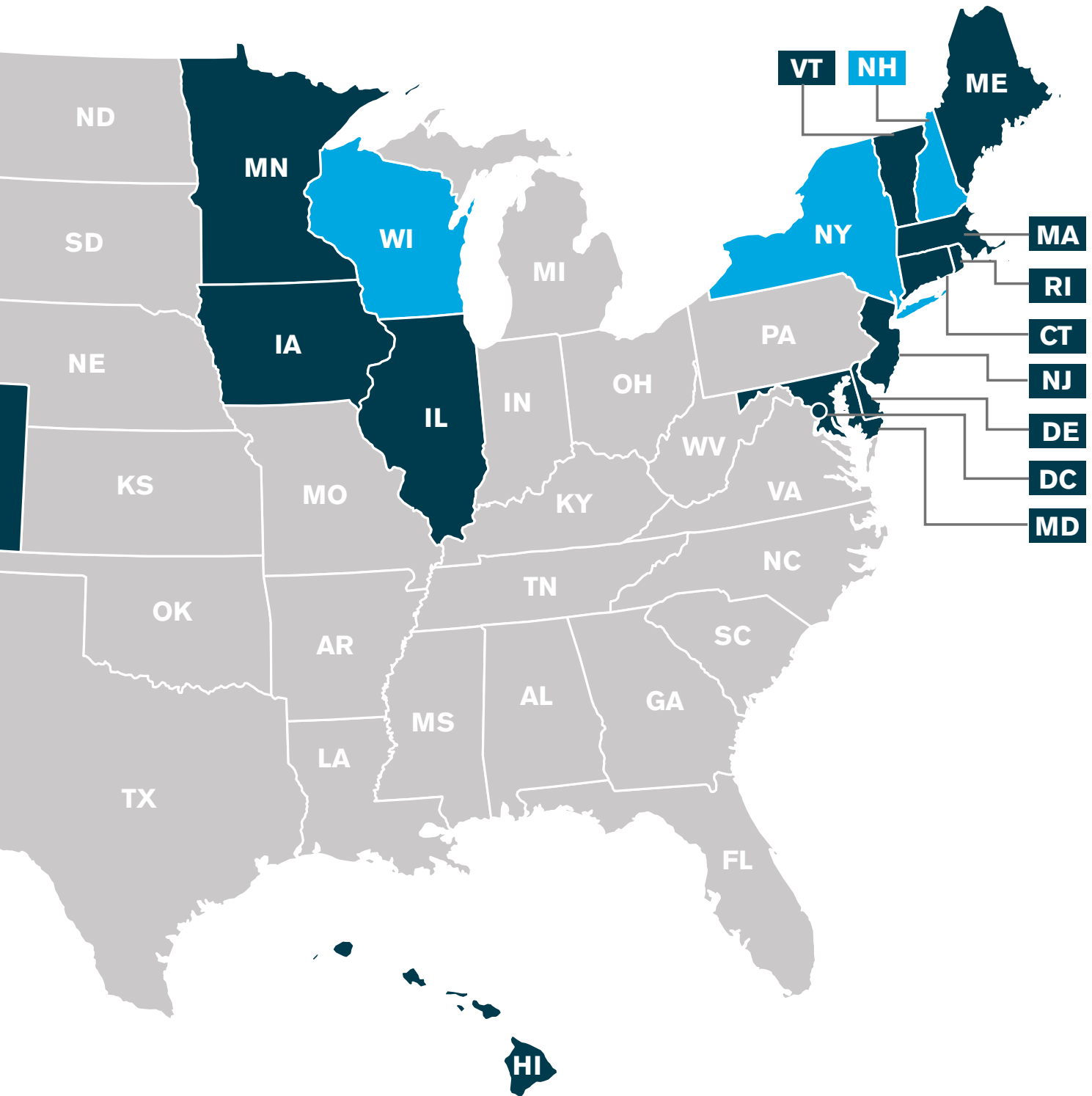
States that prohibit housing discrimination based on sexual orientation and gender identity

18 States and D.C.

States that prohibit housing discrimination based on sexual orientation only

3 States





¹⁷³ "Maps of State Laws & Policies," Human Rights Campaign, accessed August 18, 2014, <http://www.hrc.org/resources/entry/maps-of-state-laws-policies>.

LIST OF HOUSING NON-DISCRIMINATION LAWS BY STATE¹⁷⁴

WHO IS COVERED?

California	Sexual orientation and gender identity ¹⁷⁵
Colorado	Sexual orientation and gender identity ¹⁷⁶
Connecticut	Sexual orientation and gender identity ¹⁷⁷
Delaware	Sexual orientation and gender identity ¹⁷⁸
District of Columbia	Sexual orientation and gender identity ¹⁷⁹
Hawaii	Sexual orientation and gender identity ¹⁸⁰
Illinois	Sexual orientation and gender identity ¹⁸¹
Iowa	Sexual orientation and gender identity ¹⁸²
Maine	Sexual orientation and gender identity ¹⁸³
Maryland	Sexual orientation and gender identity ¹⁸⁴
Massachusetts	Sexual orientation and gender identity ¹⁸⁵
Minnesota	Sexual orientation and gender identity ¹⁸⁶
Nevada	Sexual orientation and gender identity ¹⁸⁷
New Hampshire	Sexual orientation ¹⁸⁸
New Jersey	Sexual orientation and gender identity ¹⁸⁹
New Mexico	Sexual orientation and gender identity ¹⁹⁰
New York	Sexual orientation ¹⁹¹
Vermont	Sexual orientation and gender identity ¹⁹²
Washington	Sexual orientation and gender identity ¹⁹³
Wisconsin	Sexual orientation ¹⁹⁴

¹⁷⁴ Ibid.

¹⁷⁵ Government Code Section 12955-12956.2

¹⁷⁶ C.R.S. 24-34-502

¹⁷⁷ Conn. Gen. Statutes Ch. 814c § 46a-64c; § 46a-81e

¹⁷⁸ 25 Del. C. § 5116

¹⁷⁹ § 2-1402.21. Prohibitions., DC CODE § 2-1402.21

¹⁸⁰ HRS § 515-3

¹⁸¹ 775 ILCS 5/3-101

¹⁸² Iowa Code § 216.8

¹⁸³ 5 M.R.S. § 4581-A

¹⁸⁴ § 20-705. Discriminatory housing practices--Sale or rental., MD STATE GOVT §...

¹⁸⁵ M.G.L. c. 151B

¹⁸⁶ Minn. Stat. § 363A.09

¹⁸⁷ 20-318. Unlawful acts enumerated, NE ST § 20-318

¹⁸⁸ RSA 354-A:10

¹⁸⁹ N.J. Stat. § 10:5-12

¹⁹⁰ N.M. Stat. Ann. § 28-1-7

¹⁹¹ N.Y. State Executive Law Article 15

¹⁹² 9 V.S.A. § 4503

¹⁹³ RCWA 49.60.222

¹⁹⁴ Wis. Stat. § 106.50

CURRENT & PREVIOUS LEGISLATION

Federal Legislation

In 2013, Representative Jerry Nadler (D-NY) and Senator Sherrod Brown (D-OH) introduced the Housing Opportunities Made Equal (HOME) Act. The bill would amend the Fair Housing Act to add sexual orientation, gender identity, marital status, and source of income to the list of protected classes.¹⁹⁵ ¹⁹⁶ The legislation was also introduced in 2010¹⁹⁷ and 2011¹⁹⁸.

Previously, comprehensive legislation prohibiting discrimination based on sexual orientation – first named the Equality Act and then the Civil Rights Amendments Act in subsequent years – was introduced in various forms in each Congress between 1974 and 2005.¹⁹⁹ ²⁰⁰ A provision prohibiting housing discrimination was included in this legislation.

Bill Name	Bill Number(s)	Gender Identity Included?	Congress	Status
HOME Act of 2013	HR 3030/ S 1242	Yes	113th	House: Introduced ²⁰¹ Senate: Introduced ²⁰²

¹⁹⁵ Jerry Nadler, HOME Act of 2013, 2013, <https://beta.congress.gov/bill/113th-congress/house-bill/2479>.

¹⁹⁶ Sherrod Brown, HOME Act of 2013, 2013, <https://www.congress.gov/bill/113th-congress/senate-bill/1242>.

¹⁹⁷ Jerry Nadler, Housing Opportunities Made Equal (HOME) Act, 2010, <https://www.congress.gov/bill/111th-congress/house-bill/6500>.

¹⁹⁸ Jerry Nadler, HOME Act of 2011, 2011, <https://www.congress.gov/bill/112th-congress/house-bill/3030>.

¹⁹⁹ Bella Azbug, Equality Act, 1974, <https://www.congress.gov/bill/93rd-congress/house-bill/14752>.

²⁰⁰ Edolphus Towns, Civil Rights Amendments Act of 2005, 2005, <https://www.congress.gov/bill/109th-congress/house-bill/288>.

²⁰¹ Ibid.

²⁰² Sherrod Brown, HOME Act of 2013, 2013, <https://beta.congress.gov/bill/113th-congress/senate-bill/1242/related-bills>.

JURY SERVICE AND THE LGBT COMMUNITY: WHERE WE ARE

“
STRIKES EXERCISED ON THE BASIS OF SEXUAL ORIENTATION CONTINUE THIS DEPLORABLE TRADITION OF TREATING GAYS AND LESBIANS AS UNDESERVING OF PARTICIPATION IN OUR NATION'S MOST CHERISHED RITES AND RITUALS. THEY TELL THE INDIVIDUAL WHO HAS BEEN STRUCK, THE LITIGANTS, OTHER MEMBERS OF THE VENIRE, AND THE PUBLIC THAT OUR JUDICIAL SYSTEM TREATS GAYS AND LESBIANS DIFFERENTLY. THEY DEPRIVE INDIVIDUALS OF THE OPPORTUNITY TO PARTICIPATE IN PERFECTING DEMOCRACY AND GUARDING OUR IDEALS OF JUSTICE ON ACCOUNT OF A CHARACTERISTIC THAT HAS NOTHING TO DO WITH THEIR FITNESS TO SERVE.”

– Judge Stephen Reinhardt, United States Court of Appeals for the Ninth Circuit. *SmithKline Beecham Corporation v. Abbott Laboratories*. January 21, 2014

Access to a trial arbitrated by a jury of one's peers is an American right, but in dozens of states and in federal law, there are no explicit protections for LGBT people in jury service. That means that LGBT people risk being removed from jury pools purely on the basis of their sexual orientation or gender identity.

CURRENT STATUS OF FEDERAL LAW

Currently, federal law under the Jury Selection and Services Act of 1968 prohibits discrimination in and exclusion from petit or grand jury service in the district courts of the United States or in the Court of International Trade on account of race, color, religion, sex, national origin or economic status.²⁰³ However, there are currently no explicit federal protections based on sexual orientation or gender identity for jury discrimination.

A federal circuit court has prohibited discrimination on the basis of sexual orientation in jury selection. The Supreme Court of the United States has yet to address this issue.

UPDATING THE FEDERAL CODE

Since the mid-1960s, legislation and court decisions have limited discrimination in service on federal and state juries. The Jury Selection and Service Act of 1968 prohibits the exclusion of an individual from petit or grand jury service in United States District Courts on the basis of race, color, religion, sex, national origin or economic status.²⁰⁴ In 1975, the Supreme Court, in *Taylor v. Louisiana*, ruled that state laws that made women's jury service voluntary were unconstitutional, effectively

removing the ability of lawyers to discriminate against jurors based on sex.²⁰⁵ In the 1979 case *Duren v. Missouri*, the Supreme Court reaffirmed the Jury Selection and Service Act of 1968 by ruling that women could not be exempted from jury service based on their sex.²⁰⁶ In addition, the 1985 Supreme Court case *Batson v. Kennedy* ruled that racial discrimination in jury selection deprives defendants of their right to a fair trial, and that there was no necessary interest in excluding African American men from a jury.²⁰⁷

A federal district court permitted a litigant to remove a juror based on sexual orientation in proceedings surrounding *SmithKline Beecham Corporation v. Abbott Laboratories*²⁰⁸ (a 2012 case regarding prescription drug pricing.) In January 2014, the Ninth Circuit Court held that the removal of a juror due to sexual orientation was prohibited by the 14th Amendment to United States Constitution.²⁰⁹ The Supreme Court of the United States has yet to address this issue.

The Human Rights Campaign supports legislation that would prohibit discrimination in jury selection on the basis of sexual orientation and gender identity.

²⁰³ The Jury Selection and Service Act of 1968, 1968, <http://www.gpo.gov/fdsys/pkg/STATUTE-82/pdf/STATUTE-82-Pg53-2.pdf>.

²⁰⁴ The Jury Selection and Service Act of 1968, 1968, <http://www.gpo.gov/fdsys/pkg/STATUTE-82/pdf/STATUTE-82-Pg53-2.pdf>.

²⁰⁵ *Taylor v. Louisiana*, 419 U.S. 522 (1975).

²⁰⁶ *Duren v. Missouri*, 439 U.S. 357 (1979).

²⁰⁷ *Batson v. Kentucky*, 476 U.S. 79 (1986).

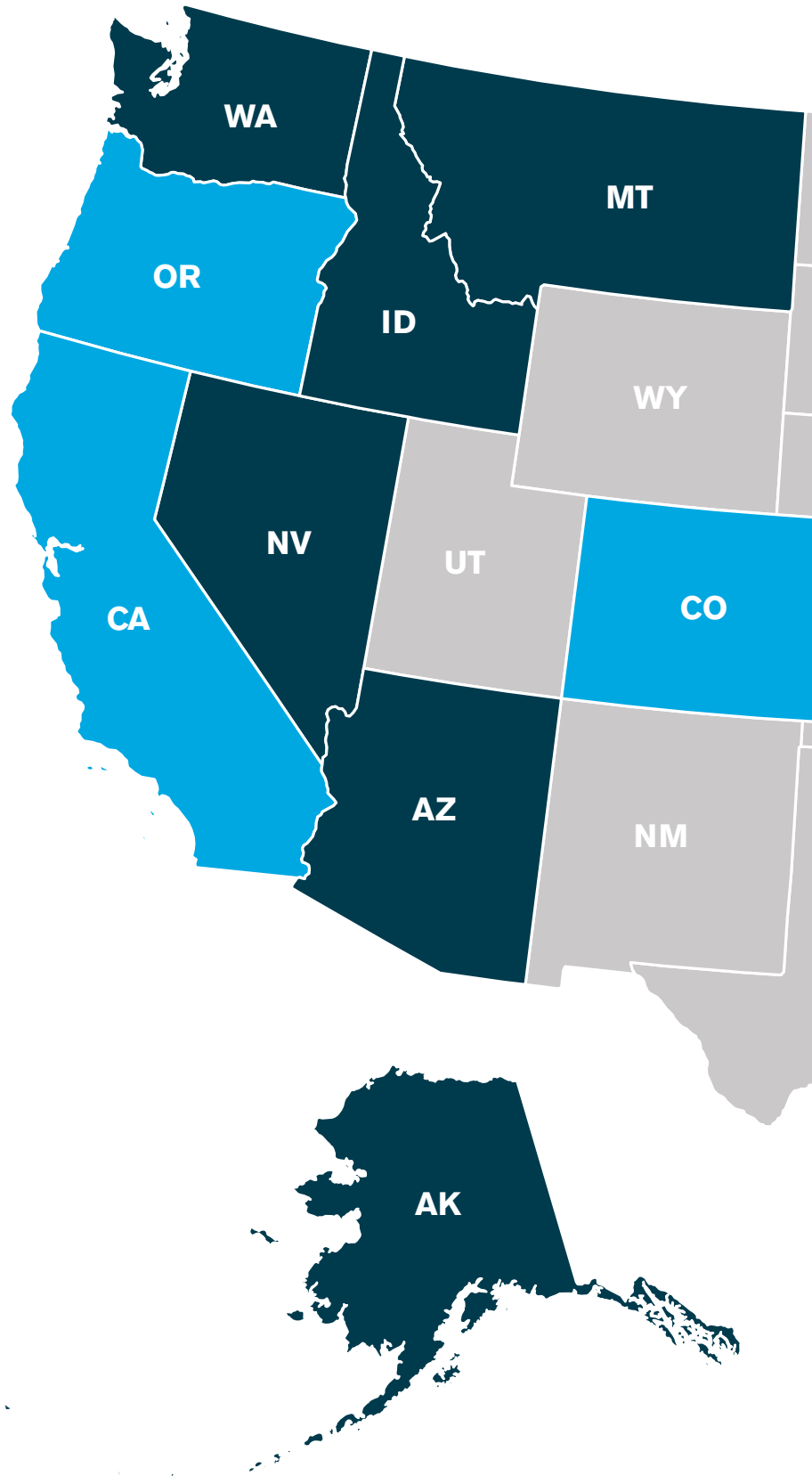
²⁰⁸ Shelbi Day, Tara Borelli, and Jon Davidson, Amicus Brief: SmithKline Beecham Corporation v. Abbott Laboratories (Washington, D.C.: United States Court of Appeals for the Ninth Circuit, March 28, 2012), <http://cdn.ca9.uscourts.gov/datastore/general/2013/08/01/Document66.pdf>.

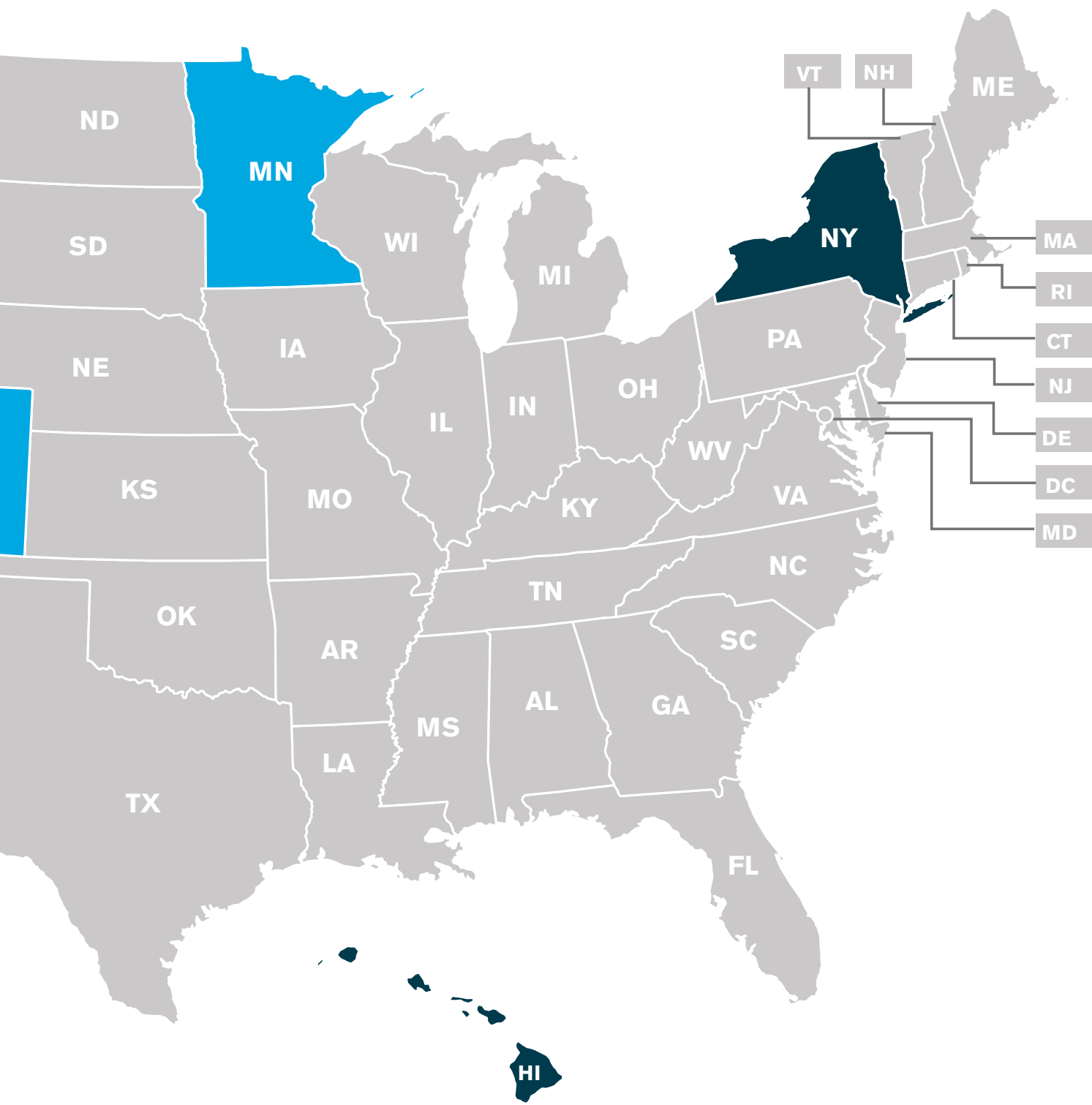
²⁰⁹ Leonard, Arthur. "9th Circuit Holds Sexual Orientation Requires Heightened Scrutiny in Gay Juror Case." <http://www.artleonardobservations.com/tag/smithkline-beecham-v-abbott-laboratories/>

MAP OF JURY SERVICE NON-DISCRIMINATION LAWS BY STATE

Sexual Orientation
8 States

**Sexual Orientation &
Gender Identity**
4 States





LIST OF JURY SERVICE NON-DISCRIMINATION LAWS BY STATE

WHO IS COVERED?

	Alaska	Sexual orientation (Covered by SmithKline decision) ²¹⁰
	Arizona	Sexual orientation (Covered by SmithKline decision) ²¹¹
²¹⁰ No. 11-17357, No. 11-17373	California	Sexual orientation & gender identity ^{212 213}
²¹¹ No. 11-17357, No. 11-17373	Colorado	Sexual orientation & gender identity ²¹⁴
²¹² No. 11-17357, No. 11-17373	Hawaii	Sexual orientation (Covered by SmithKline decision) ²¹⁵
²¹³ Cal Code Civ Proc § 231.5	Idaho	Sexual orientation (Covered by SmithKline decision) ²¹⁶
²¹⁴ C.R.S. 13-71-104 (2014)	Minnesota	Sexual orientation & gender identity ²¹⁷
²¹⁵ No. 11-17357, No. 11-17373	Montana	Sexual orientation (Covered by SmithKline decision) ²¹⁸
²¹⁶ No. 11-17357, No. 11-17373	Nevada	Sexual orientation (Covered by SmithKline decision) ²¹⁹
²¹⁷ Minn. Stat. § 593.32	New York	Sexual orientation ²²⁰
²¹⁸ No. 11-17357, No. 11-17373	Oregon	Sexual orientation & gender identity ²²¹
²¹⁹ No. 11-17357, No. 11-17373	Washington	Sexual orientation (Covered by SmithKline decision) ²²²
²²⁰ § 296. Unlawful discriminatory practices, NY EXEC § 296		
²²¹ No. 11-17357, No. 11-17373		
²²² No. 11-17357, No. 11-17373		

CURRENT & PREVIOUS LEGISLATION

Federal Legislation (Juror Non-Discrimination Act/Jury ACCESS Act)

In 2013, Representative Susan Davis (D-CA) introduced the Juror Non-Discrimination Act of 2013 to amend the federal judicial code to prohibit exclusion from petit or grand jury service in United States district courts or the Court of International Trade on the basis of sexual orientation or gender identity.²²³ Representative Steve Rothman (D-NJ) introduced the bill in 2012.²²⁴

In the Senate, Senator Jeanne Shaheen (D-NH) introduced a companion bill in both 2012 and 2013, the Jury Access for Capable Citizens and Equality in Service Selection (ACCESS) Act.²²⁵ ²²⁶

In the 100th Congress, then-Senator John Kerry (D-MA) introduced the Civil Rights Protection Act of 1988, which also included a prohibition on discrimination in jury service on the basis of sexual orientation.²²⁷

List of 2014 Federal Legislation Related To LGBT Jury Service Non-Discrimination

Bill Name	Bill Number(s)	Gender Identity Included?	Congress	Status
Juror Non-Discrimination Act	HR 312	Yes	113th	House: Introduced ²²⁸
Jury Access for Capable Citizens and Equality in Service Selection (ACCESS) Act	S 38	Yes	113th	Senate: Introduced ²²⁹

²²³ Susan A. Davis, Juror Non-Discrimination Act of 2013, 2013, <https://beta.congress.gov/bill/113th-congress/house-bill/312>.

²²⁴ Steve Rothman, Juror Non-Discrimination Act of 2012, 2012, <https://beta.congress.gov/bill/112th-congress/house-bill/5848>.

²²⁵ Jeanne Shaheen, Jury ACCESS Act, 2012, <https://www.congress.gov/bill/112th-congress/senate-bill/3618>.

²²⁶ Jeanne Shaheen, Jury ACCESS Act, 2013, <https://beta.congress.gov/bill/113th-congress/senate-bill/38>.

²²⁷ John Kerry, Civil Rights Protection Act of 1988, 1988, <https://www.congress.gov/bill/100th-congress/senate-bill/2109>.

²²⁸ Susan A. Davis, Juror Non-Discrimination Act of 2013, 2013, <https://beta.congress.gov/bill/113th-congress/house-bill/312>.

²²⁹ Jeanne Shaheen, Jury ACCESS Act, 2013, <https://beta.congress.gov/bill/113th-congress/senate-bill/38>.

PUBLIC ACCOMMODATIONS AND THE LGBT COMMUNITY: WHERE WE ARE

“
“AT THAT POINT
I HAD TO WALK
AWAY, BECAUSE
THOSE ‘THINGS’
WERE MY CLIENTS
AND THOSE ‘TYPE
OF PEOPLE’ WERE
NO DIFFERENT
FROM YOU AND
ME.”

– Jessica Miller-Poole, owner of 13 Wishes Photography in Richmond, KY who was shooting maternity photographs for a lesbian couple and was asked to leave by a park attendant who told her she was banned “indefinitely” because “those type of people are not welcome here.”

In public places across the country like theaters, restaurants and amusement parks, LGBT people are subject to a confusing patchwork of protections or worse, left without legal recourse, when faced with discrimination on the basis of sexual orientation or gender identity.

CURRENT STATUS OF FEDERAL LAW

Under Title II of the Civil Rights Act of 1964, federal law currently prohibits discrimination in public accommodations on the basis of race, color, religion, and national origin. The Americans with Disabilities Act provides public accommodations protections based on disability. However, there are no federal protections that prohibit discrimination against LGBT individuals in public accommodations.

The Civil Rights Act of 1964 defines public accommodations as lodgings, restaurants, theaters, and other entertainment venues.²³⁰ The Americans with Disabilities Act, passed in 1990, took a more expansive view of public accommodations. It prohibits discrimination against disabled Americans in the following places: lodgings, restaurants, places of exhibition or entertainment, places of public gatherings, sales or rental establishments, service establishments, public transportation, places of recreation or education, social service places or places of exercise and recreation.²³¹

UPDATING THE FEDERAL CODE

There are no protections for LGBT people in public accommodations at a federal level, leading to discrimination and victimization occurring against LGBT people in public places from restaurants to hotels to movie theaters.

Though the entire LGBT community is impacted by discrimination in public places – a 2013 study found that 23% of LGBT people had received poor service in a restaurant, hotel or place of business because of their sexual orientation or gender identity²³² – transgender people experience particularly high rates of discrimination. A 2011 study conducted by the National LGBTQ Task Force and the National Center for Transgender Equality found that 53% of transgender people reported experiencing verbal harassment and bullying in public spaces.²³³

The Human Rights Campaign supports legislation that would prohibit discrimination in public accommodations based on sexual orientation and gender identity.

OVERVIEW OF INDIVIDUAL STATE STATUTES

17 states and the District of Columbia prohibit discrimination in public accommodations and facilities on the basis of sexual orientation and gender identity. Four additional states prohibit discrimination in public accommodations and facilities on the basis of sexual orientation but do not cover gender identity. Twenty-seven states have no anti-discrimination laws for LGBT individuals that apply to public accommodations.

²³⁰ Emanuel Celler, Civil Rights Act of 1964, PL 88-352, 1964, <http://www.ourdocuments.gov/doc.php?doc=97&page=transcript>.

²³¹ Jody Feder, Federal Civil Rights Statutes: A Primer (Washington, D.C.: Congressional Research Service, November 21, 2012), http://www.senate.gov/CRSReports/crs-publish.cfm?pid=%270E%2C*P%3CW3%230%20%20%0A.

²³² Mallory, Christy; Hasenbush, Amira; & Liebowitz, Sarah. (2013). Employment, Housing, and Public Accommodations Discrimination Based on Sexual Orientation and Gender Identity in Missouri. UCLA: The Williams Institute. Retrieved from: <https://escholarship.org/uc/item/9xt0r3bk>

²³³ Grant, Jaime; Mottet, Lisa; Tanis, Justin. "Injustice at Every Turn: A Report of the National Transgender Discrimination Survey". National Center for Transgender Equality and the National Gay and Lesbian Task Force. http://www.thetaskforce.org/static_html/downloads/reports/reports/ntds_full.pdf

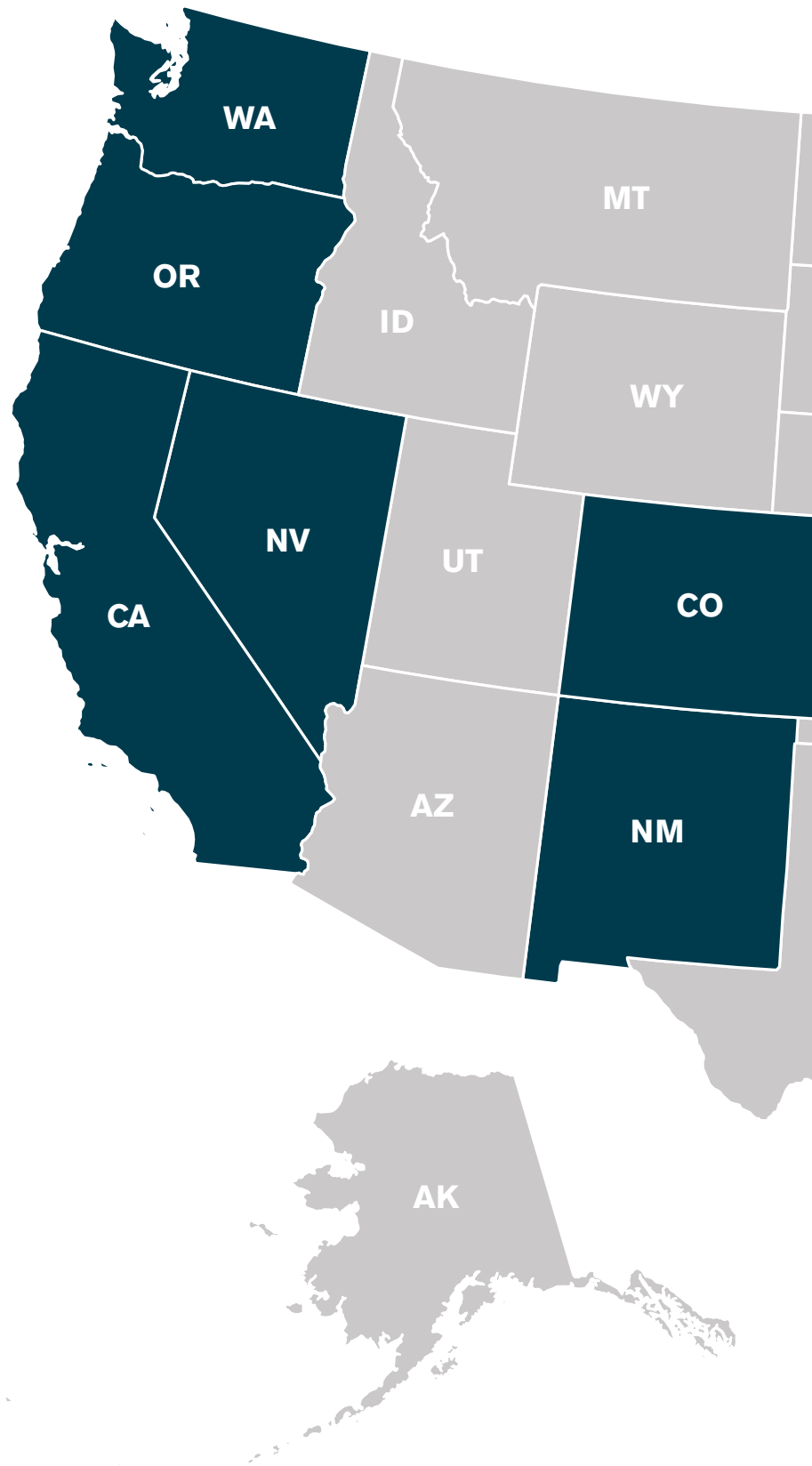
MAP OF PUBLIC ACCOMMODATIONS NON-DISCRIMINATION LAWS BY STATE²³⁴

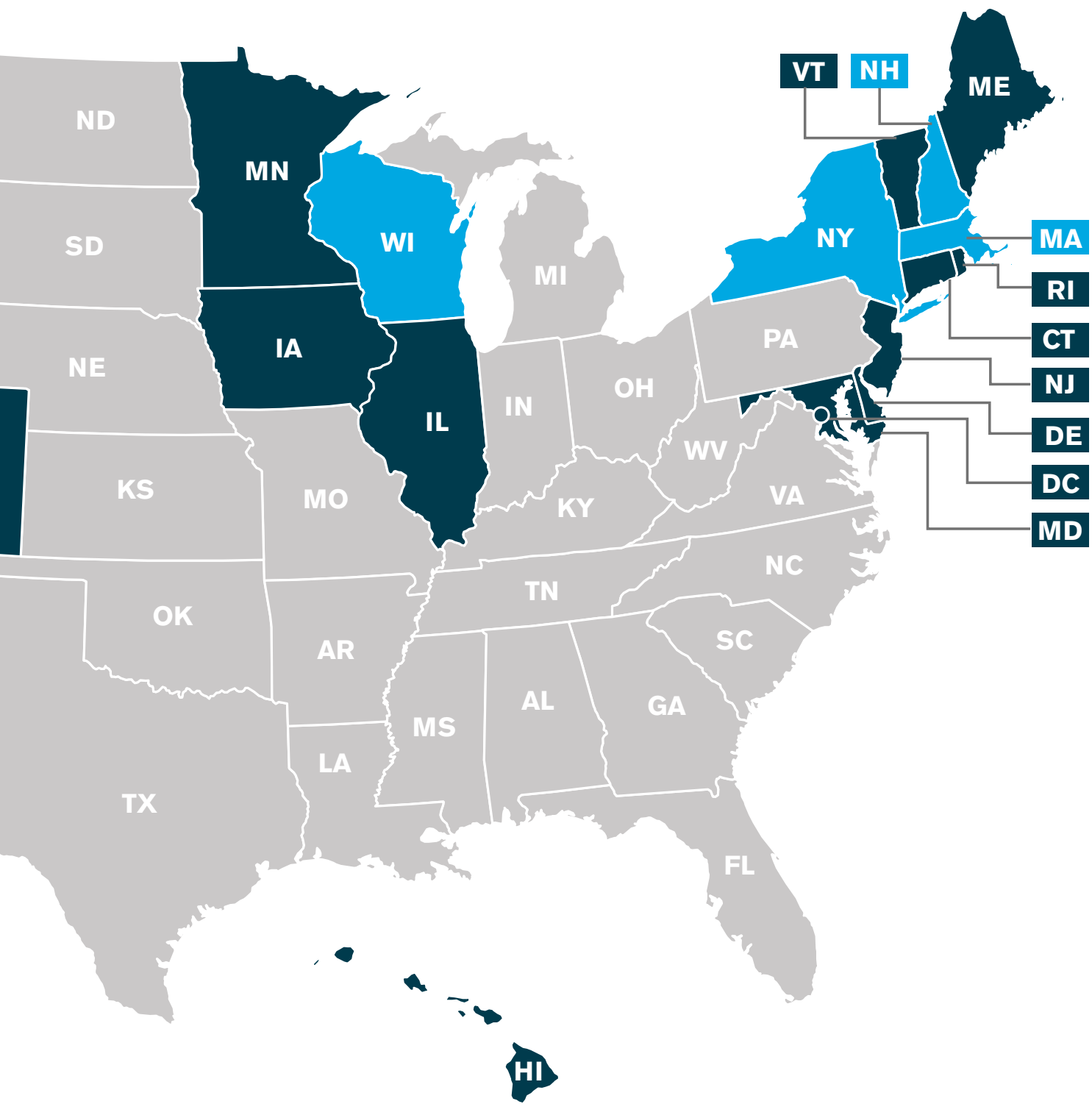
Updated October 9, 2014

Public accommodations refers to both governmental entities and private businesses that provide services to the general public such as restaurants, movie theaters, libraries and shops. It does not encompass private clubs that have a membership or dues process.

States that prohibit discrimination based on sexual orientation and gender identity
17 States and D.C.

States that prohibit discrimination based on sexual orientation only
4 States





²³⁴ "Maps of State Laws & Policies," Human Rights Campaign, accessed August 18, 2014, <http://www.hrc.org/resources/entry/maps-of-state-laws-policies>.

LIST OF PUBLIC ACCOMMODATIONS LAWS BY STATE²³⁵

²³⁵ "Maps of State Laws & Policies," Human Rights Campaign, accessed August 18, 2014, <http://www.hrc.org/resources/entry/maps-of-state-laws-policies>.

²³⁶ Cal Civ Code § 51

²³⁷ C.R.S. 24-34-601

²³⁸ Connecticut Chapter 814c. Sec. 46a-81a. Sexual orientation discrimination: Definitions.

²³⁹ 6 Del. C. § 4504

²⁴⁰ § 2-1402.31. Prohibitions., DC CODE § 2-1402.31

²⁴¹ HRS § 489-3

²⁴² 5/5-101. Definitions, IL ST CH 775 § 5/5-101

²⁴³ Iowa Code § 216.7

²⁴⁴ 5 M.R.S. § 4592

²⁴⁵ § 20-304. Prohibited acts, MD STATE GOVT § 20-304 and the Fairness for All Marylanders Act of 2014.

²⁴⁶ ALM GL ch. 272, § 92A

²⁴⁷ Minn. Stat. § 363A.11

²⁴⁸ Nev. Rev. Stat. Ann. § 651.070

²⁴⁹ RSA 354-A:17

²⁵⁰ N.J. Stat. § 10:5-12

²⁵¹ N.M. Stat. Ann. § 28-1-7

²⁵² § 296. Unlawful discriminatory practices, NY EXEC § 296

²⁵³ 659A.403. Discrimination in place of public accommodation, OR ST § 659A.403

²⁵⁴ R.I. Gen. Laws § 11-24-2

²⁵⁵ 9 V.S.A. § 4502

²⁵⁶ 49.60.030. Freedom from discrimination--Declaration of civil rights, WA ST 49.60.030

²⁵⁷ Wis. Stat. § 106.52

WHO IS COVERED?

California	Sexual orientation & gender identity ²³⁶
Colorado	Sexual orientation & gender identity ²³⁷
Connecticut	Sexual orientation & gender identity ²³⁸
Delaware	Sexual orientation & gender identity ²³⁹
District of Columbia	Sexual orientation & gender identity ²⁴⁰
Hawaii	Sexual orientation & gender identity ²⁴¹
Illinois	Sexual orientation & gender identity ²⁴²
Iowa	Sexual orientation & gender identity ²⁴³
Maine	Sexual orientation & gender identity ²⁴⁴
Maryland	Sexual orientation & gender identity ²⁴⁵
Massachusetts	Sexual orientation ²⁴⁶
Minnesota	Sexual orientation & gender identity ²⁴⁷
Nevada	Sexual orientation & gender identity ²⁴⁸
New Hampshire	Sexual orientation ²⁴⁹
New Jersey	Sexual orientation & gender identity ²⁵⁰
New Mexico	Sexual orientation & gender identity ²⁵¹
New York	Sexual orientation ²⁵²
Oregon	Sexual orientation & gender identity ²⁵³
Rhode Island	Sexual orientation & gender identity ²⁵⁴
Vermont	Sexual orientation & gender identity ²⁵⁵
Washington	Sexual orientation & gender identity ²⁵⁶
Wisconsin	Sexual orientation ²⁵⁷

CURRENT & PREVIOUS LEGISLATION

Federal Legislation

There is no federal legislation pending in the 113th Congress that would prohibit discrimination in public accommodations on the basis of sexual orientation or gender identity.

Previously, comprehensive legislation prohibiting discrimination based on sexual orientation – first named the Equality Act and then the Civil Rights Amendments Act in subsequent years – was introduced in various forms in each Congress between 1974 and 2005.²⁵⁸ ²⁵⁹ A provision prohibiting discrimination in public accommodations was included in this legislation in each Congress except the 96th, 97th, and 98th.²⁶⁰

Additionally, Representative Edolphus Towns (D-NY) introduced the Housing Nondiscrimination Act in 2010 which prohibited discrimination in housing and public accommodations on the basis of sexual orientation or gender identity.²⁶¹

²⁵⁸ Bella Azbug, Equality Act, 1974, <https://www.congress.gov/bill/93rd-congress/house-bill/14752>.

²⁵⁹ Edolphus Towns, Civil Rights Amendments Act of 2005, 2005, <https://www.congress.gov/bill/109th-congress/house-bill/288>.

²⁶⁰ Ted Weiss, Civil Rights Amendments Act of 1979, 1979, <https://www.congress.gov/bill/96th-congress/house-bill/2074>.

²⁶¹ Edolphus Towns, Housing Nondiscrimination Act of 2010, 2010, <https://www.congress.gov/bill/111th-congress/house-bill/4828>.

ADDENDUM

Year	Congress	Number	Sponsor	Name	Sexual Orientation	Gender Identity	Public Accommodations	Public Facilities	Public Education	All Federally Funded Programs	Employment	Housing	Credit	Jury	Armed Forces	Surety Bonds	Some or All Federal Employment	Certain Federally Funded Programs
1974	93	HR 14752	Bella Azbug	Equality Act	●		●	●	●	●	●	●						
1974	93	HR 15692	Bella Azbug	Equality Act	●		●	●	●	●	●	●						
1974	93	HR 16200	Robert Nix	Equality Act	●		●	●	●	●	●	●						
1975	94	HR 166	Bella Azbug	Civil Rights Amendments	●		●	●	●	●	●	●						
1975	94	HR 2667	Donald Fraser	A bill to prohibit discrimination on the basis of sex, marital status, affectional or sexual preference.	●		●	●	●	●	●	●						
1975	94	HR 5452	Bella Azbug	Civil Rights Amendments	●		●	●	●	●	●	●						
1975	94	HR 10389	Richard Ottinger	Civil Rights Amendments	●		●	●	●	●	●	●						
1975	94	HR 13019	Phillip Burton	Civil Rights Amendments	●		●	●	●	●	●	●						
1975	94	HR 13928	Bella Azbug	Civil Rights Amendments	●		●	●	●	●	●	●						
1977	95	HR 451	Edward Koch	Civil Rights Amendments	●		●	●	●	●	●	●						
1977	95	HR 2998	Edward Koch	Civil Rights Amendments	●		●	●	●	●	●	●						
1977	95	HR 4794	Edward Koch	Civil Rights Amendments	●		●	●	●	●	●	●						
1977	95	HR 5239	Phillip Burton	Civil Rights Amendments	●		●	●	●	●	●	●						
1977	95	HR 7775	Edward Koch	Civil Rights Amendments Act	●		●	●	●	●	●	●						
1977	95	HR 8268	Edward Koch	Civil Rights Amendments Act	●		●	●	●	●	●	●						
1977	95	HR 8269	Edward Koch	Civil Rights Amendments Act	●		●	●	●	●	●	●						
1978	95	HR 10575	Don Edwards	Civil Rights Amendments	●		●	●	●	●	●	●						
1978	95	HR 12149	William Green	Civil Rights Amendments	●		●	●	●	●	●	●						
1979	96	HR 2074	Ted Weiss	Civil Rights Amendments Act	●		●	●	●	●	●	●						
1979	96	S 2081	Paul Tsongas	A bill to prohibit employment discrimination on the basis of sexual orientation.	●						●							
1981	97	HR 1454	Ted Weiss	Civil Rights Amendments Act	●		●	●	●	●	●	●						
1981	97	HR 3371	Phillip Burton	Civil Rights Amendments Act	●		●	●	●	●	●	●						
1981	97	S 1708	Paul Tsongas	A bill to prohibit discrimination on the basis of sexual orientation.	●						●							
1983	98	HR 427	Ted Weiss	Civil Rights Amendments Act	●		●	●	●	●	●	●						
1983	98	HR 2624	Ted Weiss	Civil Rights Amendments Act	●		●	●	●	●	●	●						
1983	98	S 430	Paul Tsongas	A bill to prohibit employment discrimination on the basis of sexual orientation.	●						●							
1985	99	HR 230	Ted Weiss	Civil Rights Amendments Act	●		●	●	●	●	●	●						
1985	99	S 1432	John Kerry	Civil Rights Amendments Act	●		●	●	●	●	●	●						
1987	100	HR 709	Ted Weiss	Civil Rights Amendments Act	●		●	●	●	●	●	●						

Year	Congress	Number	Sponsor	Name	Sexual Orientation	Gender Identity	Public Accommodations	Public Facilities	Public Education	All Federally Funded Programs	Employment	Housing	Credit	Jury	Armed Forces	Surety Bonds	Some or All Federal Employment	Certain Federally Funded Programs
1987	100	S 464	Alan Cranston	Civil Rights Amendments Act	●		●	●		●	●	●						
1988	100	S 2109	John Kerry	Civil Rights Protection Act	●		●	●	●	●	●			●				
1989	101	HR 655	Ted Weiss	Civil Rights Amendments Act	●		●	●		●	●	●						
1989	101	S 47	Alan Cranston	Civil Rights Amendments Act	●		●	●		●	●	●						
1991	102	HR 1430	Ted Weiss	Civil Rights Amendments Act	●		●	●		●	●	●						
1992	102	HR 5208	Patricia Schroeder	To prohibit discrimination by the Armed Forces on the basis of sexual orientation.	●										●			
1991	102	S 574	Alan Cranston	Civil Rights Amendments Act	●		●	●		●	●	●						
1992	102	S 2611	Paul Simon	Equal Surety Bond Opportunity Act	●												●	
1992	102	S 3084	Howard Metzenbaum	To prohibit discrimination by the Armed Forces on the basis of sexual orientation.	●										●			
1993	103	HR 423	Edolphus Towns	Civil Rights Amendments Act	●		●	●		●	●	●						
1993	103	HR 431	Henry Waxman	Civil Rights Act of 1993	●		●	●	●	●	●	●	●					
1993	103	HR 2981	Jerrold Nadler	To prohibit discrimination by the Armed Forces on the basis of sexual orientation.	●										●			
1994	103	HR 4636	Gerry Studds	Employment Non-Discrimination Act	●						●							
1993	103	S 71	Howard Metzenbaum	To prohibit discrimination by the Armed Forces on the basis of sexual orientation.	●										●			
1994	103	S 2238	Ted Kennedy	Employment Non-Discrimination Act	●						●							
1995	104	HR 382	Edolphus Towns	Civil Rights Amendments Act	●		●	●		●	●	●						
1995	104	HR 1863	Gerry Studds	Employment Non-Discrimination Act	●						●							
1996	104	HR 3702	Eleanor Holmes Norton	Equal Surety Bond Opportunity Act	●												●	
1996	104	HR 3857	Constance Morella	Economic Equity Act	●												●	
1995	104	S 932	James Jeffords	Employment Nondiscrimination Act	●						●							
1996	104	S 2056	Ted Kennedy	Employment Nondiscrimination Act	●						●							
1997	105	HR 365	Edolphus Towns	Civil Rights Amendments Act	●		●	●		●	●	●						
1997	105	HR 1858	Christopher Shays	Employment Non-Discrimination Act	●						●							
1997	105	HR 2554	Eleanor Holmes Norton	Equal Surety Bond Opportunity Act	●												●	
1998	105	HR 4841	Howard Coble	Small Business Franchise Act	●													
1997	105	S 869	James Jeffords	Employment Non-Discrimination Act	●						●							
1999	106	HR 311	Edolphus Towns	Civil Rights Amendments Act	●		●	●		●	●	●						
1999	106	HR 2355	Christopher Shays	Employment Non-Discrimination Act	●						●							
2000	106	HR 4001	John Lewis	Civil Rights for International Travelers Act	●													

Year	Congress	Number	Sponsor	Name	Sexual Orientation	Gender Identity	Public Accommodations	Public Facilities	Public Education	All Federally Funded Programs	Employment	Housing	Credit	Jury	Armed Forces	Surety Bonds	Some or All Federal Employment	Certain Federally Funded Programs
1999	106	S 1276	James Jeffords	Employment Non-Discrimination Act	●						●							
2000	106	S 2393	Richard Durbin	Reasonable Search Standards Act	●													
2001	107	HR 217	Edolphus Towns	Civil Rights Amendments Act	●	●	●			●	●	●						
2001	107	HR 1996	John Lewis	Civil Rights for International Travelers Act	●													
2001	107	HR 2692	Christopher Shays	Employment Non-Discrimination Act	●						●							
2001	107	HR 3151	Benjamin Gilman	Freedom to Trade Act	●													
2002	107	HR 4891	Eleanor Holmes Norton	Equal Surety Bond Opportunity Act	●											●		
2001	107	S 19	Tom Daschle	Protecting Civil Rights for All Americans Act	●						●							
2001	107	S 799	Richard Durbin	Reasonable Search Standards Act	●													
2001	107	S 1284	Ted Kennedy	Employment Nondiscrimination Act	●						●							
2002	107	S.Res.294	Dianne Feinstein	A resolution to amend rule XLII of the Standing Rules of the Senate to prohibit employment discrimination in the Senate based on sexual orientation.													●	
2003	108	HR 214	Edolphus Towns	Civil Rights Amendments Act	●	●	●			●	●	●						
2003	108	HR 3285	Christopher Shays	Employment Non-Discrimination Act	●						●							
2004	108	HR 4455	Eleanor Holmes Norton	Equal Surety Bond Opportunity Act	●											●		
2003	108	S 16	Tom Daschle	Equal Rights and Equal Dignity for Americans Act	●						●							
2003	108	S 1705	Ted Kennedy	Employment Non-Discrimination Act	●						●							
2003	108	S.Res.74	Dianne Feinstein	A resolution to amend rule XLII of the Standing Rules of the Senate to prohibit employment discrimination in the Senate based on sexual orientation.													●	
2005	109	HR 288	Edolphus Towns	Civil Rights Amendments Act	●	●	●			●	●	●						
2005	109	HR 1059	Martin Meehan	Military Readiness Enhancement Act	●										●			
2005	109	HR 3128	Henry Waxman	Clarification of Federal Employment Protections Act	●												●	
2007	110	HR 1246	Martin Meehan	Military Readiness Enhancement Act	●										●			
2007	110	HR 2015	Barney Frank	Employment Non-Discrimination Act	●	●					●							
2007	110	HR 2232	Henry Waxman	Clarification of Federal Employment Protections Act	●												●	
2007	110	HR 3551	Danny Davis	Federal Merit System Reauthorization Act	●												●	
2007	110	HR 3685	Barney Frank	Employment Non-Discrimination Act	●						●							
2007	110	HR 4849	Laura Richardson	Equal Rights for Health Care Act Title 42	●													●
2007	110	S 1345	Daniel Akaka	Clarification of Federal Employment Protections Act	●												●	
2007	110	S 2057	Daniel Akaka	Federal Merit System Reauthorization Act	●												●	
2009	111	HR 1283	Ellen Tauscher	Military Readiness Enhancement Act	●										●			
2009	111	HR 2744	Laura Richardson	Equal Rights for Health Care Act Title 42	●	●												●

Year	Congress	Number	Sponsor	Name	Sexual Orientation	Gender Identity	Public Accommodations	Public Facilities	Public Education	All Federally Funded Programs	Employment	Housing	Credit	Jury	Armed Forces	Surety Bonds	Some or All Federal Employment	Certain Federally Funded Programs
2009	111	HR 2981	Barney Frank	Employment Non-Discrimination Act	●	●					●							
2009	111	HR 3001	Tammy Baldwin	Ending LGBT Health Disparities Act	●	●												●
2009	111	HR 3017	Barney Frank	Employment Non-Discrimination Act	●	●					●							
2009	111	HR 3090	Donna Christensen	Health Equity and Accountability Act	●	●												●
2009	111	HR 3827	Pete Stark	Every Child Deserves a Family Act	●	●												●
2009	111	HR 4376	Steve Israel	Freedom from Discrimination in Credit Act	●	●							●					
2010	111	HR 4530	Jared Polis	Student Nondiscrimination Act	●	●			●									
2010	111	HR 4806	Pete Stark	Every Child Deserves a Family Act	●	●												●
2010	111	HR 4820	Jerrold Nadler	Fair and Inclusive Housing Rights Act	●	●						●						
2010	111	HR 4828	Edolphus Towns	Housing Nondiscrimination Act	●	●	●	●				●						
2010	111	HR 4988	Joe Sestak	Housing Non-Discrimination Act	●	●						●						
2010	111	HR 6500	Jerrold Nadler	Housing Opportunities Made Equal Act	●	●						●						
2009	111	S 1584	Jeff Merkley	Employment Non-Discrimination Act	●	●					●							
2010	111	S 3065	Joseph Lieberman	Military Readiness Enhancement Act	●										●			
2010	111	S 3390	Al Franken	Student Nondiscrimination Act	●	●			●									
2011	112	HR 998	Jared Polis	Student Non-Discrimination Act	●	●			●									
2011	112	HR 1397	Barney Frank	Employment Non-Discrimination Act	●	●					●							
2011	112	HR 1488	Steve Israel	Freedom from Discrimination in Credit Act	●	●							●					
2011	112	HR 1681	Pete Stark	Every Child Deserves a Family Act	●	●												●
2011	112	HR 2954	Barbara Lee	Health Equity and Accountability Act	●	●												●
2011	112	HR 3030	Jerrold Nadler	Housing Opportunities Made Equal Act	●	●						●	●					
2012	112	HR 4271	Gwen Moore	Violence Against Women Reauthorization Act	●	●												●
2012	112	HR 4982	Judy Biggert	Violence Against Women Reauthorization Act	●	●												●
2012	112	HR 5331	Janice Schakowsky	Violence Against Immigrant Women Act	●	●												●
2012	112	HR 5848	Steve Rothman	Juror Non-Discrimination Act	●	●								●				
2011	112	S 555	Al Franken	Student Non-Discrimination Act	●	●			●									
2011	112	S 811	Jeff Merkley	Employment Non-Discrimination Act	●	●					●							
2011	112	S 1605	John Kerry	Housing Opportunities Made Equal Act	●	●						●	●					
2011	112	S 1770	Kirsten Gillibrand	Every Child Deserves a Family Act	●	●												●
2011	112	S 1925	Patrick Leahy	Violence Against Women Reauthorization Act	●	●												●
2012	112	S 2474	Daniel Akaka	Health Equity and Accountability Act	●	●												●

Year	Congress	Number	Sponsor	Name	Sexual Orientation	Gender Identity	Public Accommodations	Public Facilities	Public Education	All Federally Funded Programs	Employment	Housing	Credit	Jury	Armed Forces	Surety Bonds	Some or All Federal Employment	Certain Federally Funded Programs
2012	112	S 3618	Jeanne Shaheen	Jury ACCESS Act	●	●								●				
2013	113	HR 11	Gwen Moore	Violence Against Women Reauthorization Act	●	●												●
2013	113	HR 312	Susan Davis	Juror Non-Discrimination Act	●	●								●				
2013	113	HR 629	Janice Schakowsky	Violence Against Immigrant Women Act	●	●												●
2013	113	HR 1652	Jared Polis	Student Non-Discrimination Act	●	●			●									
2013	113	HR 1755	Jared Polis	Employment Non-Discrimination Act	●	●					●							
2013	113	HR 2028	John Lewis	Every Child Deserves a Family Act	●	●												●
2013	113	HR 2364	Steve Israel	Freedom from Discrimination in Credit Act	●	●							●					
2013	113	HR 2479	Jerrold Nadler	Housing Opportunities Made Equal Act	●	●						●	●					
2013	113	HR 2955	Gwen Moore	Runaway and Homeless Youth Inclusion Act	●	●												●
2014	113	HR 4620	Adam Smith	Accountability in Immigration Detention Act	●	●												
2014	113	HR 5294	Lucille Roybal-Allard	Health Equity and Accountability Act	●	●												●
2013	113	S 38	Jeanne Shaheen	Jury ACCESS Act	●	●								●				
2013	113	S 47	Patrick Leahy	Violence Against Women Reauthorization Act	●	●												●
2013	113	S 815	Jeff Merkley	Employment Non-Discrimination Act	●	●					●							
2013	113	S 1069	Kirsten Gillibrand	Every Child Deserves a Family Act	●	●												●
2013	113	S 1088	Al Franken	Student Non-Discrimination Act	●	●			●									
2013	113	S 1094	Tom Harkin	Strengthening America's Schools Act	●	●			●									
2013	113	S 1159	Patty Murray	Freedom from Discrimination in Credit Act	●	●							●					
2013	113	S 1242	Sherrod Brown	Housing Opportunities Made Equal Act	●	●						●	●					
2014	113	S 2646	Patrick Leahy	Runaway and Homeless Youth and Trafficking Prevention Act	●	●												●



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