

THE MOMENTUM REPORT — 2014 EDITION

A Snapshot of Progress and Setbacks for LGBT Equality

January 2015



movement advancement project ►

This report was authored by:

Movement Advancement Project

The Movement Advancement Project (MAP) is an independent think tank that provides rigorous research, insight and analysis that help speed equality for LGBT people. MAP works collaboratively with LGBT organizations, advocates and funders, providing information, analysis and resources that help coordinate and strengthen efforts for maximum impact.

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

David Bohnett Foundation
David Dechman
David Geffen Foundation
Ford Foundation
Gill Foundation
Esmond Harmsworth
Jim Hormel
Johnson Family Foundation
Amy Mandel and Katina Rodis
Weston Milliken
The Palette Fund
Mona Pittenger
Sara Whitman
H. van Ameringen Foundation

INTRODUCTION

2014 was a year of remarkable change for lesbian, gay, bisexual, and transgender (LGBT) people. From stunning wins for the freedom to marry to Medicare's lifting of the exclusion of coverage for transgender-specific healthcare, LGBT people made gains on many fronts. However, despite these advances, deep disparities remain. For example, only 18 states and the District of Columbia have explicit employment nondiscrimination protections for LGBT people and LGBT people report high rates of healthcare discrimination, poorer overall health, and poorer well-being.

The *2014 Momentum Report: A Snapshot of Progress and Setbacks for LGBT Equality* examines some of the highlights and lowlights in the journey towards LGBT equality over the past year. The report examines marriage, health, transgender equality, and other progress. It also provides an overview of some of the work left to be done. This year, the report also contains timeline of some of the important events that occurred throughout the year.

Note that this report is not an exhaustive detailing of the progress made at every level in every area of life—nor all of the policy and societal changes needed to achieve full equality. For more exhaustive information on laws and policies impacting LGBT people, visit the Movement Advancement Project's equality maps at www.lgbtmap.org/equality-maps. And, to learn more about the issues facing LGBT Americans, and how inequitable laws have a negative effect on LGBT people's lives—and what needs to happen to make things better—visit www.lgbtmap.org.

MARRIAGE

2014: The Year of Marriage?

The total number of states extending marriage to same-sex couples doubled in 2014, from 17 states plus D.C. at the end of 2013 to 35 states plus D.C. at the end of 2014.¹ The percentage of Americans living in states extending marriage to same-sex couples rose from 42% at the end of 2013 to 71% at the end of 2014.

In February 2014, U.S. Attorney General Eric Holder told state attorneys general that they did not have to defend their states' marriage bans, in accordance with the Department of Justice's own decision not to defend the federal Defense of Marriage Act in 2012. Meanwhile, state litigation brought marriage equality to Illinois, Oregon, and Pennsylvania early in the year.

Then, in October, the Supreme Court declined to hear appeals of decisions in five states where courts had struck down bans on marriage for same-sex couples. The Supreme Court's action (or non-action) immediately brought marriage to those five states.

Given the lack of a Supreme Court directive on marriage, state officials and judiciary became key players in the state-by-state expansion of the freedom to marry. Same-sex couples in another ten states gained the freedom to marry in rapid succession as state supreme courts and federal appellate courts ruled in favor of marriage equality. Then, in a setback, the Sixth Circuit Court of Appeals in November upheld marriage bans in the four states in its jurisdiction: MI, KY, OH, and TN.

See *Figure 1* on the next page for an overview of the gains made for marriage equality in 2014.

DOJ and Federal Recognition

The federal government in February announced that it would recognize the marriages of all same-sex couples married in states that offer the freedom to marry. And in June, the Department of Justice (DOJ) released a comprehensive list of the federal programs and agencies that extend the rights and responsibilities granted

through marriage to legally married same-sex couples.

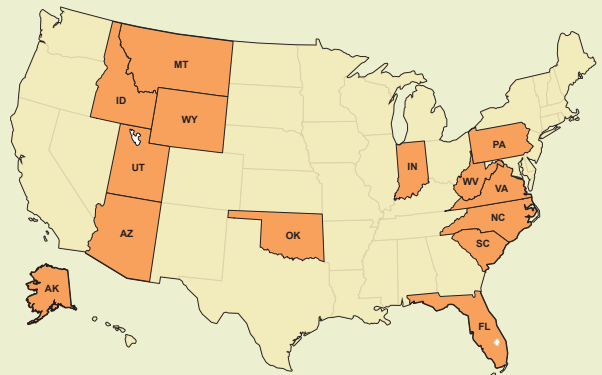
Most of these rights are granted regardless of the state in which the couple currently resides, but some, including Social Security benefits and Supplemental Security Income, are only available to legally married same-sex couples living in a state that recognizes their marriage.

What's Next?

Although the Supreme Court declined to review the marriage equality cases pending before it in 2014, there is a chance that the nation's highest court will hear a case on the federal right to marry during its 2015 term, particularly as federal cases challenging marriage bans in the remaining states work their way through the courts.

Marriage, but Little Else

With the freedom to marry progressing so swiftly through the courts, same-sex couples can now marry in a number of states that otherwise have almost no legal equality for LGBT people. What this means is that a worker can get married over the weekend, then be fired on Monday because of her sexual orientation. Similarly, a legally married same-sex couple can be kicked out of their apartment or denied service in a restaurant because they are gay. As of publication, 14 states have marriage equality and no state-level protections from discrimination: Alaska, Arizona, Florida, Idaho, Indiana, Montana, North Carolina, Oklahoma, Pennsylvania, South Carolina, Utah, Virginia, West Virginia, and Wyoming.



¹ While Florida marriages began in 2015, the decision overturning Florida's ban on the freedom to marry occurred in 2014. For the purposes of this report, Florida is included among the states which gained marriage equality in 2014.

January

February

March

April

May

June

Department of Justice recognizes all married same-sex couples, regardless of state of residence.
Illinois marriage ban overturned; marriages start immediately.

Social Security Administration starts processing Medicare applications for married same-sex couples.

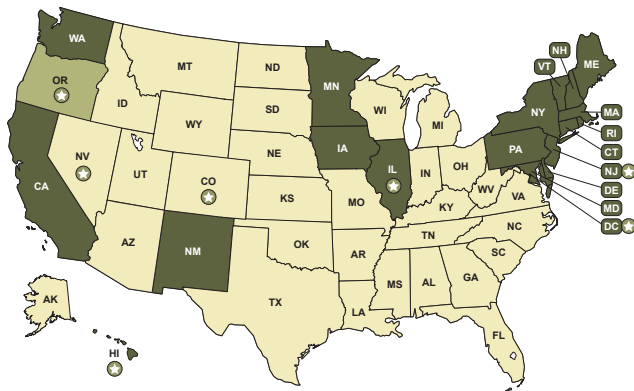
Marriage bans overturned in Oregon and Pennsylvania.

Department of Veterans Affairs to recognize same-sex domestic partners and civil unions for payment of burial benefits.
Department of Justice announces full round-up of all DOMA-related benefits that flow to same-sex couples.

Figure 1: Expansion of State Marriage and Relationship Recognition Laws

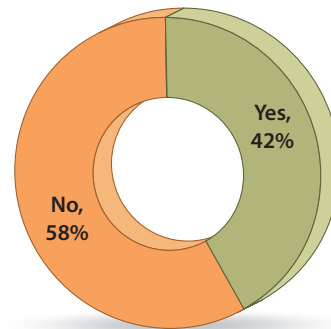
1a: Laws in 2013

State Marriage and Relationship Recognition Laws



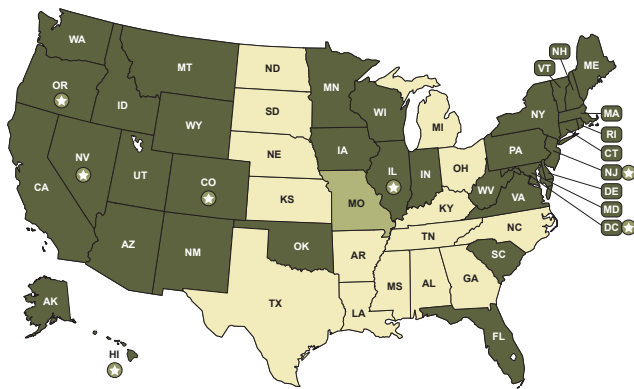
- Marriage equality for same-sex couples (17 states + D.C.)
- ★ Comprehensive civil union or domestic partnership law (6 states + D.C.)
- Out-of-state marriages recognized, but same-sex couples may not marry in-state (1 state)
- No legal recognition for same-sex couples (29 states)

Percentage of Americans with Freedom to Marry in 2013



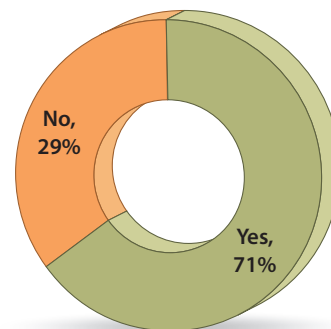
1b: Laws in 2014

State Marriage and Relationship Recognition Laws



- Marriage equality for same-sex couples (35 states + D.C.)
- ★ Comprehensive civil union or domestic partnership law (6 states + D.C.)
- Out-of-state marriages recognized, but same-sex couples may not marry in-state (1 state)
- No legal recognition for same-sex couples (14 states)

Percentage of Americans with Freedom to Marry in 2014



2013

2014

Source: Movement Advancement Project, Equality Maps, current as of January 2015. For updates see http://lgbtmap.org/equality-maps/marriage_relationship_laws.



July



August



September



October

The Supreme Court of the United States denies review of five marriage cases, opening flood gates for 15 states to gain the freedom to marry.



November

The Sixth Circuit Court of Appeals upholds marriage bans in Michigan, Ohio, Tennessee, and Kentucky.



December

What's new in 2014?

In 2014, the percent of LGBT people lacking health insurance dropped as millions signed up for insurance offered under the Affordable Care Act. Other good news on the health front: a number of jurisdictions passed laws or policies protecting transgender people from exclusions in healthcare coverage. But LGBT people still suffer from higher uninsurance rates and discrimination and lower well-being than non-LGBT people.

The Affordable Care Act and Insurance Rates

Following the first period of open enrollment under the Affordable Care Act, uninsurance rates among the LGBT community dropped substantially, from 24.2% of LGBT people in 2013 to 17.6% in 2014 (see *Figure 2*).² However, uninsurance rates remain higher for LGBT people than non-LGBT people. A 2013 survey found that 57% of LGBT respondents lacked access to coverage through an employer compared to 42% of the general population.³

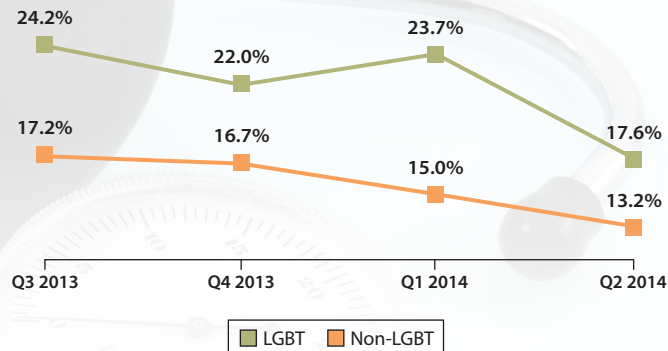
Exclusions for Transgender-Specific Healthcare

In 2014, Medicare's ban on coverage of transgender-specific healthcare was lifted, and the federal government lifted the exclusion on coverage for transgender-specific medical care for its employees. These actions opened the door to critical healthcare coverage for thousands of transgender people across the nation. In addition, Illinois passed a statewide ban on insurance discrimination on the basis of gender identity and also ended its exclusion of transgender-specific care. MassHealth, the insurance provider for low- and middle-income residents in Massachusetts, announced that it would now cover transgender-specific care, and in December, New York State ended transgender-specific exclusions by private insurers.

² Gary J. Gates, "In U.S., LGBT More Likely Than Non-LGBT to Be Uninsured," *Gallup*, August 26, 2014, <http://www.gallup.com/poll/175445/lgbt-likely-non-lgbt-uninsured.aspx>.

³ Laura E. Durso, Kellan Baker, and Andrew Cray, "LGBT Communities and the Affordable Care Act," Center for American Progress, October 10, 2013, accessed May 12, 2014, <http://www.americanprogress.org/wp-content/uploads/2013/10/LGBT-ACA-survey-brief1.pdf>.

Figure 2: Percentage Uninsured in the U.S. by LGBT Status



Source: Gallup

Currently, nine states and D.C. prohibit transgender-specific exclusions in health insurance.

Discrimination and Poorer Health

Despite 2014's advances in healthcare coverage, LGBT people (particularly transgender people) still report high rates of discrimination in healthcare (see *Figure 3* on the next page) and poorer health. According to Gallup, LGBT people report lower well-being than non-LGBT people, and in particular, lower physical and financial well-being (see *Figure 4* on the next page).

Spending More Time Educating Physicians Than Receiving Care



As a gay Latino with a disability, I navigate the healthcare system, including Medicaid, Medicare, and Supplemental Security Income (SSI). I work with a case worker and have regular doctor's appointments with my primary care physician and specialists. When I come out as a gay man, I have to spend a lot of time educating my healthcare providers about what it means to be LGBT.

— Frank Vaca

January

February

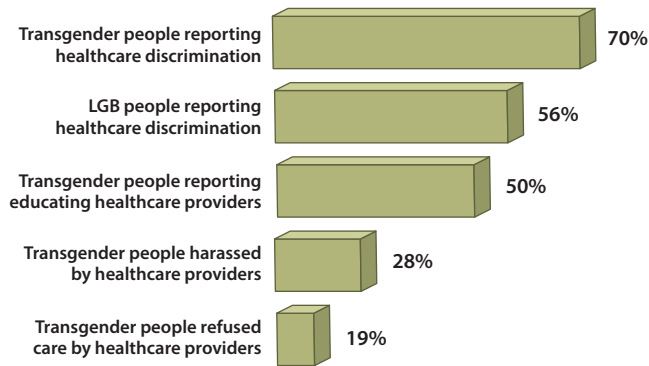
March
Department of Health and Human Services says that health insurers must offer plans to married same-sex couples, regardless of state of residence, starting in January 2015.

April

May
Medicare's ban on transgender care lifted.

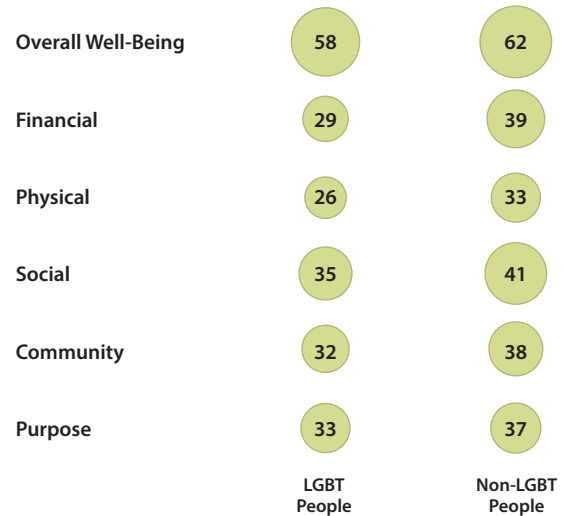
June
Office of Personnel Management lifts the ban on transgender-specific health care for federal employees. Massachusetts announces coverage for transgender-specific health care and removes exclusions

Figure 3: LGBT People Report High Rates of Healthcare Discrimination



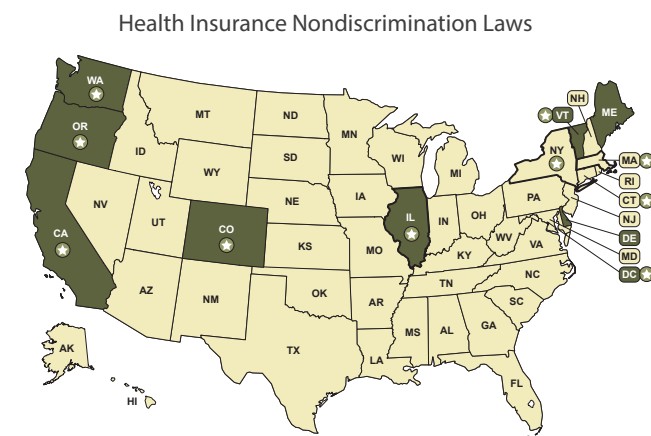
Source: Lambda Legal, "When Health Care Isn't Caring: Lambda Legal's Survey of Discrimination Against LGBT People and People with HIV," 2010, http://data.lambdalegal.org/publications/downloads/whcicreport_when-health-care-isnt-caring.pdf; Jaime M. Grant, Lisa A. Mottet, Justin Tanis, Jack Harrison, Jody L. Herman and Mara Keisling, "Injustice at Every Turn: A Report of the National Transgender Discrimination Survey," National Center for Transgender Equality and National Gay and Lesbian Task Force, 2011, http://www.thetaskforce.org/downloads/reports/reports/ntds_full.pdf.

Figure 4: LGBT Americans Report Lower Well-Being
Gallup-Healthways Well-Being Index Scores, by LGBT Status



Source: Gary J. Gates, "LGBT Americans Report Lower Well-Being," *Gallup Well-Being*, August 25, 2014, accessed September 9, 2014, <http://www.gallup.com/poll/175418/lgbt-americans-report-lower.aspx>.

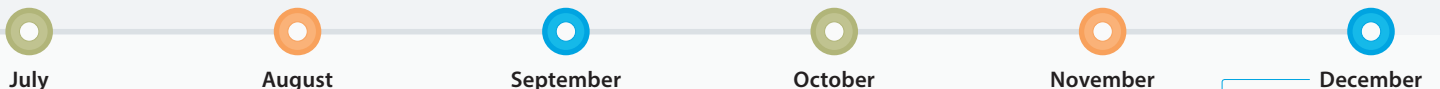
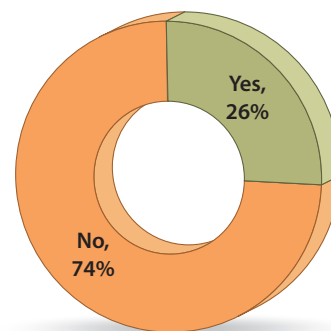
Figure 5: Health Insurance Nondiscrimination



- Law prohibits health insurance discrimination based on sexual orientation and gender identity (8 states + D.C.)
- ★ Transgender exclusions in health insurance service coverage prohibited (9 states + D.C.)
- No law providing LGBT inclusive insurance protections (42 states)
- Outlined - 3 states advanced on this issue in 2014 (IL, MA, NY)

Source: Movement Advancement Project, Equality Maps, current as of January 2015. For updates see http://www.lgbtmap.org/equality-maps/non_discrimination_laws.

LGBT Americans Protected from Insurance Discrimination



July
Illinois adds gender identity to insurance nondiscrimination and removes exclusions for transgender-specific care.

December
New York State prohibits private insurers from excluding coverage for transgender-specific care.
The District of Columbia bans harmful conversion therapy for minors.
Food and Drug Administration shortens ban on gay and bisexual men giving blood to twelve months after having sex with a man.

TRANSGENDER EQUALITY

What's New in 2014?

While transgender people, especially transgender people of color, still experience high levels of discrimination and violence, transgender equality made many advances in 2014. These gains mean more protection from discrimination in schools and the workplace, and easier processes for obtaining accurate identity documents for many transgender people.

Protection in Schools

In April, the U.S. Department of Education issued guidance confirming that the federal prohibition against sex discrimination in education protects transgender students. Several states and local jurisdictions also took strong steps to protect transgender students in 2014: the Maine Supreme Court ruled that schools must allow transgender students to use restrooms in accordance with their gender identity; New York City adopted guidelines for serving transgender students; students in the University of California system established a right to gender-neutral spaces; Massachusetts passed an LGBT-inclusive anti-bullying law; and four women's colleges (Mt. Holyoke College, Mills University, Simmons College, and Scripps College) changed their policies to accept transgender students.

Protection at Work

Although there is still no federal legislation explicitly protecting transgender people from discrimination in the workplace, employment protections are advancing through other avenues (see *Figure 7* on the next page). The City of Houston, Texas, and the State of Maryland added employment protections for transgender people, among other nondiscrimination protections for LGBT people. In March, a California court ruled that employers can't force transgender employees to use bathrooms based on their assigned birth sex. In July, President Obama signed an executive order adding gender identity to federal employment protections and prohibiting federal contractors from discriminating based on sexual orientation and gender identity. In a December setback, a federal court ruled that Title

VII of the Civil Rights Act does not cover transgender employees. Then in mid-December, the Department of Justice announced that it would interpret the federal prohibition on sex discrimination in employment to include gender identity discrimination.

Public Service

Despite the repeal of the U.S. military's "Don't Ask Don't Tell" policy in 2010, transgender service members are still not permitted to serve openly. In 2014, several public figures, including former Secretary of Defense Chuck Hagel, then-House Speaker Nancy Pelosi, the White House press secretary, and Air Force Secretary Deborah Lee James, spoke openly about the need to update military regulations to allow open service by transgender people. In August, a high-level commission convened by the Palm Center recommended immediate open service for transgender service members.

Public Visibility

2014 was a year of heightened visibility for transgender people in popular culture. Actress Laverne Cox appeared on the cover of *Time* magazine in May 2014 and in November was declared one of *Glamour's* Women of the Year. Author Janet Mock released her memoir of growing up transgender, *Redefining Realness*, in February 2014. And, Amazon Studios debuted *Transparent*, a critically-acclaimed comedy-drama about the ramifications when a transgender woman comes out to her family.

Birth Certificates

States and local jurisdictions continue to ease the process for changing gender markers on one's birth certificate (see *Figure 8* on the next page). In 2014, New York and Rhode Island removed their requirement that transgender people provide proof of medical transition before changing a gender marker; similar policies in California and Oregon also came into effect. Surgical requirements make changing identity documents impossible for many transgender people who may be unable to afford, or may not want, surgery as part of their gender transition.

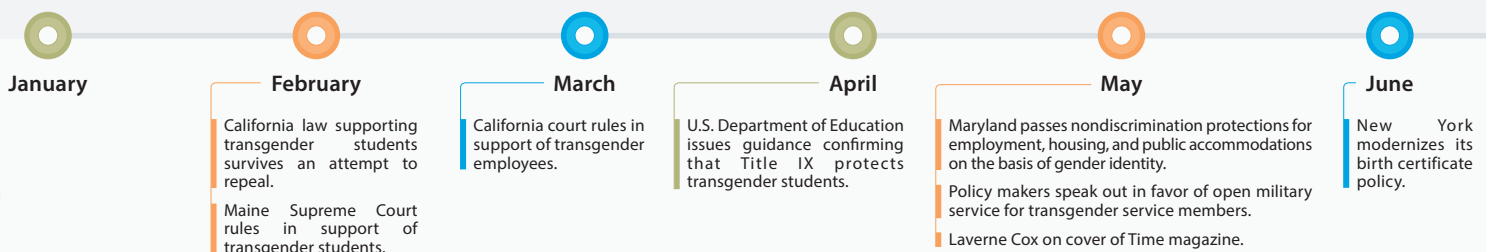
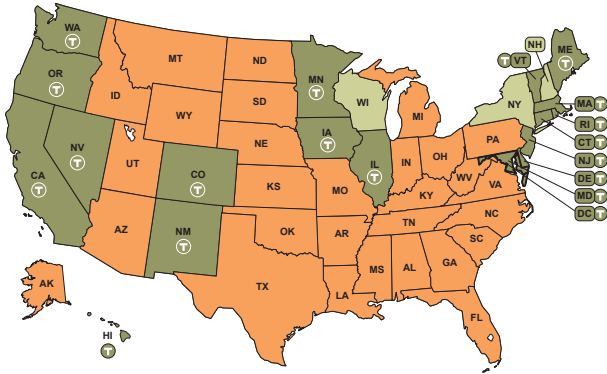


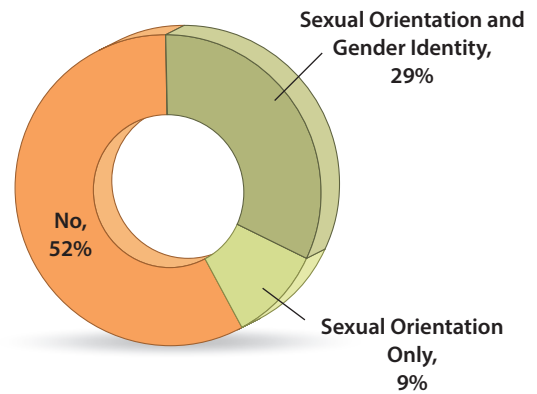
Figure 7: State-Level Employment Nondiscrimination Laws

State-Level Employment Nondiscrimination Laws



- Employment nondiscrimination law covers sexual orientation and gender identity (18 states + D.C.)
- Employment nondiscrimination law covers only sexual orientation (3 states)
- No employment nondiscrimination law covering sexual orientation or gender identity (29 states)
- Outlined - 1 state advanced on this issue in 2014 (MD)

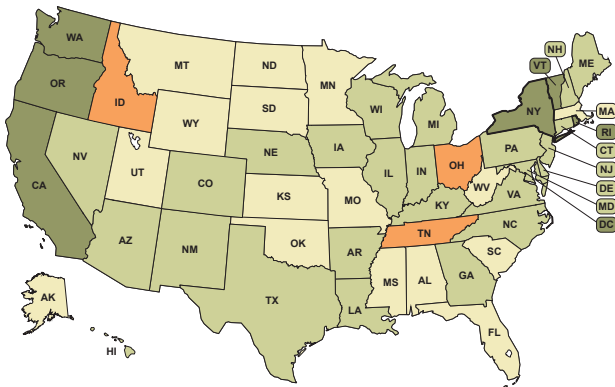
LGBT Americans Protected from Employment Discrimination at the State Level



Source: Movement Advancement Project, Equality Maps, current as of January 2015. For updates see http://lgbtmap.org/equality-maps/non_discrimination_laws.

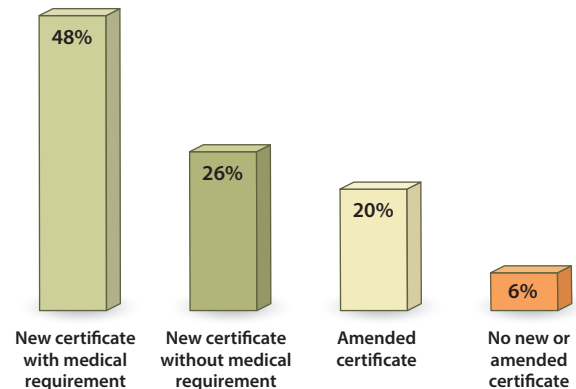
Figure 8: Birth Certificate Laws

Birth Certificate Laws



- State issues new birth certificate and does not require sex reassignment surgery* (6 states + D.C.)
- State requires proof of sex reassignment surgery to issue new birth certificate (25 states)
- State requires proof of sex reassignment surgery to amend birth certificate (16 states)
- State does not issue new birth certificate or amend existing documents (3 states)
- Outlined - 2 states advanced on this issue in 2014 (NY, RI)

Americans Covered by Birth Certificate Laws



* Note that New York City has its own policy in place

Source: Movement Advancement Project, Equality Maps, current as of January 2015. For updates see http://www.lgbtmap.org/equality-maps/birth_certificate_laws.



July

President Obama signs executive order adding gender identity to federal employment protections and prohibiting federal contractors from discriminating on bases of sexual orientation and gender identity.



August



September

Commission convened by the Palm Center charts path to open military service by transgender service members.



October

Department of the Army found to have discriminated against transgender employee.



November

Rhode Island modernizes its birth certificate policy.



December

Justice Department announces that Title VII's prohibition on sex discrimination in employment includes gender identity, covering transgender status.

OTHER PROGRESS IN 2014

8

LGBT People in Public Service

In 2014, LGBT people of color rose to several important federal positions: Darrin Gayles and Staci Yandle were confirmed as the first openly gay African-American judge and the second openly lesbian African-American judge, respectively. Robert Pitman was confirmed as the first openly gay federal district court judge in Texas. President Obama appointed openly gay actor Maulik Pancholy and businessman Michael Byun to the President's Advisory Commission on Asian Americans and Pacific Islanders. Finally, President Obama appointed Ted Osius, a gay father, as ambassador to Vietnam. At the local level, Long Beach, California elected Robert Garcia as the city's first Latino and first openly gay mayor.

In November, many lesbian, gay, and bisexual elected officials were re-elected. Massachusetts elected the first openly lesbian attorney general in the United States, Maura Healey.

Public Visibility

In February, Michael Sam came out as an openly gay college football player and became the first openly gay player to be drafted to the NFL. Tim Cook, the CEO of Apple, came out as gay in October, becoming one of the most powerful openly gay business leaders in the world.

Jury Service

In January 2014, the Ninth Circuit Court of Appeals affirmed that sexual orientation is not a valid reason for striking jurors from a jury. Not only did the court establish that lesbian, gay, and bisexual jurors cannot be struck from juries based on sexual orientation, but it also affirmed that cases involving discrimination based on sexual orientation should be examined with a higher level of judicial scrutiny, paving the way for more positive decisions in the future.

Parental Rights

Thanks to the expanding freedom to marry, same-sex couples in a number of states also gained the right to

adopt through joint adoptions or stepparent adoptions (see *Figure 9* on the next page).⁴

Additionally, three state rulings opened parental rights for parents in same-sex couples. The Idaho Supreme Court granted a mother the right to adopt her female partner's children, paving a way for all same-sex couples raising children in Idaho to both be considered legal parents. A Tennessee court for the first time permitted both same-sex parents' names to be on their child's birth certificate. Finally, in November, the Oklahoma Supreme Court affirmed the right of a non-biological parent to seek custody of her child.

LGBT Youth

In February, the U.S. Substance Abuse and Mental Health Services Administration published guidelines for how families can better support LGBT children. This was an important development because family rejection of LGBT youth leads to increased homelessness, depression, attempted suicide, and other negative outcomes for youth. An August study in Los Angeles found that 19% of the city's youth in foster care identify as LGBT although only approximately 9% of Los Angeles' youth identify as LGBT (see *Figure 10* on the next page).⁵

Local Progress

In 2014, over 20 local jurisdictions passed laws protecting LGBT people from discrimination in housing, public accommodations, and/or employment. In Dallas, city residents voted 77% in favor of adding LGBT-nondiscrimination protections to the city charter. See *Figure 11* on the next page for the percent of Americans covered by local, county, and state employment nondiscrimination laws.

⁴ In Utah and North Carolina, explicit negative laws prohibit unmarried same-sex couples from creating legal ties with their children.

⁵ Bianca D.M. Wilson, Khush Cooper, Angel Kastanis, Sheila Nezhad, "Sexual and Gender Minority Youth in Foster Care: Assessing Disproportionality and Disparities in Los Angeles," Williams Institute, 2014, <http://williamsinstitute.law.ucla.edu/research/safe-schools-and-youth/lafys-aug-2014/>.

January

Federal appeals court uses heightened scrutiny to find that jurors cannot be disqualified because of their sexual orientation.

February

Idaho Supreme Court rules that mother in married same-sex couple can adopt her wife's kids.
Michael Sam (college football player) comes out as gay.

March

April

Massachusetts passes LGBT inclusive anti-bullying law.
Tennessee same-sex couple has both their names placed on their baby's birth certificate.

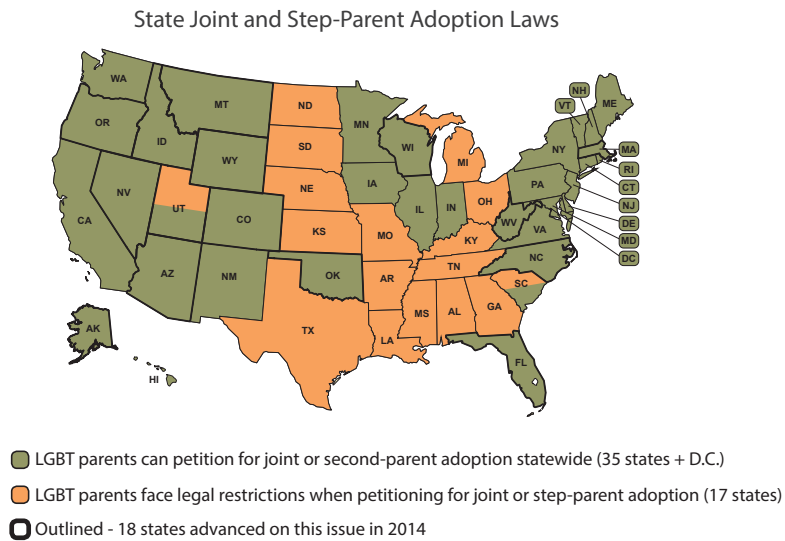
May

Houston passes local LGBT-inclusive nondiscrimination ordinance.

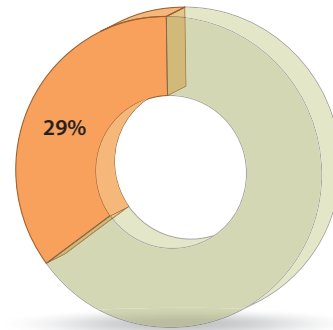
June

Long Beach elects first gay Latino mayor.

Figure 9: State Adoption Laws

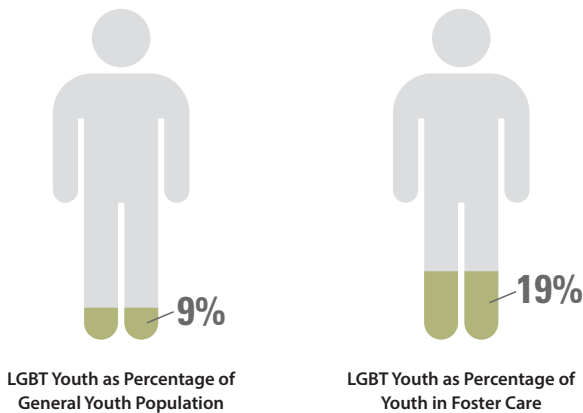


LGBT People Living In States Where Joint Or Step-Parent Adoption Is Unavailable



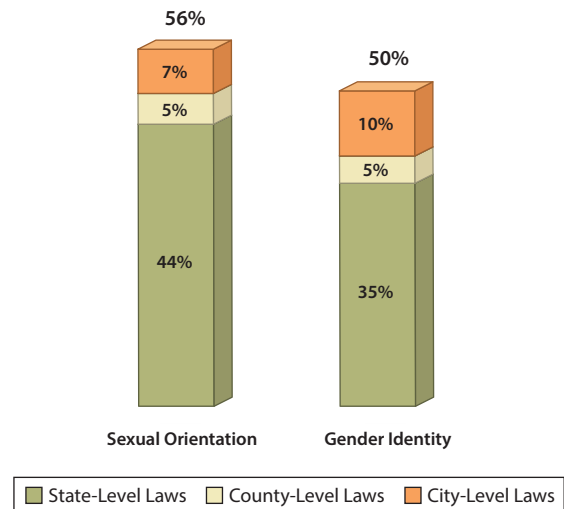
Source: Movement Advancement Project, Equality Maps, current as of January 2015. For updates see http://lgbtmap.org/equality-maps/foster_and_adoption_laws.

Figure 10: LGBT Youth in Foster Care



Source: Bianca D.M. Wilson, Khush Cooper, Angel Kastanis, Sheila Nezhad, "Sexual and Gender Minority Youth in Foster Care: Assessing Disproportionality and Disparities in Los Angeles," Williams Institute, 2014.

Figure 11: Americans Covered by Local, County, or State Employment Non-Discrimination Laws





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