

What You Need to Know About LGBT Marriage

When President Obama announced his support for gay marriage earlier this month, he was echoing a sentiment that more and more Americans have come to believe that LGBT citizens have the same right to formalize their love in law as any other couple. More than just a symbolic gesture, marriage can grant partners important social and legal rights they might otherwise be excluded from.

LGBT marriage can bring benefits for taxes, insurance, wills and more

State laws vary on LGBT marriages, civil unions and domestic partnerships

Federal government does not recognize gay marriage thanks to the Defense of Marriage Act

Dignity with Benefits

When LGBT activists fight for gay marriage, they're after more than just the basic dignity of having their love recognized like that of any other American. In fact, that marriage certificate grants partners a number of important rights and benefits that can have significant financial, social and emotional advantages— shared health insurance, tax breaks, automatic inheritance, power of attorney and more.

In states where gay marriage is still illegal, there can be ways to gain some of the benefits of marriage without actually getting married. Some states offer civil unions or domestic partnerships, which confer benefits that are similar to marriage (although usually not as broad,) with exact provisions varying by state.

“A lot of people are looking to get health insurance through their partner,” says Lori Bovee, a family law attorney in New York with Tully Rinckey. “Civil unions will enable you to do that. You can get tax benefits too, depending on the state.”

Regardless of official relationship status, partners can grant each other power of attorney to allow the other to make important financial or medical decisions in the event one dies or becomes incapacitated. “Power of attorney is very important, especially in a state that does not allow gay marriage,” Bovee says. “If you want your partner to be able to make decisions for you, you want to make sure the power of attorney is properly executed in front of a notary and your partner has a copy.”

Hospital visitation rights may be limited without an official recognition like marriage, civil union or domestic partnership. Imagine being denied the comfort of your partner while on your deathbed because some politician doesn't think your relationship is valid.

Finally, make sure you have a will

, and leave a copy with your attorney. “If you want to leave your belongings or assets to your partner, it's very important to make sure you have a will drawn up and make sure all your

ducks are in a row,” says Bovee. “Especially if you have family members that may try to prevent your partner from taking assets you want them to have.”

In unusual circumstances, one partner has been known to adopt another in order to shore up inheritance rights.

State by State

Last year, polls showed that for the first time, a majority of Americans were in favor of granting same-sex couples the right to marry. The shift in opinion comes as nearly every state has codified in law whether it allows or specifically bans the right of LGBT couples to tie the knot. Detailed information about your state can be found at the website for Lambda Legal, an advocacy group for LGBT marriage.

Massachusetts was the first state to legalize LGBT marriage in 2004, and has since been joined by Connecticut, Iowa, New Hampshire, Vermont and New York, as well as the District of Columbia. Washington, Maryland and New Jersey all passed bills this year to open the freedom to marry to gay couples, but New Jersey Governor Chris Christie vetoed the law, and the bills in Maryland and Washington are facing a ballot challenge in November before they can take effect.

Thirteen states grant civil unions or otherwise extend limited rights to gay couples (including Washington, Maryland and New Jersey until their marriage laws are resolved one way or another.) California briefly legalized gay marriage in 2008, then reversed itself after a ballot challenge, then saw the ballot challenge declared unconstitutional by the state Supreme Court. Stuck in an unusual legal limbo, the state does not currently grant LGBT marriage, but does recognize those performed during the brief period they were legal in 2008. It also grants civil unions.

The advance of marriage rights in some areas of the country has met with an extraordinary amount of backlash and political outrage in others. Thirty states have now enacted constitutional amendments banning LGBT marriage, all since 1996. Of those, 20 go so far as to preclude recognition of same-sex civil unions as well. Another nine states don't have constitutional amendments but ban same-sex marriage through statute. Justification for this pervasive, institutionalized discrimination usually focuses on the peculiar argument that allowing gays to marry somehow threatens the institution of marriage itself.

Uncle Sam Says . . .

On the national level, the Clinton-era Defense of Marriage Act (DOMA) precludes the federal government from recognizing LGBT marriages for purposes of tax, insurance or Social Security benefits; however, Obama had previously instructed the Justice Department to no longer defend the act in court, and has indicated he might work to repeal it if he's elected to a second term.

“We have never gone wrong when we expanded rights and responsibilities to everybody,” the president said. “That doesn't weaken families, that strengthens families.”

Another provision of the Defense of Marriage Act says that states that ban gay marriage cannot be forced to recognize LGBT marriages performed in other states. So, caveat emptor—Mississippi is unlikely to dole out state benefits to a gay couple just because they traveled to New York to sign a marriage license.

Obama's statement of support does not by itself extend marriage rights to anyone who doesn't already have them, nor would a repeal of the Defense of Marriage Act force states to allow or recognize LGBT marriage. That would take a new federal law, or a Supreme Court ruling. For now, gay couples who want to get married and can't will have to take solace in the fact that at least they've got an ally in the White House.

