

The Status of Equality: A State by State Analysis

This section provides an overview of state by state legislation that affects women by limiting their ability for social and political advancement. You will find materials that outline state laws on the following issues:

- **Access to Reproductive Health Services**
 - **Women's Economic Rights**
- **Lesbian, Gay, Bisexual, and Transgender Rights**
 - **Marriage Rights**
 - **Violence Against Women**



Women's Reproductive Health Rights in the States

If Roe v. Wade were to be overturned, federal law would no longer mandate how abortion services are to be provided in the United States. As we know already, states have made their own laws to restrict women's right to choose by limiting the age at which a woman can obtain an abortion, whether or not she may need parental consent, how much counseling they must receive before the procedure, and how long a woman must wait once she's made the decision to have an abortion.

Mandatory Counseling and Delays

According to NARAL, Pro-Choice America, biased counseling and mandatory delay laws prohibit women from receiving abortion services by subjecting them to a state-mandated lecture and a waiting period of up to three days afterward. These laws represent unnecessary government intrusions into private decision-making and the doctor-patient relationship. Mandatory waiting periods create additional burdens for women, especially for rural women who have to travel for many hours to reach a health care provider, and poor women who must take time off work. Mandatory delay laws endanger women's health by impeding earlier and therefore safer abortion.

30 states have laws subjecting women seeking abortions to biased counseling and/or mandatory delays: AK, AL, AR, DE, FL, ID, IN, KS, KY, LA, MA, ME, MI, MN, MO, MS, MT, ND, NE, OH, PA, RI, SC, SD, TN, TX, UT, VA, WI, WV. **9 of these laws** have been found fully or partially **unconstitutional** and are enjoined: DE, FL, KY, MA, MI, MO, MT, OH, TN

Abortion Bans

If Roe v. Wade is overturned state laws would pick-up where federal law leaves off, making abortion legal or illegal on a state by state basis. We know that states have unconstitutional laws on their books currently that would go into effect if Roe v. Wade fell.

Currently, some states have enacted laws that ban abortion entirely. In addition, states and the federal government have enacted laws banning safe and medically appropriate abortions as early as 12 weeks in pregnancy, with no exception to protect a woman's health.

15 states have unconstitutional and unenforceable criminal bans that would outlaw abortion throughout pregnancy: AL, AR, AZ, CO, DE, LA, MA, MI, MS, NM, OK, UT, VT, WI, WV. Also, **27 states** have unconstitutional and unenforceable bans that would **outlaw abortion as early as 12 weeks, with no health exception:** AK, AL, AR, AZ, FL, IA, ID, IL, IN, KY, LA, MI, MO, MS, ND, NE, NJ, OH, OK, RI, SC, SD, TN, UT, VA, WI, WV.

Did You Know?

Since 1996, Congress has committed over \$1.1 billion dollars (through both federal and state matching funds) to abstinence-only-until-marriage programs and zero dollars to comprehensive sex education. There is no federal appropriation specifically for comprehensive sex education.

**Stay informed on policies that affect
Young People:
www.advocatesforyouth.org**

Access to Abortion: Low Income Women

Even though *Roe v. Wade* constitutionally protects a woman's right to choose, many women face prohibitive obstacles preventing full access to safe, legal abortion and family planning services. Laws that promote insurance coverage for contraception are crucial to protecting and promoting women's reproductive health. By guaranteeing that insurers cover prescription contraception to the same extent as other drugs, contraceptive equity laws help ensure women's access to birth control and ultimately prevent unintended pregnancies and reduce the need for abortion.

33 states plus the District of Columbia **restrict low-income women's access to abortion**: AL, AR, CO, DE, DC, FL, GA, ID, IN, IA, KS, KY, LA, ME, MI, MS, MO, NE, NV, NH, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VA, WI, WY.

Medicaid Restrictions: Most low-income women who depend on Medicaid for their health care needs cannot afford a first trimester abortion, a \$200-400 expense. A second trimester abortion can range from \$400-\$2,000. Despite this cost, the **Hyde Amendment** bans the use of federal Medicaid funds to provide abortions, except in cases of rape, incest, or life endangerment.

Though states may choose to fund abortions for poor women using state Medicaid dollars, only **17 states provide low-income women access to abortion**: AK, AZ, CA, CT, HI, IL, MD, MA, MN, MT, NJ, NM, NY, OR, VT, WA, WV.

Therefore, **the vast majority of poor and low-income women in the United States are denied access to abortion services**. In 1980, the US Supreme Court upheld the Hyde Amendment in *Harris v. McRae*.

Access to Abortion: Parental Consent and Notification Laws

44 states restrict young women's access to abortion by mandating parental notice or consent: AL, AK, AZ, AR, CA, CO, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VA, WV, WI, WY. **10 of these laws** have been found **unconstitutional by courts and cannot be enforced**: AK, CA, FL, ID, IL, MT, NV, NH, NJ, NM.

Many young women, fearing their parents' reactions, seek out back-alley abortions instead of telling a parent. In *Bellotti v. Baird* and *Bellotti v. Baird II*, the US Supreme Court upheld a state's right to require minors to obtain parental consent to access an abortion but required states to provide a means for minors to obtain an exemption through a judicial bypass from a judge. A judicial bypass option in theory allows minors to bypass parental consent requirements if a judge feels she is mature enough to make the decision, but bypasses can be logistically difficult to obtain and an anti-abortion judge may refuse to grant the minor's request.

All information was provided by the Feminist Majority Foundation and NARAL, Pro-Choice America:
www.naral.org



Women's Economic Rights in the States

State Policy and Its Effect on Women's Income

Although it varies state by state, on average women make \$0.77 to every \$1.00 a man makes. However, geography plays a big part in this as well as what jobs women tend to have. For instance, although a federal law determines the minimum wage, each state has the option of setting a state minimum. Thus while the wage gap exists all over the country, it fluctuates depending on where you live.

Employment and Earnings

According to the 2004 *Status of Women in the States*, women's earnings tend to be higher in the Northeast and the Pacific West, while they are lower in most of the Southeast and Mountain States. For example, women living in the District of Columbia come the closest to earning the same amount of money as men. For full-time, year-round work, D.C. women on average earn 92.4% of men's earnings. In contrast, women in Wyoming earn only 66.3% of men's wages.

However, there is also a disparity between women depending on their race and/or ethnicity. National data show that as of 1999, the median annual income of African American women for full-time year round work was \$27,600, of Native American women, \$25,500, and of Hispanic women, \$23,200, all of which are substantially below the income of their White counterparts, who earned \$30,900 (all above figures have been adjusted for inflation as of 2003 and are provided by the Urban Institute 2004b).

Compared to White men's wages the following is found about women's wages depending on race and/or ethnicity: West Virginia had the **highest wage ratio** for African American women (72.6%), for Asian American women this is in Delaware (87.5%), Arkansas had the best wage ratio for Native American women (78.7%), and Maine had the highest for Hispanic women (80.0%).

The **lowest wage ratio** for African American women was Louisiana (48.9%), Rhode Island is the worst for Asian American women (53.8%), New Jersey had the worst wage ratio for Native American women (52.0%), and the District of Columbia has the worst ratio for Hispanic women (41.0%), even though D.C. is the highest ratio for White women.

In relation to this, women in the Northeast, the West and parts of the Midwest are the most likely to have a college degree and to own a business. Women in the Northeast and several northern Midwestern states are also more likely to have health insurance. Women in the Northeast and an array of states from Nevada to Missouri, and north to Minnesota and Wisconsin, are most likely to live above the poverty line.

Did You Know?

Women's incomes are necessary to support families

- 62% of working women earn half or more of their family's income
- 77% of all mothers with school age children (6-17) work.

Keep informed about
women's employment!

www.womenemployed.org

Women with Disabilities

A 1992 study provided by the Rural Institute at the University of Montana shows that location plays a role in employment for women with disabilities. Women living in rural areas face limited access to employment and economic opportunities, limited transportation options, scarce or unaffordable housing, and lack of access to health care providers who are knowledgeable about disabilities. Women with disabilities constitute approximately 8% of the total U.S. population, with approximately 26% of women with disabilities living in rural areas.

For all people with disabilities, living in a rural area significantly increases the probability of unemployment. Rural women with disabilities are approximately three times less likely to be employed than rural women without disabilities. In comparison, rural men with disabilities are approximately two times less likely to be employed than men without disabilities. Clearly, rural women with disabilities are the least likely to be employed of these groups.

Unemployment is synonymous with poverty, and not surprisingly, poverty is severe for women with disabilities. Urban men without disabilities fare the best. People with disabilities, both urban and rural, frequently have incomes at or below 100% of the 1995 federal poverty level of \$7,740 (Federal Register, 1996). Rural women with disabilities, however, are the "poorest of the poor" -- 80.51% make less than \$10,000 a year.

Minimum Wage

The wage gap exists in part because women are concentrated in low paying, minimum wage jobs that are service based. According to the Wage Project, in 2000, two-thirds of all U.S. working women were still crowded into twenty-one of the 500 occupational categories. Additionally, women's work is consistently paid less than men's work. In 2002 the U.S. Department of Labor released the following information: About 4 percent of women paid hourly rates reported wages at or below the prevailing Federal minimum, compared with about 2 percent of men. Among whites, blacks and Hispanics, the proportion of hourly-paid workers receiving \$5.15 or less was about 3 percent. For whites and Hispanics, women were more likely than men to be low-wage earners.

However, while there is a federal minimum wage, \$5.15/hour, each state has the option of creating their own wage laws. In this way, some states measure up better than others. For instance, west coast states such as Alaska, Washington, Oregon and California have minimum wages that range from \$6.75/hour to \$7.35/hour. Conversely, there are states that have a wage below the federal minimum. Ohio and Kansas have laws that allow employers to pay employees as little as \$2.80/hour (note that an employee still has the right to earn the federal minimum wage if the state allows employers to pay less).

All information came from the following sources:

Institute for Women's Policy Research 2004 ~ *"The Status of Women in the States"*

U.S Department of Labor ~ <http://www.dol.gov/esa/minwage/america.htm>

WAGE (Women Are Getting Even) ~ <http://www.wageproject.org>

Rural Institute at the University of Montana ~ <http://rtc.ruralinstitute.umt.edu/RuDis/DisWomenFact.htm>

Bureau of Labor Statistics ~ <http://www.bls.gov/cps/minwage2002.htm>



Lesbian, Gay, Bisexual and Transgender Rights

State Laws on Sodomy

Although sodomy laws can affect all couples' sexual activity, they are often used to criminalize sexual acts between same-sex individuals. Each state has a different way of prosecuting and criminalizing this sexual act.

10 States and Puerto Rico have sodomy laws which apply to heterosexuals and homosexuals- Alabama, Florida, Idaho, Louisiana, Michigan, Mississippi, North Carolina, Puerto Rico, South Carolina, Utah, Virginia

4 states have sodomy laws which apply only to homosexuals- Kansas, Missouri, Oklahoma, Texas

States where sodomy laws have been repealed legislatively are- Illinois (1962), Connecticut (1971), Colorado (1972), Oregon (1972), Delaware (1973), Hawaii (1973), Ohio (1974), North Dakota (1975), New Hampshire (1975), New Mexico (1975), California (1976), Maine (1976), Washington (1976), West Virginia (1976), Indiana (1977), South Dakota (1977), Vermont (1977), Nebraska (1978), Iowa (1978), New Jersey (1979), Alaska (1980), Wisconsin (1983), Nevada (1993), District of Columbia (1993), Rhode Island (1998), Arizona (2001)

Anti-Discrimination Policies

While there are federal mandates that protect women and people of color from discrimination from employers, there are no federal laws that explicitly prohibit discrimination against GLBT individuals. **In 36 states, individuals can legally be fired from their jobs, or denied access to housing, educational institutions, credit, and public accommodations simply because they are gay, lesbian, bisexual or transgender (GLBT).**

However, 15 states (CA, CT, HI, IL, MD, MA, MN, NV, NH, NJ, NM, NY, RI, VT and WI) and the District of Columbia prohibit discrimination based on sexual orientation. Without anti-discrimination laws, GLBT people have no legal recourse when landlords deny housing or employers fire or refuse to hire them.

An increasing number of jurisdictions are including "gender identity or expression" in their anti-discrimination laws.

Transgender people—whether they are transsexual or simply identify with the gender opposite from their biological sex—are often targeted for discrimination. Five states (CA, IL, MN, NM, RI), the District of Columbia, and more than 40 local jurisdictions have passed laws that explicitly prohibit discrimination based on an individual's gender identity or expression.

Take Action!

Since the FBI began collecting hate crime statistics in 1991, more than 13,000 hate crimes based on sexual orientation have been reported. Keep in mind that this crime is drastically underreported and misidentified.

**For more information:
www.hrc.org**

Same-Sex Marriage

In the United States it is illegal to marry someone of the same-sex. There are few exceptions to this unconstitutional law that allow same-sex couples to receive the legal and emotional benefits of a marriage.

California Marriage/Relationship Recognition Law

California bans recognition of same-sex marriage. California domestic partnership registration allows same-sex couples the opportunity to formalize relationships.

District of Columbia Marriage/Relationship Recognition Law

No provision of District of Columbia law bans recognition of same-sex marriages celebrated in another jurisdiction. The district's domestic partnership registration allows same-sex couples the opportunity to formalize relationships.

Hawaii Marriage/Relationship Recognition Law

Hawaii bans recognition of same-sex marriage. The state offers reciprocal beneficiary status to same-sex couples.

Maine Marriage/Relationship Recognition Law

Maine bans recognition of same-sex marriage. Maine law requires that insurers make available to policyholders the option for additional benefits for domestic partners.

Massachusetts Marriage/Relationship Recognition Law

On May 17, 2004, marriage licenses began to be issued to same-sex couples in Massachusetts.

New Jersey Marriage/Relationship Recognition Law

No provision of New Jersey law bans recognition of same-sex marriages celebrated in another jurisdiction. The New Jersey domestic partnership law took effect July 10, 2004.

New Mexico Marriage/Relationship Recognition Law

No provision of New Mexico explicitly addresses same-sex marriages celebrated in another jurisdiction. The state offers domestic partnership benefits to state employees.

New York Marriage/Relationship Recognition Law

New York law requires recognition of same-sex marriages celebrated in another jurisdiction. There are no other forms of relationship recognition for same-sex couples in state law or policies.

Vermont Marriage/Relationship Recognition Law

Vermont bans recognition of same-sex marriage. It licenses civil unions between same-sex couples.

Hate Crime Legislation

Hate Crimes are crimes committed against someone that are motivated by the victims race, class, age, gender, sexual orientation, etc. Law that protects certain individuals from these crimes varies from state to state. The importance of recognizing certain acts as hate crimes allows for a difference in arrest and prosecution policies. Many states have passed laws that enhance penalties for crimes motivated by hate or bias. In 2004, legislators in several states introduced bills to amend or create hate crimes laws that would create separate offenses for criminal actions and/or increase penalties for crimes motivated by gender identity/expression or sexual orientation bias.

Connecticut became the eighth state to include gender identity and expression in its hate crimes law. Nebraska enhanced its hate crimes law to allow victims of hate crimes to initiate civil action against perpetrators. New York may pass a similar law—its bill, to allow victims to pursue civil action, passed the assembly but still needs to pass the state Senate.

All information provided by:

Human Rights Campaign: <http://www.hrc.org> and

Equality From State to State: Gay, Lesbian, Bisexual, and Transgender Americans and State Legislation

Center for Policy Alternatives: <http://www.stateaction.org>



Marriage Rights in the States

With marriage comes many privileges from the government that ensure the stability of the relationship financially and sometimes emotionally. However, rarely do any of these 1,049 rights extend to same-sex couples who are denied the right to marry in the majority of the states. Below are a few of the basic civil rights that same-sex couples do not receive:

Hospital Visitation Rights: same-sex partners can be denied the right to visit a partner in the hospital.

Health Insurance: most employers do not provide coverage to same-sex partners of their employees

Spousal Privilege: the right to refuse to testify against their spouse in a court of law.

Inheritance Rights: Same-sex couples have to write wills in order to guarantee they inherit the other one's money in case of death.

Pensions: Most pensions go to a legal spouse, if there is not one then the pension dies with the worker. Therefore, same-sex partners do not receive their partner's pension.

Nursing Homes: A same-sex couple can not live together in a nursing home.

Taxes: For income taxes, same-sex couples have to file separate taxes, checking off that they are single so that they are not able to obtain the benefits of a married couple.

These laws which deny same-sex couples these rights in addition to many more, have the potential to hurt and comprise thousands of families in the U.S. According to the U.S census there are over 600,000 gay and lesbian families in the U.S. Also, this number has the potential to be miscalculated when we know that the 1990 census underreported gay and lesbian families by 314%. For this reason, undercount for the 2000 census is estimated at over 60%.

Civil Unions

In a few states, alternatives to marriage have been established for same-sex couples, allowing basic and civil rights to be established. One such option are civil unions.

In 2000, Vermont became the first state to offer civil unions to same-sex couples. Civil unions offer same-sex partners the same rights, privileges and responsibilities as married partners. However, they only get the same rights under state law; it does not include federal law such as tax benefits, Social Security survivor benefits, and the ability to support a partner for immigration. Also, with the exception of California, same-sex couples can not take federal family leave to care for a partner.

Take Action!

What are the policies in your state? At your University? At your place of employment? Is there legislation that will be passed for or against LGBT marriage rights?

If so, call your local, state, and national representatives to voice your concern!

Domestic Partnership

Another alternative to marriage rights for same-sex couples is the opportunity to have domestic partnerships. Domestic partner benefits are usually employee-related and give benefits to same-sex partners of public employees. Hawaii, California, and New Jersey now have laws that allow domestic partnerships to have some form of protection. California's domestic partnership law provides eligibility for family leave, employment and health benefits, right to sue for wrongful death of partner or inherit from partner as next-of-kin, and access to the step-parent adoption process. California's law only provides some of what married couples under state law receives, and none are under federal law.

International Marriage Rights

While the current U.S. administration supports a constitutional amendment banning gay marriage, a ban on lesbian and gay adoption, as well as a "Don't Ask, Don't Tell" military policy, some countries have national (federal) policies that apply to same-sex couples in an attempt to ensure equality for all of their citizens.

Canada. Seven Canadian provinces and one territory currently issue marriage licenses to same-sex couples: British Columbia, Manitoba, Newfoundland, Nova Scotia, Ontario, Quebec, Saskatchewan and Yukon Territory. On Dec. 9, 2004, the Supreme Court said that it was within the legislative authority of Parliament to determine who was eligible to marry, that it was consistent with the Charter of Rights and Freedoms to extend marriage to same-sex couples. Additionally, religious officials would not be forced to perform marriages between same-sex couples. Prime Minister Paul Martin and his party, the Liberals, are expected to introduce a bill in early 2005 that would extend marriage rights to same-sex couples throughout the country.

Belgium. Belgium, which passed its law Jan. 30, 2003, recognizes same-sex couples equally in tax, inheritance and other marriage benefits but stops short of allowing same-sex married couples to adopt children together. The law stipulates that only couples from countries that allow same-sex marriages can be married under the law.

The Netherlands. The Netherlands, which in 2001 became the first country to extend marriage rights to same-sex couples, gives such couples exactly the same rights as heterosexual couples, including in tax, inheritance and adoption rights. The law requires that at least one member of the couple be a Dutch national or live in the Netherlands.

All information provided by the National Gay and Lesbian Task Force: www.thetaskforce.org



Violence Against Women: Legislation in the States

In the U.S., states vary on how they protect victims of violence. Because 90% of the victims of sexual assault are female, these laws primarily affect women.

Domestic and Sexual Violence Workplace Policies

Several states require all state agencies to adopt workplace policies on domestic violence; some of these specifically reference sexual assault and/or stalking as well. Other states have passed laws requiring the state domestic violence commission to create model workplace policies for voluntary adoption by private employers. Recommended provisions for domestic and sexual violence workplace policies include:

Prohibiting discrimination against employees because they are victims of sexual/domestic violence; Posting resource and referral information in easily accessible and highly visible locations; Ensuring that health insurance policies do not discriminate against domestic or sexual violence victims; Establishing confidential means for reporting domestic/sexual violence

States and counties with workplace policies include: CA (Los Angeles County), FL, IL (Cooks County), IN, KY, ME, MD, MA, NH, NJ, NY, NC, PA, OR, SC, UT, VT, and WA
States with model policies for private businesses: IL, KY, and NY.

Discrimination Against Victims of Domestic and Sexual Violence

Up to one half of domestic violence victims have lost a job because of the violence in their lives. In addition 50% of sexual assault victims report losing jobs in the aftermath of the crime. Many employers use the fact that victims often need time off work for court hearings or medical appointments to fire or de-mote them. **Illinois is the only state that has a general law prohibiting discrimination against domestic violence victims.** Several other states have laws that prohibit employers from firing or retaliating against domestic violence victims in certain circumstances.

States that have laws protecting victims of sexual/domestic violence from employment discrimination are: AK, AZ, CA, CT, DE, IL, ME, MD, MO, NY, NC, RI, HI, KY, LA, and TN.

Workplace Restraining Orders

Several states have proposed or enacted laws allowing employers to apply for restraining orders to prevent violence, harassment, or stalking of their employees. In most states an employer seeking protection for an employee need show only that the employee has experienced a credible threat of violence that can reasonably be constructed to have taken place or to be carried out at the worksite.

States that have laws allowing employers to file for restraining orders in an effort to protect their employees are: AZ, AR, CA, CO, GA, IN, NV, NC, RI, TN, HI, KY, NJ, NY, ND, OK, and WA.

All information was
provided by
Legal Momentum,
formerly known as the
**NOW Legal Defense and
Education Fund.**

For more information on how
YOUR state weighs in visit:

www.legalmomentum.org