



LGBT Rights in Pennsylvania

ACLU'S POSITION

The ACLU supports the equal protection of all citizens of the United States under the 14th Amendment. The ACLU of Pennsylvania plays a leading role in the fight to extend equal rights and protections to the lesbian, gay, bisexual and transgender (LGBT) community. These rights include marriage, protection from discrimination, parenting and custody/visitation, and the ability to start gay-straight alliances in public schools.

EMPLOYMENT RIGHTS

Anti-Discrimination

Currently, there is no federal or statewide protection from discrimination based on sexual orientation or gender identity. However, 17 counties and municipalities in Pennsylvania offer these protections, including Pittsburgh, Philadelphia, Lancaster City, Allegheny County, and Erie County. Additionally, a statewide *executive order* is currently in place to protect all state employees from discrimination based on these categories. Originally issued in 1975 by Governor Milton Shapp, it has been reissued by every following governor.

Executive order— a president's or governor's declaration which has the force of law, usually based on the power of the office, and not requiring approval by Congress or a state legislature.

The ACLU of Pennsylvania supports state legislation to add sexual orientation and gender identity to the categories protected from discrimination in housing, employment, and public accommodations. Twenty-one other states already offer these protections.

FAMILY RIGHTS

Relationship Recognition

There is currently no federal or statewide legal recognition of same-sex couples. Pennsylvania has a statute defining marriage as being between a man and a woman only. Same-sex civil unions and marriages performed in other states are not recognized in Pennsylvania.

Pittsburgh, Philadelphia, and Harrisburg offer life/domestic partnership registries. The requirements for registering vary slightly in each city but generally require two unrelated, adults to live together for a certain amount of time and to demonstrate some combination of household finances. Registries may be used to determine if benefits such as health insurance will be extended to partners of employees and may be used by hospitals to determine "family" visitation rights.

Parenting

Pennsylvania currently allows adoption by gay and lesbian individuals and same-sex couples, including second-parent adoption. The sexual orientation of a parent is not used to determine custody and visitation rights in Pennsylvania unless it can be shown that it affects the child's well-being.

Inheritance

Unlike their heterosexual counterparts, unless a lesbian, gay, bisexual or transgender (LGBT) person has made specific legal arrangements, state laws generally hand over financial decision-making and inheritance to legal spouses or blood relatives rather than domestic partners or families of choice. This means that surviving LGBT partners or other loved ones can be totally shut out of an inheritance, resulting in the loss of critical income or retirement savings or loss of a family home.

Additionally, even when a surviving partner does inherit a deceased loved one's assets, the tax treatment of same-sex couples can mean paying 45% in taxes on an inheritance that a surviving heterosexual spouse would inherit tax-free. Because there are no safeguards in place to preserve a same-sex couple's inheritance rights, LGBT families should consult a lawyer and write a will.

STUDENTS' RIGHTS

Schools

LGBT students are protected from harassment and discrimination at school by several laws and policies. Any harassment—including anti-gay harassment—that interferes with a student's education is illegal under federal law. Pennsylvania Department of Education policy prohibits discrimination based on sexual orientation within state-run education programs which includes public schools. Some school districts, including Philadelphia and Pittsburgh, have established policies to put a stop to discrimination based on sexual orientation.

The Equal Access Act, a federal law, requires all public high schools that receive federal funding to allow LGBT-related student organizations, such as *Gay-Straight Alliances* (GSAs), to exist and meet on school grounds if the high school allows other non-curriculum-related student organizations to do so.

The ACLU of Pennsylvania's Students' Rights Handbook (www.aclupa.org/yourrights) and the National School Board Association's *Dealing with Legal Matters Surrounding Students' Sexual Orientation and Gender Identity* (www.gendertalk.com/pubs/nsba-legal.pdf) offer more comprehensive information on this topic.

Universities

Policies in higher education vary by school. Check with the college or university to determine what protections are available to LGBT students.

Gay-Straight Alliances— student organizations, found primarily in high schools and universities, that are intended to provide a safe and supportive environment for lesbian, gay, bisexual, and transgender (LGBT) youth and their straight allies.

TRANSGENDER RIGHTS

Recognition

Pennsylvania's Division of Vital Records will produce amended birth certificates to transgender individuals with a court order. The Pennsylvania Department of Transportation will change the sex listed on a driver's license with a form (DL-32) signed by a licensed medical or social service provider that says the person is living full time as that gender.

TAKE ACTION!

- ◆ Contact your elected officials to tell them about the issues and legislation that are important to you! To locate your representatives, visit: www.aclupa.org/contactyourlegislator
- ◆ Organize for change using tools from the national ACLU's Get Busy Get Equal Campaign at: gbge.aclu.org

Visit aclupa.org for more information or contact one of our local offices:

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