



**SWEDEN – SOGI LEGISLATION COUNTRY REPORT**  
**PRODUCED: MARCH 2013**

Please note: This document was prepared by law students and highlights publicly-accessible information about legislation available at the time it was prepared. It is not exhaustive, nor is it updated on a regular basis. The information provided here is not a substitute for legal advice or legal assistance, and the International Human Rights program at the University of Toronto Faculty of Law cannot provide such advice or assistance.

***Summary***

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Sexual orientation is a prohibited ground of discrimination ([Act of Government](#)).

Discrimination on the basis of gender identity or sexual orientation is prohibited in employment ([Discrimination Act](#), [Prohibition of Discrimination in Working Life because of Sexual Orientation Act](#)).

Universities are obligated to actively promote equality and investigate harassment based on sexual orientation ([Equal Treatment of Students at Universities Act](#)).

Police cannot collect data on sexual orientation unless it is strictly necessary for the relevant investigation ([Police Data Act](#)).

Printed materials aimed at agitating against a group of people based on their sexual orientation is prohibited ([Freedom of the Press Act](#)).

The age of consent is the same for same-sex and opposite-sex sexual activity ([Penal Code](#)).

The [Marriage Code](#) is written in gender-neutral terms, and does not differentiate between same-sex and opposite-sex relationships

There is recognition of both same-sex and opposite-sex “Registered Partnerships” (the [Registered Partnership Act](#)).

Same-sex married couples and registered partners have access to assisted reproductive technology (the [Genetic Integrity Act](#)).

Same-sex married couples and registered partners may jointly adopt children or gain joint custody of their partner’s child ([Children and Parents Code](#), [Partnership and Adoption Act](#)).

A person 25 years or older may undergo sex reassignment surgery, and individuals 18 to 25 years old may apply for sex reassignment surgery in conjunction with an application for change of legal gender ([Sterilization Act](#)).

Previously, the [Act Concerning Determination of Sex](#) included sterilization as a prerequisite for legally changing one's gender; individuals requesting legal gender change also needed to be unmarried and Swedish nationals. In December 2012, the Stockholm Administrative Court of Appeal ruled that the sterilization requirement violated the Swedish Constitution, and Articles 8 and 14 of the European Convention on Human Rights. The Act was amended in 2013 to remove the requirements that an individual seeking legal gender change first undergo sterilization, be unmarried, and be a Swedish national.

A person may change legal gender without having sex reassignment surgery ([Act Concerning Determination of Sex](#)).

Discrimination on the basis of sexual orientation is recognized as a ground for asylum ([Aliens Act](#)).

## ***Legal Provisions***

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### **ANTI-DISCRIMINATION**

**[Swedish Act of Government \(1974\)](#)**: The Act of Government was amended in 2010 to include discrimination on grounds of sexual orientation as a class of discrimination that the government has responsibility for combatting. The amendment also added sexual orientation to the classes of minority groups for which laws cannot imply unfavourable treatment.

*Chapter 1. Basic principles of the form of government [ ... ]*

*Art. 2.* Public power shall be exercised with respect for the equal worth of all and the liberty and dignity of the individual. [ ... ]

The public institutions shall promote the ideals of democracy as guidelines in all sectors of society and protect the private and family lives of the individual.

The public institutions shall promote the opportunity for all to attain participation and equality in society and for the rights of the child to be safeguarded. The public institutions shall combat discrimination of persons on grounds of gender, colour, national or ethnic origin, linguistic or religious affiliation, functional disability, sexual orientation, age or other circumstance affecting the individual. [ ... ]

*Chapter 2. Fundamental rights and freedoms [ ... ]*

*Art. 12.* No act of law or other provision may imply the unfavourable treatment of anyone because they belong to a minority group by reason of ethnic origin, colour, or other similar circumstances or on account of their sexual orientation.

**Discrimination Act (2008:567)**: This Act provides protection to job applicants and employees against discrimination on the basis of sexual orientation, gender identity or gender expression.

*Chapter 1. Introductory provisions*

*Section 1*: The purpose of this Act is to combat discrimination and in other ways promote equal rights and opportunities regardless of sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age.

*Section 3*: A contract or agreement that restricts someone's rights or obligations under this Act is of no legal effect in that regard.

In this Act discrimination has the meaning set out in this Section.

1. Direct discrimination: that someone is disadvantaged by being treated less favourably than someone else is treated, has been treated or would have been treated in a comparable situation, if this disadvantaging is associated with sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age.
2. Indirect discrimination: that someone is disadvantaged by the application of a provision, a criterion or a procedure that appears neutral but that may put people of a certain sex, a certain transgender identity or expression, a certain ethnicity, a certain religion or other belief, a certain disability, a certain sexual orientation or a certain age at a particular disadvantage, unless the provision, criterion or procedure has a legitimate purpose and the means that are used are appropriate and necessary to achieve that purpose.
3. Harassment: conduct that violates a persons' dignity and that is associated with one of the grounds of discrimination: sex, transgender identity or expression, ethnicity, religion, sexual orientation, or age. [ ... ]

*Chapter 2. Prohibition of discrimination and reprisals*

*Section 1*: An employer may not discriminate against a person who, with respect to the employer,

1. is an employee,
2. is enquiring about or applying for work,
3. is applying for or carrying out a traineeship, or
4. is available to perform work or is performing work as temporary or borrowed labour.

The prohibition of discrimination also applies in cases where the employer, by taking reasonable support and adaptation measures, can see to it that an employee, a job applicant or a trainee with a disability is put in a comparable situation to people without such a disability. [ ... ]

**Act concerning the Equality Ombudsman (2008:568)**: This Act provides for an Equality Ombudsman to ensure that rights under the *Discrimination Act* are protected. The Ombudsman executes the duties outlined in the *Discrimination Act*, in addition to providing advice and support to victims of discrimination.

*Section 1:* The Equality Ombudsman has the duties described in the *Discrimination Act* (2008:567).

In addition, the Ombudsman shall work to ensure that discrimination associated with sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age does not occur in any areas of the life of society.

The Ombudsman shall also work in other respects to promote equal rights and opportunities regardless of sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age.

*Section 2:* The Equality Ombudsman shall provide advice and other support so as to help enable anyone who has been subjected to discrimination to claim their rights.

***Prohibition of Discrimination in Working Life because of Sexual Orientation Act***

**(1999:133):** This Act protects job applicants and employees from discrimination on the basis of sexual orientation.

*Section 3:* An employer may not disfavour a job applicant or an employee by treating her or him less favourably than the employer treats, has treated or would have treated someone else in a comparable situation, if the disfavour is connected to sexual orientation. (SFS 2003:310)

*Section 4:* An employer may not disfavour a job applicant or an employee by applying a provision, a criterion or a method of procedure that appears to be neutral but which in practice disfavours persons with a particular sexual orientation. However, this does not apply if the provision, criterion or method of procedure can be justified by a reasonable goal and the means are appropriate and necessary in order to achieve the goal. (SFS 2003:310)

*Section 4a:* An employer may not discriminate a job applicant or an employee by harassing her or him.

In this Act, harassment means behaviour in working life that violates the dignity of a job applicant or an employee and which is connected with sexual orientation. (SFS 2003:310)

*Section 4b:* An employer may not issue orders or instructions to an employee concerning the discrimination of a person according to Sections 3 - 4 a. (SFS 2003:310)

*Section 5:* The prohibitions of discrimination contained in Sections 3 - 4 b apply when the employer:

1. decides on an employment issue, selects a job applicant for an employment interview or implements other measures during the employment procedure,
2. decides on promotion or selects an employee for training for promotion,
3. decides on or implements other measures concerning vocational training,
4. decides on or implements other measures concerning other training or vocational

- counselling,
5. applies pay or other terms of employment,
  6. manages and distributes work, or
  7. gives notice of termination, summarily dismisses, lays-off or implements other significant measure against an employee.

The prohibition of direct discrimination does not apply in connection with decisions on employment, promotion or training for promotion if a particular sexual orientation is necessary owing to the nature of the work or the context in which it is performed. (SFS 2003:310)

*Section 6:* A job applicant who has not been employed or an employee who has not been promoted or selected for training for promotion, is entitled upon request to obtain written information from the employer about what training, professional experience and other qualifications the person has who got the job or training position.

*Section 7:* An employer may not subject an employee to reprisals on the grounds that the employee has reported the employer for discrimination, complained about discrimination or participated in an investigation under this Act. (SFS 2003:310)

**[Equal Treatment of Students at Universities Act \(2001:1286\)](#)**: Lists sexual orientation as a prohibited ground of discrimination at universities in Sweden. The act also makes universities responsible for actively promoting equal rights. The Act creates measures through which parties can seek damages for discrimination

*Section 3:* A university shall, within its activities, conduct focused efforts to actively promote equal rights regardless of gender, ethnicity, religion or other belief, sexual orientation or disability.

The methods of the university's obligations under the first paragraph are available in sections 4 and 5 (2003:311).

[http://www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Lag-20011286-om-likabehandl\\_sfs-2001-1286/?bet=2001:1286](http://www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Lag-20011286-om-likabehandl_sfs-2001-1286/?bet=2001:1286)

**[Police Data Act \(1999\)](#)**: States that data on sexual orientation should not be collected unless it is necessary for investigation.

*Section 5:* Personal information may not be processed merely on the ground of what is known about the person's race or ethnic origin, political opinions, religious or philosophical conviction, membership of a trade union, health or sexual orientation. If personal information is processed on another ground, the information may be completed with such particulars as are mentioned in the first paragraph if it is strictly necessary for the purposes of the processing.

## HATE CRIMES

The [Freedom of the Press Act \(1989\)](#): This Act was amended in 2002 to prohibit publication of materials aimed at creating hostility towards a group based on sexual orientation.

*Chapter 7. On offences against the freedom of the press*

*Art. 4.* With due regard to the purpose of freedom of the press for all under Chapter 1, the following acts shall be deemed to be offences against the freedom of the press if committed by means of printed matter and if they are punishable under law: [ ... ]

11. Agitation against a population group, whereby a person threatens or expresses contempt for a population group or other such group with allusion to race, colour, national or ethnic origin, religious faith or sexual orientation [ ... ]

## SEXUAL ACTIVITY AND AGE OF CONSENT

[Swedish Penal Code DS \(1999:36\)](#): This Act was amended in 1978 to equalize the age of consent for same sex and opposite sex sexual activity.

## MARRIAGE

[Marriage Code \(1987:230\)](#): This legislation was amended in 2009 to use gender-neutral terms in referring to both parties in marriage.

*Chapter 1. Marriage*

1. This Code contains provisions on cohabitation in marriage. The two who are married to each other are partners. Act (2009:253).
2. Spouses should show each other respect and loyalty. They shall jointly nurture home and children, and work together for the family's best interests.

## PARTNERSHIP RECOGNITION AND BENEFITS

*The [Registered Partnership Act \(1994\)](#)*: Prior to the amendment to the [Marriage Code](#), same sex partners received benefits through the [Registered Partnership Act](#). Although it was repealed when the [Marriage Code](#) was amended, existing partnerships were not dissolved, and some partnerships are still in effect. This Act extends all marriage benefits except for specified exceptions.

*Chapter 3: Legal Effects of Registered Partnership*

*Section 1:* Registered partnership has the same legal effects as marriage, except as provided by sections 2-4

Provisions of a statute or other legislation related to marriage and spouses shall be applied in a corresponding manner to registered partnerships and registered

partners unless otherwise provided by the rules concerning exceptions contained in sections 2-4.

*Section 2:* Registered partners may neither jointly nor individually adopt children under Chapter 4 of the *Code on Parents, Children and Guardians*. Nor may registered partners be appointed to jointly exercise custody of a minor in the capacity of specially appointed guardians under Chapter 13, Section 8 of the *Code on Parents, Children and Guardians*.

The *Insemination Act* (1984:1140) and the *Fertilization outside the Body Act* (1988) do not apply to registered partners.

*Section 3:* Provisions applicable to spouses, the application of which involves special treatment of one spouse solely by reason of the spouse's sex, do not apply to registered partners.

*Section 4:* The provision of the *Ordinance concerning Certain International Legal Relationships relating to Marriage, Adoption and Guardianship* (1931:429) do not apply to registered partnerships.

## **ACCESS TO REPRODUCTIVE TECHNOLOGY, ADOPTION, AND PARENTING**

The [\*Genetic Integrity Act\* \(2006:351\)](#): Only married couples and partners are allowed access to artificial insemination in Sweden. This law enables same-sex couples in registered partnerships to also receive artificial insemination.

### *Chapter 6. Insemination*

*Section 1:* Insemination may be carried out only if the woman is married or cohabiting. Written consent for insemination is required from the spouse or cohabitee.

Under the provisions of the [\*Registered Partnership Act\* \(1994:1117\)](#) it follows that references in this chapter to spouses also apply to registered partners.

<http://www.smer.se/news/the-genetic-integrity-act-2006351>

[\*Children and Parents Code\* \(1949:381\)](#): Uses gender-neutral terms to allow married couples to adopt jointly. The 2009 amendment to the *Marriage Code* has the effect of allowing same-sex married couples to adopt under this Act.

*Section 3:* Spouses may not adopt a child otherwise than jointly. However, one of the spouses may adopt a child separately when the other spouse is living in an unknown place or is suffering from a serious mental disturbance. One of the spouses may also otherwise, with the consent of the other spouse, adopt that spouse's child or adoptive child or his or her own child.



**Partnership and Adoption Act (2002)**: This Act extends adoption rights to same-sex registered partners. It also allows one partner in a registered partnership to adopt the child of the other partner without any termination of parental rights.

<http://www.regeringen.se/content/1/c4/08/76/b853d5f6.pdf>

## **GENDER IDENTITY RECOGNITION**

**Act Concerning Determination of Sex (1972:119)**: Individuals can change their gender on legal documentation. Amendments effective as of 2013 removed the requirements that an individual first undergo sex reassignment surgery, be a Swedish national, and be unmarried.

*Section 1*: A person must apply for a declaration that he or she has a different gender than the one seen on national registration if he or she:

1. for some time felt that he or she belongs to the other sex,
2. for some time behaved in accordance with that gender identity,
3. must be assumed to live in this gender identity in the future,
4. is eighteen

*Section 4a*: In connection with application according to section 1, a permit maybe given to remove the gonads, if the prerequisites for determination of section 1 in paragraphs 1 - 4 are fulfilled.

When an application for a determination under section 1 or 2 has been upheld, the applicant is given permission to have the gonads removed. If the applicant has not turned 23 years, permission will only be given if exceptional reasons exist. Law (2012:456).

<https://lagen.nu/1972:119>

**Sterilization Act (1975:580)**: Adults aged 25 years and above can request sex reassignment surgery (SRS), and individuals who are 18 to 25 years old can request SRS in connection with an application for change of legal gender.

*Section 2*: A person who has turned 25 years may on his/her own request to be sterilized if she or he is a resident in Sweden. If sterilization is refused, the matter shall be immediately submitted to the National Board [of Health and Welfare] for examination. Law (2012:457).

*Section 3*: A person who has reached the age of eighteen but not twenty-five years living in Sweden, should after their own application to the National Board get authorization for sterilization

[ ... ]



3. In connection with an application for a declaration according to section 1 of [Act Concerning the Determination of Sex](#) (1972:119), if circumstances otherwise exist for such a finding. Act (2012:457).

<https://lagen.nu/1975:580>

## IMMIGRATION AND ASYLUM

**[Aliens Act \(2005:716\)](#)**: Discrimination on grounds of sexual orientation can serve as the basis for a grant of asylum.

### *Chapter 4. Refugees and persons otherwise in need of protection*

*Section 1*: In this Act 'refugee' means an alien who:

- is outside the country of the alien's nationality, because he or she feels a well-founded fear of persecution on grounds of race, nationality, religious or political belief, or on grounds of gender, sexual orientation or other membership of a particular social group and
- is unable, or because of his or her fear is unwilling, to avail himself or herself of the protection of that country.

This applies irrespective of whether it is the authorities of the country that are responsible for the alien being subjected to persecution or these authorities cannot be assumed to offer protection against persecution by private individuals.

A stateless alien shall also be considered a refugee if he or she:

- is, for the same reasons that are specified in the first paragraph, outside the country in which he or she has previously had his or her usual place of residence and
- is unable or, because of fear, unwilling to return there.