



**THE UNITED STATES OF AMERICA/MASSACHUSETTS AND WASHINGTON – 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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***Jurisdiction in the United States of America is divided between federal and state levels of government. The examples of Massachusetts and Washington legislation provided are illustrative, and not necessarily representative of state legislation across the country.***

### ***Federal***

In [\*Lawrence v Texas\*, 539 US 558 \(2003\)](#), the United States Supreme Court found unconstitutional a state sodomy law, thus overruling its previous decision in *Bowers v Hardwick*.

The [\*Patient Protection and Affordable Care Act\*](#), 2010, prohibits discrimination on the basis of sex in any federally run or assisted health program. “Sex” is defined by the U.S. Department of Health and Human Services to include “gender identity and sex stereotyping.” Sex stereotyping refers to stereotypical notions of masculinity and femininity. Accordingly, discrimination on the basis of sex stereotyping occurs if a person is discriminated against because of how he or she looks.

Hospitals that participate in the federal Medicare and Medicaid health insurance scheme are required to promote and protect patients’ visitation rights, which include the right to receive same-sex domestic partners (42 CFR Chapter 482).

The [\*Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act\*](#), 2009, criminalizes the act of wilfully causing bodily injury or attempting to cause bodily injury to another person because of his or her actual or perceived sexual orientation or gender identity.

Since 2010, gay, lesbian and bisexual individuals can serve openly in the U.S. Armed Forces ([Don't Ask, Don't Tell Repeal Act](#), 2010). Prior to the repeal act, a federal district court in California had found the [Don't Ask, Don't Tell](#) law unconstitutional.

The [Defence of Marriage Act](#), 1996, a federal law defining marriage as the legal union of one man and one woman for federal and inter-state recognition purposes, is currently being challenged before the U.S. Supreme Court in the case of *United States v. Windsor*. Oral argument was held in March 2013. A number of lower federal courts had found provisions of the law unconstitutional.

### ***State (Massachusetts)***

The state of Massachusetts bars discrimination on the basis of sexual orientation and gender identity in the employment sector, real estate and housing sector, insurance transactions and in the provision of credit services ([General Laws, Chapter 151B](#)).

Same-sex sexual activity is legal in Massachusetts ([General Laws, Chapter 265](#), ss. 22, 22A, 22B and 22C).

The age of consent is the same (16) for both opposite-sex and same-sex sexual activity in Massachusetts ([General Laws, Chapter 265, Section 22A](#)).

The state of Massachusetts provides harsher criminal penalties for anyone who commits assault or battery upon a person, or damages the real or personal property of person, for the purposes of intimidating that person because of his or her sexual orientation or gender identity ([General Laws, Chapter 265, Section 39](#)).

In *Commonwealth v Welch*, the Massachusetts Appeals Court held that the offence of criminal harassment ([General Laws, Chapter 265, Section 43A](#)) could apply to homophobic statements directed towards a specific person (444 Mass 80 (2005)).

Same-sex marriage was legalized in Massachusetts through a Massachusetts Supreme Court ruling that stated the arbitrary deprivation of membership in one of the community's most cherished institutions is "incompatible with the constitutional principles of respect for individual autonomy and equality under the law" (*Goodridge v Department of Public Health* 440 Mass. 309 (2003)). Same-sex marriages have been performed in Massachusetts since 2004.

Joint adoption by same-sex couples is permitted in Massachusetts.

Adoption rights for same-sex couples are part of the common law, and also codified in legislation (*In re Adoption of Tammy* 416 Mass. 205 (1993) and [General Laws, Chapter 210, Section 1](#)).

In Massachusetts, the non-gestating partner is not automatically given parental rights, but can adopt the child that is the biological child of her same-sex partner (*In re Adoption of Tammy* 416 Mass. 205 (1993))

While there is no legislation that directly indicates whether same-sex couples are able to use different types of reproductive technology, Massachusetts courts have upheld rights to undergo in vitro fertilization for lesbian couples and surrogacy contracts in court (*In re Adoption of Tammy* 416 Mass. 205 (1993), *Culliton v Beth Israel Deaconess* 435 Mass. 285 (2001), *Hodas v Morin* 442 Mass. 544 (2004))

Massachusetts allows individuals to change sex markers on birth certificates after undergoing sex reassignment surgery ([General Laws, Chapter 46, Section 13](#)).

In [Doe v Yunits et al](#), the Superior Court of Massachusetts, following [Lawrence v Texas](#), stated that a transgender teenager could not be punished or prevented from wearing the clothing of the opposite sex and that it would violate rights guaranteed under the *Declaration of Rights of the Massachusetts Constitution* to hold otherwise (MA Sup Ct (2000)).

Massachusetts law is interpreted to permit a same-sex partner to be a proxy for medical decisions ([General Laws, Chapter 201D, Section 2](#)).

### ***State (Washington)***

In Washington, the right to be free from discrimination on the grounds of sexual orientation, gender identity and gender expression is a civil right. Persons who violate this right are subject to civil penalties. In addition, they must cease and desist the discriminatory practice and take affirmative action to rectify the situation ([Revised Code of Washington, Chapter 49.60](#)).

Washington prohibits discrimination on the basis of sexual orientation, gender identity and gender expression in specific sectors: employment, real estate and housing, financial transactions, insurance transactions, credit transactions and the use of public facilities ([Revised Code of Washington, Chapter 49.60](#)).

Same-sex sexual activity is legal in Washington ([Revised Code of Washington, Chapter 9A.44](#)).

The age of consent is the same (16) for both opposite-sex and same-sex sexual activity in Washington ([Revised Code of Washington, Chapter 9A.44.079](#)).

Washington criminalizes the act of causing physical injury to another person, causing physical damage to another person's property, or threatening another person so as to cause fear of harm to person or property because of that person's sexual orientation, gender identity or gender expression ([Revised Code of Washington, Chapter 9A.36.080](#)).

Washington defines marriage in gender-neutral terms ([Revised Code of Washington, Chapter 26.04.010](#)).

Joint adoption by same-sex couples is permitted in Washington. In Washington, adoption rights were extended through legislation ([Revised Code of Washington, Chapter 26.33.140](#)).

Washington permits assisted reproduction and surrogacy for same-sex couples in a domestic partnership or in a marriage to the same extent as they are available to opposite-sex couples ([Revised Code of Washington, Chapter 26.26](#)).

While Washington does permit a person to officially and legally change his or her sex marker on his or her birth certificate, this process is not the result of legislation. The Department of Health has developed a policy that involves writing to the Department and including a letter from the requestor's medical or osteopathic physician stating that the requestor has had the appropriate clinical treatment (as deemed by the physician) ([The Rights of Transgender People in Washington State](#)). There is a right to appeal this decision to a court if the Department of Health refuses to grant the sex change ([Revised Code of Washington, Chapter 34.05.542\(3\)](#)).

Washington allows a same-sex partner from a domestic partnership to be a proxy for medical decisions ([Revised Code of Washington, Chapter 11.94.901](#)).

## ***Legal Provisions***

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### **ANTI-DISCRIMINATION**

#### ***FEDERAL***

The [Constitution of the United States, Amendment XIV, 1868](#): Guarantees equal protection of the laws and the right to life, liberty and property and the right not to be deprived thereof without due process for all persons.

*Section 1*: All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

[http://www.archives.gov/exhibits/charters/constitution\\_amendments\\_11-27.html](http://www.archives.gov/exhibits/charters/constitution_amendments_11-27.html)

The [\*\*Patient Protection and Affordable Care Act, 2010\*\*](#): Prohibits discrimination on various grounds, including sex, in any health program or activity run by the federal government or which receives federal assistance. The term “sex” includes gender identity and sex stereotyping (stereotypical notions of masculinity and femininity).

*Section 1557*: Nondiscrimination:

*Section 1557(a)*: IN GENERAL. – Except as otherwise provided for in this title (or an amendment made by this title), an individual shall not, on the ground prohibited under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) (*race, colour or national origin*), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) (*sex*)\*, the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) (*age*), or section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) (*disability*), be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any health program or activity, any part of which is receiving Federal financial assistance, including credits, subsidies, or contracts of insurance, or under any program or activity that is administered by an Executive Agency or any entity established under this title (or amendments). The enforcement mechanisms provided for and available under such title VI, title IX, section 504, or such Age Discrimination Act shall apply for purposes of violations of this subsection.

*Section 1557(b)*: CONTINUED APPLICATION OF LAWS. – Nothing in this title (or an amendment made by this title) shall be construed to invalidate or limit the rights, remedies, procedures, or legal standards available to individuals aggrieved under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), or the Age Discrimination Act of 1975 (42 U.S.C. 611 et seq.), or to supersede State laws that provide additional protections against discrimination on any basis described in subsection (a).

*Section 1557(c)*: REGULATIONS. – The Secretary may promulgate regulations to implement this section.

<http://www.gpo.gov/fdsys/pkg/USCODE-2010-title42/html/USCODE-2010-title42-chap157-subchapVI-sec18116.htm>

*Note: The US Department of Health and Human Services (HHS) defined the term sex to include gender identity and sex stereotyping. This clarification applies only to health care law under HHS authority. Sex stereotyping refers to stereotypical notions of masculinity and femininity. Accordingly, discrimination on the basis of sex stereotyping occurs if a person is discriminated against because of how he or she looks.*

[http://www.hhs.gov/ocr/civilrights/resources/laws/section1557\\_questions\\_answers.htm](http://www.hhs.gov/ocr/civilrights/resources/laws/section1557_questions_answers.htm)

**42 CFR Chapter 482, Conditions of Participation, 2012:** Requires hospitals to protect and promote patients' visitation rights, which includes their right to receive same-sex domestic partners, as a condition of participation in the federal Medicare and Medicaid health insurance scheme.

*Section 482.13:* A hospital must protect and promote each patient's rights.

*Section 482.13(h): Standard: Patient visitation rights.* A hospital must have written policies and procedures regarding the visitation rights of patients, including those setting forth any clinically necessary or reasonable restriction or limitation that the hospital may need to place on such rights and the reasons for the clinical restriction or limitation. A hospital must meet the following requirements:

*Section 482.13(h)(1):* Inform each patient (or support person, where appropriate) of his or her visitation rights, including any clinical restriction or limitation on such rights, when he or she is informed of his or her other rights under this section.

*Section 482.13(h)(2):* Inform each patient (or support person, where appropriate) of the right, subject to his or her consent, to receive the visitors whom he or she designates, including, but not limited to, a spouse, a domestic partner (including a same-sex domestic partner), another family member, or a friend, and his or her right to withdraw or deny such consent at any time.

*Section 482.13(h)(3):* Not restrict, limit, or otherwise deny visitation privileges on the basis of race, color, national origin, religion, sex, gender identity, sexual orientation, or disability.

*Section 482.13(h)(4):* Ensure that all visitors enjoy full and equal visitation privileges consistent with patient preferences.

<http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=51b46b9d23518b376f8ef1826d3310e0&rgn=div8&view=text&node=42:5.0.1.1.1.2.4.3&idno=42>

## ***STATE (MASSACHUSETTS)***

**General Laws, Chapter 151B, 2012:** Bars discrimination on the grounds of sexual orientation and gender identity in the employment sector (including by employers, labour unions, and employment agencies), the real estate and housing sector (including rental housing, public accommodation and mortgage lending), insurance transactions, and access to credit services. In addition, it establishes the Massachusetts Commission Against Discrimination to investigate, hear and decide upon complaints of unlawful discriminatory practices. Respondents who commit unlawful practices of discrimination are subject to civil penalties.

*Section 3(6):* Establishes the Massachusetts Commission Against Discrimination “To receive, investigate and pass upon complaints of unlawful practices, as hereinafter defined, alleging discrimination because of the [ ... ] gender identity, sexual orientation, which shall not include persons whose sexual orientation involves minor children as the sex object [ ... ] The term "sexual orientation" shall mean having an orientation for or being identified as having an orientation for heterosexuality, bisexuality, or homosexuality [ ... ]”

*Section 4:* It shall be an unlawful practice:

*Section 4(1):* For an employer, by himself or his agent, because of the [ ... ] gender identity, sexual orientation, which shall not include persons whose sexual orientation involves minor children as the sex object [ ... ] to refuse to hire or employ or to bar or to discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment, unless based upon a bona fide occupational qualification.

*Section 4(2):* For a labor organization, because of the [ ... ] gender identity, sexual orientation, which shall not include persons whose sexual orientation involves minor children as the sex object [ ... ] to exclude from full membership rights or to expel from its membership such individual or to discriminate in any way against any of its members or against any employer or any individual employed by an employer unless based upon a bona fide occupational qualification.

*Section 4(3):* For any employer or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or to make any inquiry or record in connection with employment, which expresses, directly or indirectly, any limitation, specification or discrimination as to the [ ... ] gender identity, sexual orientation, which shall not include persons whose sexual orientation involves minor children as the sex object [ ... ] or any intent to make any such limitation, specification or discrimination, or to discriminate in any way on the ground of [ ... ] gender identity, sexual orientation [ ... ] unless based upon a bona fide occupational qualification.

*Section 4(3A):* For any person engaged in the insurance or bonding business, or his agent, to make any inquiry or record of any person seeking a bond or surety bond conditioned upon faithful performance of his duties or to use any form of application in connection with the furnishing of such bond, which seeks information relative to the [ ... ] gender identity, sexual orientation, which shall not include persons whose sexual orientation involves minor children as the sex object [ ... ] to be bonded.

*Section 4(3B):* For any person whose business includes granting mortgage loans or engaging in residential real estate-related transactions to discriminate against any person in the granting of any mortgage loan or in making available such a transaction, or in the terms or conditions of such a loan or transaction, because of [ ... ] gender identity, sexual orientation which shall not include persons whose

sexual orientation involves minor children as the sex object [ ... ] Such transactions shall include, but not be limited to:

- (1) the making or purchasing of loans or the provision of other financial assistance for purchasing, constructing, improving, repairing, or maintaining a dwelling; or the making or purchasing of loans or the provision of other financial assistance secured by residential real estate; or
- (2) the selling, brokering, or appraising of residential real estate.

*Section 4(3C):* For any person to deny another person access to, or membership or participation in, a multiple listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against such person in the terms or conditions of such access, membership, or participation, on account of [ ... ] gender identity, sexual orientation which shall not include persons whose sexual orientation involves minor children as the sex object [ ... ]

*Section 4(4):* For any person, employer, labor organization or employment agency to discharge, expel or otherwise discriminate against any person because he has opposed any practices forbidden under this chapter or because he has filed a complaint, testified or assisted in any proceeding under section five.

*Section 4(4A):* For any person to coerce, intimidate, threaten, or interfere with another person in the exercise or enjoyment of any right granted or protected by this chapter, or to coerce, intimidate, threaten or interfere with such other person for having aided or encouraged any other person in the exercise or enjoyment of any such right granted or protected by this chapter.

*Section 4(5):* For any person, whether an employer or an employee or not, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this chapter or to attempt to do so.

*Section 4(6):* For the owner, lessee, sublessee, licensed real estate broker, assignee or managing agent of publicly assisted or multiple dwelling or contiguously located housing accommodations or other person having the right of ownership or possession or right to rent or lease, or sell or negotiate for the sale of such accommodations, or any agent or employee of such a person, or any organization of unit owners in a condominium or housing cooperative:

- (a) to refuse to rent or lease or sell or negotiate for sale or otherwise to deny to or withhold from any person or group of persons such accommodations because of the [ ... ] gender identity, sexual orientation, which shall not include persons whose sexual orientation involves minor children as the sex object [ ... ] of such person or persons [ ... ]
- (b) to discriminate against any person because of his [ ... ] gender identity, sexual orientation, which shall not include persons whose sexual orientation involves minor children as the sex object [ ... ] in the terms, conditions or



privileges of such accommodations or the acquisitions thereof, or in the furnishings of facilities and services in connection therewith [ ... ]  
(c) to cause to be made any written or oral inquiry or record concerning the [ ... ] gender identity, sexual orientation, which shall not include persons whose sexual orientation involves minor children as the sex object [ ... ]

*Section 4(7):* For the owner, lessee, sublessee, real estate broker, assignee or managing agent of other covered housing accommodations or of land intended for the erection of any housing accommodation included under subsection 10, 11, 12, or 13 of section one, or other person having the right of ownership or possession or right to rent or lease or sell, or negotiate for the sale or lease of such land or accommodations, or any agent or employee of such a person or any organization of unit owners in a condominium or housing cooperative:

(a) to refuse to rent or lease or sell or negotiate for sale or lease or otherwise to deny or withhold from any person or group of persons such accommodations or land because of [ ... ] gender identity, sexual orientation, which shall not include persons whose sexual orientation involves minor children as the sex object [ ... ]

(b) to discriminate against any person because of his [ ... ] gender identity, sexual orientation, which shall not include persons whose sexual orientation involves minor children as the sex object, age [ ... ] in the terms, conditions or privileges of such accommodations or land or the acquisition thereof, or in the furnishing of facilities and services in the connection therewith or

(c) to cause to be made any written or oral inquiry or record concerning the [ ... ] gender identity, sexual orientation, which shall not include persons whose sexual orientation involves minor children as the sex object, age [ ... ] of the person seeking to rent or lease or buy any such accommodation or land; provided, however, that this subsection shall not apply to the leasing of a single apartment or flat in a two family dwelling, the other occupancy unit of which is occupied by the owner as his residence.

*Section 4(7B):* For any person to make print, or publish, or cause to be made, printed, or published any notice, statement or advertisement, with respect to the sale or rental of multiple dwelling, contiguously located, publicly assisted or other covered housing accommodations that indicates any preference, limitation, or discrimination based on [ ... ] gender identity, sexual orientation which shall not include persons whose sexual orientation involves minor children as the sex object [ ... ] or an intention to make any such preference, limitation or discrimination except where otherwise legally permitted.

*Section 4(8):* For the owner, lessee, sublessee, or managing agent of, or other person having the right of ownership or possession of or the right to sell, rent or lease, commercial space:

(1) To refuse to sell, rent, lease or otherwise deny to or withhold from any person or group of persons such commercial space because of [ ... ] gender identity, sexual orientation, which shall not include persons whose sexual

orientation involves minor children as the sex object [ ... ] of such person or persons.

(2) To discriminate against any person because of his [ ... ] gender identity, sexual orientation, which shall not include persons whose sexual orientation involves minor children as the sex object [ ... ] in the terms, conditions or privileges of the sale, rental or lease of any such commercial space or in the furnishing of facilities or services in connection therewith.

(3) To cause to be made any written or oral inquiry or record concerning the [ ... ] gender identity, sexual orientation, which shall not include persons whose sexual orientation involves minor children as the sex object [ ... ] of a person seeking to rent or lease or buy any such commercial space.

*Section 4(13):* For any person to directly or indirectly induce, attempt to induce, prevent, or attempt to prevent the sale, purchase, or rental of any dwelling or dwellings by:

(a) implicit or explicit representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular [ ... ] gender identity [ ... ] or implicit or explicit representations regarding the effects or consequences of any such entry or prospective entry;

(b) unrequested contact or communication with any person or persons, initiated by any means, for the purpose of so inducing or attempting to induce the sale, purchase, or rental of any dwelling or dwellings when he knew or, in the exercise of reasonable care, should have known that such unrequested solicitation would reasonably be associated by the persons solicited with the entry into the neighborhood of a person or persons of a particular [ ... ] gender identity [ ... ]

(c) implicit or explicit false representations regarding the availability of suitable housing within a particular neighborhood or area, or failure to disclose or offer to show all properties listed or held for sale or rent within a requested price or rental range, regardless of location; or

(d) false representations regarding the listing, prospective listing, sale, or prospective sale of any dwelling.

*Section 4(14):* For any person furnishing credit or services to deny or terminate such credit or services or to adversely affect an individual's credit standing because of such individual's sex, gender identity, [ ... ] or sexual orientation, which shall not include persons whose sexual orientation involves minor children as the sex object;

*Section 5:* If, upon all the evidence at any such hearing, the commission shall find that a respondent has engaged in any such unlawful practice, it may, in addition to any other action which it may take under this section, assess a civil penalty against the respondent:

(a) in an amount not to exceed \$10,000 if the respondent has not been adjudged to have committed any prior discriminatory practice;

(b) in an amount not to exceed \$25,000 if the respondent has been adjudged to have committed one other discriminatory practice during the 5-year period ending on the date of the filing of the complaint; and

(c) in an amount not to exceed \$50,000 if the respondent has been adjudged to have committed 2 or more discriminatory practices during the 7-year period ending on the date of the filing of the complaint. Notwithstanding the aforesaid provisions, if the acts constituting the discriminatory practice that is the object of the complaint are committed by the same natural person who has been previously adjudged to have committed acts constituting a discriminatory practice, then the civil penalties set forth in clauses (b) and (c) may be imposed without regard to the period of time within which any subsequent discriminatory practice occurred.

<http://www.malegislature.gov/Laws/GeneralLaws/PartI/TitleXXI/Chapter151B>

*Note: Sexual orientation is not included as prohibited grounds of discrimination in Section 4(13).*

**[General Laws, Chapter 4, Section 7](#)**: Defines the term gender identity, which is applicable to the *General Laws of Massachusetts*, including [Chapter 151B](#).

*Fifty-ninth*, "Gender identity" shall mean a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth. Gender-related identity may be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held as part of a person's core identity; provided, however, that gender-related identity shall not be asserted for any improper purpose.

<http://www.malegislature.gov/Laws/GeneralLaws/PartI/TitleI/Chapter4/Section7>

## ***STATE (WASHINGTON)***

**[Revised Code of Washington, Chapter 49.60, 1949 \(Last Revised in 2007\)](#)**: Recognizes the right to be free from discrimination on the basis of sexual orientation, gender expression and gender identity as a civil right. It also specifically prohibits discrimination on grounds of sex, sexual orientation, gender expression, and gender identity in the employment sector (including employers, labour unions, and employment agencies), the real estate and housing sector (including rental housing and public accommodation), financial transactions, insurance transactions, credit transactions and the use of public facilities. Persons who violate *RCW*, Chapter 49.60 are subject to civil penalties. In addition, they must cease and desist the discriminatory practice and take affirmative action to rectify the situation.

*RCW 49.60.030, Section 1:* The right to be free from discrimination because of [ ... ] sexual orientation\* [ ... ] is recognized as and declared to be a civil right. This right shall include, but not be limited to:

- (a) The right to obtain and hold employment without discrimination;
- (b) The right to the full enjoyment of any of the accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement;
- (c) The right to engage in real estate transactions without discrimination, including discrimination against families with children;
- (d) The right to engage in credit transactions without discrimination;
- (e) The right to engage in insurance transactions or transactions with health maintenance organizations without discrimination [ ... ]
- (f) The right to engage in commerce free from any discriminatory boycotts or blacklists. Discriminatory boycotts or blacklists for purposes of this section shall be defined as the formation or execution of any express or implied agreement, understanding, policy or contractual arrangement for economic benefit between any persons which is not specifically authorized by the laws of the United States and which is required or imposed, either directly or indirectly, overtly or covertly, by a foreign government or foreign person in order to restrict, condition, prohibit, or interfere with or in order to exclude any person or persons from any business relationship on the basis of [ ... ] sex [ ... ] sexual orientation [ ... ] PROVIDED HOWEVER, That nothing herein contained shall prohibit the use of boycotts as authorized by law pertaining to labor disputes and unfair labor practices; and
- (g) The right of a mother to breastfeed her child in any place of public resort, accommodation, assemblage, or amusement.

*RCW 49.60175:* It shall be an unfair practice to use the [ ... ] sexual orientation [ ... ] concerning an application for credit in any credit transaction to determine the creditworthiness of an applicant.

*RCW 49.60.176, Section 1:* It is an unfair practice for any person whether acting for himself, herself, or another in connection with any credit transaction because of [ ... ] sexual orientation [ ... ]:

- (a) To deny credit to any person;
- (b) To increase the charges or fees for or collateral required to secure any credit extended to any person;
- (c) To restrict the amount or use of credit extended or to impose different terms or conditions with respect to the credit extended to any person or any item or service related thereto;
- (d) To attempt to do any of the unfair practices defined in this section.

*RCW 49.60.178:* It is an unfair practice for any person whether acting for himself, herself, or another in connection with an insurance transaction or transaction with a health maintenance organization to cancel or fail or refuse to issue or renew

insurance or a health maintenance agreement to any person because of [ ... ] sexual orientation [ ... ]

*RCW 49.60.180:* It is unfair practice for an employer:

- (1) To refuse to hire any person because of [ ... ] sexual orientation [ ... ] PROVIDED, That the prohibition against discrimination because of such disability shall not apply if the particular disability prevents the proper performance of the particular worker involved: PROVIDED, That this section shall not be construed to require an employer to establish employment goals or quotas based on sexual orientation.
- (2) To discharge or bar any person from employment because of [ ... ] sexual orientation [ ... ]
- (3) To discriminate against any person in compensation or in other terms or conditions of employment because of [ ... ] sexual orientation [ ... ]
- (4) To print, or circulate, or cause to be printed or circulated any statement, advertisement, or publication, or to use any form of application for employment, or to make any inquiry in connection with prospective employment, which expresses any limitation, specification, or discrimination as to [ ... ] sexual orientation [ ... ] or any intent to make any such limitation, specification, or discrimination, unless based upon a bona fide occupational qualification [ ... ]

*RCW 49.60.190:* It is unfair practice for any labor union or labor organization:

- (1) To deny membership and full membership rights and privileges to any person because of [ ... ] sexual orientation [ ... ]
- (2) To expel from membership any person because of [ ... ] sexual orientation [ ... ]
- (3) To discriminate against any member, employer, employee, or other person to whom a duty of representation is owed because of [ ... ] sexual orientation [ ... ]

*RCW 49.60.200:* It is an unfair practice for any employment agency to fail or refuse to classify properly or refer for employment, or otherwise to discriminate against, an individual because of [ ... ] sexual orientation [ ... ] or to print or circulate, or cause to be printed or circulated any statement, advertisement, or publication, or to use any form of application for employment, or to make any inquiry in connection with prospective employment, which expresses any limitation, specification or discrimination as to [ ... ] sexual orientation [ ... ] unless based upon a bona fide occupational qualification [ ... ]

*RCW 49.60.222, Section 1:* It is an unfair practice for any person, whether acting for himself, herself, or another, because of [ ... ] sexual orientation [ ... ]:

- (a) To refuse to engage in a real estate transaction with a person;
- (b) To discriminate against a person in the terms, conditions, or privileges of a real estate transaction or in the furnishing of facilities or services in connection therewith;

- (c) To refuse to receive or to fail to transmit a bona fide offer to engage in a real estate transaction from a person;
- (d) To refuse to negotiate for a real estate transaction with a person;
- (e) To represent to a person that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or to fail to bring a property listing to his or her attention, or to refuse to permit the person to inspect real property;
- (f) To discriminate in the sale or rental, or to otherwise make unavailable or deny a dwelling, to any person; or to a person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or to any person associated with the person buying or renting;
- (g) To make, print, circulate, post, or mail, or cause to be so made or published a statement, advertisement, or sign, or to use a form of application for a real estate transaction, or to make a record or inquiry in connection with a prospective real estate transaction, which indicates, directly or indirectly, an intent to make a limitation, specification, or discrimination with respect thereto;
- (h) To offer, solicit, accept, use, or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection therewith;
- (i) To expel a person from occupancy of real property;
- (j) To discriminate in the course of negotiating, executing, or financing a real estate transaction whether by mortgage, deed of trust, contract, or other instrument imposing a lien or other security in real property, or in negotiating or executing any item or service related thereto including issuance of title insurance, mortgage insurance, loan guarantee, or other aspect of the transaction. Nothing in this section shall limit the effect of RCW 49.60.176 relating to unfair practices in credit transactions; or
- (k) To attempt to do any of the unfair practices defined in this section.

*RCW 49.60.222, Section 7:* Nothing in this chapter shall apply to real estate transactions involving the sharing of a dwelling unit, or rental or sublease of a portion of a dwelling unit, when the dwelling unit is to be occupied by the owner or sublessor. For purposes of this section, "dwelling unit" has the same meaning as in [RCW 59.18.030](#).\*\*

*RCW 49.60.223, Section 1:* Every provision in a written instrument relating to real property which purports to forbid or restrict the conveyance, encumbrance, occupancy, or lease thereof to individuals of a specified [ ... ] sexual orientation [ ... ] and every condition, restriction, or prohibition, including a right of entry or possibility of reverter, which directly or indirectly limits the use or occupancy of real property on the basis of [ ... ] sexual orientation [ ... ] is void.

*RCW 49.60.250, Section 5:* If, upon all the evidence, the administrative law judge finds that the respondent has engaged in any unfair practice, the administrative law

judge shall state findings of fact and shall issue and file with the commission and cause to be served on such respondent an order requiring such respondent to cease and desist from such unfair practice and to take such affirmative action, including, (but not limited to) hiring, reinstatement or upgrading of employees, with or without back pay, an admission or restoration to full membership rights in any respondent organization, or to take such other action as, in the judgment of the administrative law judge, will effectuate the purposes of this chapter, including action that could be ordered by a court, except that damages for humiliation and mental suffering shall not exceed twenty thousand dollars, and including a requirement for report of the matter on compliance.

<http://apps.leg.wa.gov/rcw/default.aspx?cite=49.60>

*\* Note: RCW 49.60.040, Section 26 defines sexual orientation for the purposes of RCW 49.60 to mean "heterosexuality, homosexuality, bisexuality, and gender expression or identity. As used in this definition, "gender expression or identity" means having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to that person at birth."*

*\*\* [RCW 59.18.030](#), Section 5 defines "dwelling unit" as "a structure or that part of a structure which is used as a home, residence, or sleeping place by one person or by two or more persons maintaining a common household, including but not limited to single-family residences and units of multiplexes, apartment buildings, and mobile homes."*

<http://apps.leg.wa.gov/rcw/default.aspx?cite=59.18.030>

## HATE CRIMES

### ***FEDERAL***

**[Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act, 2009](#)**: Amends Title 18, Section 249 of the *United States Code* to criminalize willful causation of bodily injury, or attempts to cause bodily injury, to another person because of their actual or perceived sexual orientation or gender identity.

*Section 249(a)(2)(A)*: In general. – Whoever, whether or not acting under color of law, in any circumstance described in subparagraph (B) or paragraph (3), willfully causes bodily injury\* to any person or, through the use of fire, a firearm, a dangerous weapon, or an explosive or incendiary device, attempts to cause bodily injury to any person, because of the actual or perceived religion, national origin, gender, sexual orientation, gender identity, or disability of any person –

*(i)* shall be imprisoned not more than 10 years, fined in accordance with this title, or both; and

(ii) shall be imprisoned for any terms of years or for life, fined in accordance with the title, or both, if

(I) death results from the offense; or

(II) the offense includes kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

*Section 249(c)(4)*: the term “gender identity” means actual or perceived gender-related characteristics;

<http://thomas.loc.gov/cgi-bin/query/z?c111:S.909>:

*Note*: Section 249 (c)(1) defines the term “bodily injury” as (a) a cut, abrasion, bruise, burn or disfigurement; (b) physical pain; (c) illness; (d) impairment of the function of a bodily member, organ, or mental faculty; or (e) any other injury to the body, no matter how temporary. It does not include solely emotional or psychological harm to the victim.

<http://thomas.loc.gov/cgi-bin/query/z?c111:S.909>

## ***STATE (MASSACHUSETTS)***

**[General Laws, Chapter 265, Section 39](#)**, Last Revised July 1, 2012: Provides additional penalties for anyone who commits assault or battery upon a person, or damages the real or personal property of a person with the intent to intimidate such person because of his or her sexual orientation or gender identity.

*Section 39(a)*: Whoever commits an assault or a battery upon a person or damages the real or personal property of a person with the intent to intimidate such person because of such person's [ ... ] sexual orientation, gender identity [ ... ] shall be punished by a fine of not more than five thousand dollars or by imprisonment in a house of correction for not more than two and one-half years, or by both such fine and imprisonment. The court may also order restitution to the victim in any amount up to three times the value of property damage sustained by the owners of such property [ ... ]

<http://www.malegislature.gov/Laws/GeneralLaws/PartIV/TitleI/Chapter265/Section39>

**[General Laws, Chapter 265, Section 43A](#)**: Establishes the offence of criminal harassment; in *Commonwealth v Welch* (2005), the Massachusetts Appeals Court held that Section 43A of Chapter 265 could apply to homophobic statements directed towards a specific person (<http://masscases.com/cases/sjc/444/444mass80.html>).

*Section 43A (a)*: Whoever willfully and maliciously engages in a knowing pattern of conduct or series of acts over a period of time directed at a specific person, which



seriously alarms that person and would cause a reasonable person to suffer substantial emotional distress shall be guilty of the crime of criminal harassment;

<http://www.malegislature.gov/Laws/GeneralLaws/PartIV/TitleI/Chapter265/Section43A>

**[General Laws, Chapter 22C, Sections 33 to 35](#)**: Establishes a crime reporting unit to collect hate crime data, to summarize and analyze reports of hate crime data into annual reports, to make the annual reports public record, and to make any hate crime data collected available for use by an law enforcement agency and/or state agency.

<http://www.malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter22C/Section33>

<http://www.malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter22C/Section34>

<http://www.malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter22C/Section35>

**[General Laws, Chapter 22C, Section 32, Last Revised July 1, 2012](#)**: Defines “hate crime” as including criminal acts motivated by prejudice on the basis of sexual orientation for the purposes of [Sections 33 to 35 of Chapter 22C](#).

‘Hate crime’, any criminal act coupled with overt actions motivated by bigotry and bias including, but not limited to, a threatened, attempted or completed overt act motivated at least in part by racial, religious, ethnic, handicap, gender, gender identity or sexual orientation prejudice, or which otherwise deprives another person of his constitutional rights by threats, intimidation or coercion, or which seek to interfere with or disrupt a person's exercise of constitutional rights through harassment or intimidation. Hate crime shall also include, but not be limited to, acts that constitute violations of sections thirty-seven and thirty-nine of chapter two hundred and sixty-five, section one hundred and twenty-seven A of chapter two hundred and sixty-six and chapter two hundred and seventy-two.

<http://www.malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter22C/Section32>

## ***STATE (WASHINGTON)***

**[Revised Code of Washington, Chapter 9A.36.080, 1981](#)**: Establishes the offence of malicious harassment. Malicious harassment criminalizes the act of causing physical injury to another person, causing physical damage to another person’s property, or threatening another person so as to cause fear of harm to person or property that is motivated, *inter alia*, by a perception of that person’s sexual orientation (defined to include gender identity and gender expression).

*Section 1:* A person is guilty of malicious harassment if he or she maliciously and intentionally commits one of the following acts because of his or her perception of the victim's [ ... ] sexual orientation [ ... ]:

(a) Causes physical injury to the victim or another person;

(b) Causes physical damage to or destruction of the property of the victim or another person; or

(c) Threatens a specific person or group of persons and places that person, or members of the specific group of persons, in reasonable fear of harm to person or property. The fear must be a fear that a reasonable person would have under all the circumstances. For purposes of this section, a "reasonable person" is a reasonable person who is a member of the victim's [ ... ] gender, or sexual orientation [ ... ] Words alone do not constitute malicious harassment unless the context or circumstances surrounding the words indicate the words are a threat. Threatening words do not constitute malicious harassment if it is apparent to the victim that the person does not have the ability to carry out the threat."

*Section 6* defines sexual orientation as "heterosexuality, homosexuality, bisexuality, and gender expression or identity." Gender expression or identity is defined as "having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to that person at birth".

<http://apps.leg.wa.gov/rcw/default.aspx?cite=9A.36.080>

## **SEXUAL ACTIVITY AND AGE OF CONSENT**

### ***STATE (MASSACHUSETTS)***

[\*\*\*General Laws, Chapter 265, Sections 22A\*\*\*](#): Equalizes the age of consent (16) for same-sex and opposite-sex sexual activity.

### ***STATE (WASHINGTON)***

[\*\*\*Revised Code of Washington, Chapter 9A.44, 1988\*\*\*](#): Equalizes the age of consent (16) for same-sex and opposite-sex sexual activity.

## **MILITARY SERVICE**

### ***FEDERAL***

**[Don't Ask, Don't Tell Repeal Act, 2010](#)**: Repeals Title 18, Section 654 of the *United States Code* to eliminate the Don't Ask, Don't Tell (1993) policy. The Don't Ask, Don't Tell policy allowed gays, lesbians and bisexuals to serve in the U.S. Armed Forces as long as they kept their sexual orientation a secret, and military authorities did not learn of it.

*Section F: Treatment of 1993 Policy –*

(1) Title 10.--Upon the effective date established by subsection (b), chapter 37 of title 10, United States Code, is amended—

(A) by striking section 654; and

(B) in the table of sections at the beginning of such chapter, by striking the item relating to section 654

(2) Conforming amendment.--Upon the effective date established by subsection (b), section 571 of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 654 note) is amended by striking subsections (b), (c), and (d).

<http://www.gpo.gov/fdsys/pkg/BILLS-111hr2965enr/html/BILLS-111hr2965enr.htm>

## **MARRIAGE**

### ***STATE (WASHINGTON)***

**[Revised Code of Washington, Chapter 26.04.010](#)**: The Act was amended in 2012 and affirmed by *Washington Referendum 74* to extend the definition of marriage to include same-sex couples.

*Section 1*: Marriage is a civil contract between two persons who have each attained the age of eighteen years, and who are otherwise capable.

*Section 3*: Where necessary to implement the rights and responsibilities of spouses under the law, gender specific terms such as husband and wife used in any statute, rule, or other law must be construed to be gender neutral and applicable to spouses of the same sex.

<http://apps.leg.wa.gov/RCW/default.aspx?cite=26.04.010>

## **PARTNERSHIP RECOGNITION AND BENEFITS**

### ***STATE (MASSACHUSETTS)***

**[General Laws, Chapter 201D, Section 2](#)**: This Act permits individuals to act as attorneys-in-fact and make medical decisions on behalf of same-sex partners.

*Section 2:* Every competent adult shall have the right to appoint a health care agent by executing a health care proxy. Said health care proxy shall be in writing signed by such adult or at the direction of such adult in the presence of two other adults who shall subscribe their names as witnesses to such signature. The witnesses shall affirm in writing that the principal appeared to be at least eighteen years of age, of sound mind and under no constraint or undue influence. No person who has been named as health care agent in a health care proxy shall act as a witness to the execution of such proxy. For the purposes of this section, every adult shall be presumed to be competent and every health care proxy shall be presumed to be properly executed unless a court determines otherwise.

## ***STATE (WASHINGTON)***

**[Revised Code of Washington, Chapter 26.60](#)**: This Act defines domestic partnerships available to same-sex couples.

*Section 015:* It is the intent of the legislature that for all purposes under state law, state registered domestic partners shall be treated the same as married spouses. Any privilege, immunity, right, benefit, or responsibility granted or imposed by statute, administrative or court rule, policy, common law or any other law to an individual because the individual is or was a spouse, or because the individual is or was an in-law in a specified way to another individual, is granted on equivalent terms substantive and procedural, to an individual because the individual is or was in a state registered domestic partnership or because the individual is or was, based on a state registered domestic partnership, related in a specified way to another individual. The provisions of chapter 521, Laws of 2009 shall be liberally construed to achieve equal treatment, to the extent not in conflict with federal law, of state registered domestic partners and married spouses.

*Section 030:* To enter into a state registered domestic partnership the two persons involved must meet the following requirements: (1) Both persons share a common residence; (2) Both persons are at least eighteen years of age; (3) Neither person is married to someone other than the party to the domestic partnership and neither person is in a state registered domestic partnership with another person; (4) Both persons are capable of consenting to the domestic partnership; (5) Both of the following are true: (a) The persons are not nearer of kin to each other than second cousins, whether of the whole or half blood computing by the rules of the civil law; and (b) Neither person is a sibling, child, grandchild, aunt, uncle, niece, or nephew to the other person; and (6) Either (a) both persons are members of the same sex; or (b) at least one of the persons is sixty-two years of age or older.

<http://apps.leg.wa.gov/rcw/default.aspx?cite=26.60&full=true#26.60.010>

*Note: The law on domestic partnership was enacted when Washington did not allow same-sex marriage. Since Washington has since permitted same-sex marriage, the state is phasing out*

*domestic partnerships. As of June 30, 2014, the criteria for domestic partnerships will change: "To enter into a state registered domestic partnership the two persons involved must meet the following requirements: (1) Both persons share a common residence; (2) Both persons are at least eighteen years of age and at least one of the persons is sixty-two years of age or older; (3) Neither person is married to someone other than the party to the domestic partnership and neither person is in a state registered domestic partnership with another person; (4) Both persons are capable of consenting to the domestic partnership; and (5) Both of the following are true: (a) The persons are not nearer of kin to each other than second cousins, whether of the whole or half blood computing by the rules of the civil law; and (b) Neither person is a sibling, child, grandchild, aunt, uncle, niece, or nephew to the other person."*

**[Revised Code of Washington, Chapter 11.94.901](#)**: This Act permits individuals to act as attorneys-in-fact and make medical decisions on behalf of same-sex partners.

*Chapter applicable to state registered domestic partnership*: For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships.

<http://apps.leg.wa.gov/RCW/default.aspx?cite=11.94.901>

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

### ***STATE (MASSACHUSETTS)***

**[General Laws, Chapter 210, Section 1](#)**: Adoption rights and obligations are implicitly extended to same-sex couples through the use of language that recognizes same-sex relationships.

*Section 1*: A person of full age may petition the probate court in the county where he resides for leave to adopt as his child another person younger than himself, unless such other person is his or her wife or husband, or brother, sister, uncle or aunt, of the whole or half blood. A minor may likewise petition, or join in the petition of his or her wife or husband, for the adoption of a natural child of one of the parties. If the petitioner has a husband or wife living, competent to join in the petition, such husband or wife shall join therein, and upon adoption the child shall in law be the child of both; provided, however, that the prayer of the petition may be granted although the spouse of the petitioner is not party to the petition if the court finds: (i)

the failure of the spouse to join in the petition or to consent to the adoption is excused by reason of prolonged unexplained absence, legal separation, prolonged separation, incapacity or circumstances constituting an unreasonable withholding of consent; (ii) the husband and wife are not in the process of an ongoing divorce; and (iii) the granting of the petition is in the best interests of the child. If a person not an inhabitant of this commonwealth desires to adopt a child residing here, the petition may be made to the probate court in the county where the child resides. The District or juvenile court may, if it appears necessary or convenient, exercise the powers authorized by this chapter, but only in respect to a pending proceeding before such district or juvenile court.

<http://www.malegislature.gov/Laws/GeneralLaws/PartII/TitleIII/Chapter210/Section1>

*Note: In the court case In re Adoption of Tammy, 416 Mass. 205 (1993), the Massachusetts Supreme Court stated that statute did not preclude same-sex cohabitants from jointly adopting a child; the adoption was in the best interest of the child in this case.*

## **STATE (WASHINGTON)**

**Revised Code of Washington, Chapter 26.26:** This Act regulates the establishment of a parent-child relationship through adoption, natural birth, and artificial reproductive technologies; the establishment of a parent-child relationship in all contexts is regulated in the same way for same-sex and opposite-sex couples.

*Section 011:* Definitions [ ... ] (4) “Assisted reproduction” means a method of causing pregnancy other than sexual intercourse. The term includes: (a) Artificial insemination; (b) Donation of eggs; (c) Donation of embryos; (d) In vitro fertilization and transfer of embryos; and (e) Intracytoplasmic sperm injection.

*Section 051(2):* The provisions in this chapter apply to persons in a domestic partnership to the same extent they apply to persons in a marriage, and apply to persons of the same sex who have children together to the same extent they apply to persons of the opposite sex who have children together.

*Section 101:* The parent-child relationship is established between a child and a man or woman by: (1) The woman’s having given birth to the child, except as otherwise provided in RCW 26.26.210 through 26.26.260; (2) An adjudication of the person’s parentage; (3) Adoption of the child by the person; (4) An affidavit and physician’s certificate in a form prescribed by the department of health wherein the donor of eggs or surrogate gestation carrier sets forth her intent to be legally bound as the parent of a child or children born through assisted reproduction by filing the affidavit and physician’s certificate with the registrar of vital statistics within ten days after the date of the child’s birth pursuant to RCW 26.26.735; (5) An un rebutted presumption of the person’s parentage of the child under RCW

26.26.116; (6) The man's having signed an acknowledgment of paternity under RCW 26.26.300 through 26.26.375, unless the acknowledgment has been rescinded or successfully challenged; (7) The person's having consented to assisted reproduction by his or her spouse or domestic partner under RCW 26.26.700 through 26.26.730 that resulted in the birth of the child; or (8) A valid surrogate parentage contract, under which the person asserting parentage is an intended parent of the child, as provided in RCW 26.26.210 through 26.26.260

[Section 715](#): Consent to assisted reproduction. (1) Consent by a couple who intend to be parents of a child conceived by assisted reproduction must be in a record signed by both persons. This requirement does not apply to a donor. (2) Failure of the person to sign a consent required by subsection (1) of this section, before or after birth of the child, does not preclude a finding of parentage if the persons reside together in the same household with the child and openly held out the child as their own

<http://apps.leg.wa.gov/RCW/default.aspx?cite=26.26>

*Note: Adoption in the United States is governed by State laws; therefore, laws regarding same-sex adoption vary between States.*

## **GENDER IDENTITY RECOGNITION**

### ***STATE (MASSACHUSETTS)***

[General Laws, Chapter 46, Section 13](#): In Massachusetts, a person can legally change his or her sex marker as recorded on his or her birth certificate after undergoing sex reassignment surgery. Sex reassignment surgery is not defined in the Act; it is left up to the person's personal physician to determine the appropriate measures.

*Section 13(e)*: If a person has completed sex reassignment surgery, so-called, and has had his name legally changed by a court of competent jurisdiction, the birth record of said person shall be amended to reflect the newly acquired sex and name, provided that an affidavit is received by the town clerk, executed by the person to whom the record relates, and accompanied by a physician's notarized statement that the person named on the birth record has completed sex reassignment surgery, so-called, and is not of the sex recorded on said record. Said affidavit shall also be accompanied by a certified copy of the legal change of name aforementioned above.

<http://www.malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter46/Section13>