

# (FAQ) Frequently Asked Questions

## Marriage Equality for Same-Sex Couples in the State of Washington

### About Same-Sex Couples Marrying Legally in Washington

#### 1. Can two persons of the same sex now marry legally in Washington State?

No. The state supreme court has decided that Washington's so-called "Defense of Marriage Act," adopted in 1998, does not violate the Washington state constitution. This means that as long as that law remains on the books, same-sex couples will not be able to marry legally in the state of Washington.

#### 2. Can this result be changed by a further appeal?

The attorneys who handled the case will look at that, but probably not. This case involved a question about the meaning of the Washington state constitution. The state supreme court has the last word on the meaning of the state constitution, and that court has now ruled against us.

#### 3. Does this mean we should give up on achieving marriage equality in Washington?

Absolutely not. Lesbian and gay couples and their families need fair and equal treatment, and that means ending discrimination in the law. This decision does mean, however, that we will not achieve marriage equality in Washington through litigation, at least not anytime soon. This ruling shifts our focus to the state Legislature, where we will seek to change state law so same-sex couples can legally marry.

At the same time, keep in mind that Washington elects judges as well as state legislators. To achieve a judicial system that will enforce the constitutional guarantees of liberty and justice for all, fair-minded people must pay close attention to the positions and values of judicial candidates .

#### 4. Could a ballot measure help us achieve marriage equality in Washington?

Technically, yes. Realistically, LGBT community leaders have learned to try legislation first to secure our basic legal rights. Although the legislative process can be slow, our ability to succeed increases significantly as more fair-minded people speak out and get involved.

#### 5. If we can't get married in Washington, is there another state where a same-sex couple may marry?

For now, the only state where same-sex couples may marry is Massachusetts, and that state does not issue marriage licenses to non-resident couples unless their home state or country allows them to marry. However, there are lawsuits pending in California, Connecticut, Iowa, Maryland, New Jersey, and New York that may well result in marriage equality for same-sex couples. You can keep up with the status of the California, Iowa, New Jersey, and New York cases at [www.lambdalegal.org](http://www.lambdalegal.org), the Connecticut case at [www.glad.org](http://www.glad.org), and the Maryland case at [www.aclu.org](http://www.aclu.org) .

## 6. What effect does this ruling have on same-sex couples who live in Washington but were already married in Massachusetts or another country, such as Canada?

This ruling means Washington will continue not to respect their marriages as legal.

## What About Federal Law and the Laws of Other States?

## 7. This ruling was about marriage in Washington. What is the status of marriage equality under federal law and the laws of other states?

Federal law does not recognize marriages between same-sex couples. The so-called federal “Defense of Marriage Act” (DOMA), adopted by the U.S. Congress in 1996, remains in effect, as do discriminatory practices of federal agencies that predated it. This means that even if you get fully and legally married in some state or other country, your marriage will not be honored under federal law. For all federal matters, such as Social Security, immigration, and federal income taxes, the federal government does not consider same-sex couples married even when they have married legally under the laws of a state or another country. DOMA also says that no state is obligated to respect a marriage from another state that it does not want to respect.

Many scholars believe the federal DOMA violates various provisions of the United States Constitution. LGBT and civil rights organizations such as Lambda Legal, the ACLU and the Northwest Women’s Law Center recommend that same-sex couples not consider legal action to challenge the federal DOMA except as part of a carefully planned strategy, since premature challenges already have resulted in negative court decisions that have set back the efforts to secure equal legal rights for lesbian and gay couples and their families. Additional premature challenges could also backfire and cause further harm all same-sex couples. If marriage becomes available in other states, couples should consider that as they look at their options in matters like:

- Planning for retirement, including use of Social Security benefits and/or annuities with preferential federal tax treatment
- Military service
- Immigration
- Income taxes
- Property ownership
- Transfer of property between each other that may create taxable events
- Bankruptcy
- Traveling from one state to another
- Traveling out of the country and returning home
- Moving to another state
- Selecting destinations for vacationing
- Using hospitals and making medical decisions for one another in another state
- Doing business with entities based in other states
- And more

Many of the states now have their own “DOMA” type laws or constitutional amendments. They

declare they will not honor marriages between same-sex couples even if they are legal where the couples were married. When traveling to other states, therefore, it is a good idea for married couples to protect themselves by carrying legal papers such as medical power-of-attorney documents and, if they have children, documents confirming the legal relationship between the children and both parents.

In states where same-sex couples can marry (currently, only Massachusetts) or where civil union or similar legal status has been in effect (e.g., California, Connecticut, Hawaii, and Vermont), there may be a more welcoming environment. As always, where there is actual experience with same-sex couples and their families, there is more acceptance.

## How Can We Help?

### 8. What can Washington residents do?

Whether married or not, LGBT or not, everyone who believes in equality under our state's laws, and everyone who thinks adults should be able to choose whether and whom to marry, should continue to be concerned about equality. All Washington residents should pay close attention to the Washington state Legislature and legislative and judicial elections, to ensure that marriage equality can be achieved here as soon as possible.

Couples should visit their legislators and explain why they want marriage equality. Family and friends of same-sex couples should do so as well, and explain why they want to see an end to marriage discrimination against those they love and upon whom they may depend.

The ongoing work to defend liberty and promote equality in the face of the efforts of the so-called "religious right" continues. Join, volunteer to help, or contribute to the efforts of groups you believe will defend your freedom effectively. Support the groups in Washington state who are working hard for you! Support the national groups that are helping Washington state achieve legal marriage equality, so they can continue to work effectively to obtain it in other states and, in time, here in Washington and nationwide. Here are some of their Web sites:

ACLU of Washington: [www.aclu-wa.org](http://www.aclu-wa.org)

Lambda Legal: [www.lambdalegal.org](http://www.lambdalegal.org)

Northwest Women's Law Center: [www.nwwlc.org](http://www.nwwlc.org)

Legal Marriage Alliance of Washington: [www.LMAW.org](http://www.LMAW.org)

Equal Rights Washington: [www.equalrightswashington.org](http://www.equalrightswashington.org)

Freedom to Marry: [www.freedomtomarry.org](http://www.freedomtomarry.org)

Human Rights Campaign: [www.hrc.org](http://www.hrc.org)

National Gay and Lesbian Task Force: [www.nglftf.org](http://www.nglftf.org)

Don't Amend.com: [www.dontamend.com](http://www.dontamend.com)

Religious Coalition for Equality: [www.religiouscoalition-wa.org](http://www.religiouscoalition-wa.org)

National Center for Lesbian Rights: [www.nclrights.org](http://www.nclrights.org)

Gay & Lesbian Advocates & Defenders: [www.glad.org](http://www.glad.org)

## 9. What can out-of-state residents and visitors do?

Only by continuing to work for marriage equality, to educate the public about anti-LGBT discrimination, and to elect fair-minded legislators and other public officials, will we see the nation truly moving toward equal rights for all. Many years of community education, coalition building, non-marriage legal cases, and other preparatory work are needed to create the building blocks for success. There is work under way in your home state that needs your support, contributions, volunteer time, and participation.

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