Appendix 2:
Laws Relevant To a Sexual Health Unit

In this appendix, you will find summaries of state laws as of this printing regarding the following:

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This appendix was most recently edited April 9, 2013.

Legal Requirements of Sexual Health Education, Including HIV prevention education, in Washington State

AIDS Omnibus Act – 1988
OSPI / DOH Guidelines – 2005
Healthy Youth Act – 2007

1. Every year all* students in grades **5-12** must receive **HIV** education. **Districts** decide whether to provide additional sexual health education.
2. **If a district provides sexual health education, it must adhere to a list of 19 guidelines approved by the Office of the Superintendent of Public Instruction (OSPI) and the Department of Health (DOH).** See the link below for full text of the Guidelines.
3. **Parents** must be allowed to preview materials **30 days** prior to instruction. Parents may waive students' participation in HIV education or sexual health education by written notice. Alternative educational opportunities shall be provided for those excused.
4. HIV materials must be approved by WA State DOH for medical **accuracy**. Other sexual health materials must also be medically and scientifically accurate as reviewed by OSPI.
5. Programs must be **age appropriate** and appropriate for **all** students regardless of gender, race, disability status, or sexual orientation.
6. Outside **speakers**, curricula, and films, must also meet these standards.
7. Materials must emphasize **abstinence** and must also teach accurate information about **condoms** and **other contraception** and about **sexually transmitted diseases** (STDs).
8. Programs must encourage and improve **communication**.
9. Programs must provide information on local **resources** for STD testing/care and pregnancy.
10. Programs must identify **resources** for students' present and future concerns and questions.
11. Programs must address the impact of **media and peer** messages.
12. Programs must promote the development of **intrapersonal and interpersonal skills** including a sense of dignity and self-worth and communication, decision-making, assertiveness and refusal skills.
13. Programs must recognize and respect people with differing personal and family **values**.
14. Programs must encourage young people to **develop healthy relationships and avoid exploitative or manipulative relationships.**
15. Programs must promote healthy **self-esteem**, positive **body image**, good **self-care**, **respect** for others, **caring** for family and friends, and **responsibility** to community.

For **HELP, ADVICE,** or **INFORMATION:** Contact Suzanne Hidde, Office of the Superintendent of Public Instruction (OSPI), HIV & Sexual Health Education Program Supervisor (suzanne.hidde@k12.wa.us, 360-725-6364).

See all three documents from which these requirements stem, along with helpful information comparing their requirements, at the OSPI web site: www.k12.wa.us/HIVSexualhealth/default.aspx.

Minor Consent for Health Care in Washington[1]

In Washington State, minors' (persons less than 18 years of age) right to consent to care may depend upon the type of treatment being sought. For most care (e.g., sore throat), minors cannot consent for themselves, unless they are married to a person over age 18. However, they may consent for:

SEXUALLY TRANSMITTED DISEASE, INCLUDING HIV, TESTING *(RCW 70.24.110)* [2]
Minors age fourteen and older may seek confidential diagnosis and treatment for STDs. However some agencies, such as Public Health – Seattle & King County, will test and treat individuals regardless of age due to their mandate to prevent and control the spread of communicable disease.

IMMUNIZATION
The "mature minor doctrine" lets minors consent for immunization and other non-emergency care if they can understand the consequences of a medical procedure based on a provider's assessment of their age, intelligence, maturity, training, experience, economic independence or lack thereof, general conduct as an adult and freedom from the control of parents.

BIRTH CONTROL *(RCW 9.02.100(2))*
Minors may obtain or refuse birth control services at any age without the consent of a parent or guardian.

ABORTION *(RCW 9.02.100(1); State v. Koome, 84 Wn.2d 901 (1975).)* [3]
A minor may receive or refuse an abortion and abortion related services at any age without the consent of a parent, guardian or the person with whom she got pregnant.

PRENATAL CARE *State v. Koome, 84 Wn.2d 901 (1975).*
Minors may seek prenatal care at any age without the consent of a parent or guardian.

ADOPTION *(RCW 26.33 and WAC 388-70-410 through 595)*
The birth mother and the birth father (if he has properly established paternity) hold the primary right of consent to adoption of their child, but they need the help of court-appointed counsel. The court may terminate the rights of one or both parents for various reasons including abandonment, failure to support the child, mental incompetence, abuse or neglect. Special legal protection exists for the birth parent who is a minor, in the military, a Native American, or Alaskan Native.

OUTPATIENT ALCOHOL AND DRUG TREATMENT *(RCW 70.96A.095 and RCW 70.96A.097)*
Any person thirteen years of age or older may give consent for himself or herself to the furnishing of outpatient treatment by a chemical dependency treatment program certified by the department.

MENTAL HEALTH TREATMENT *(RCW 71.34.530 and RCW 71.34.500)*
A minor thirteen or older may be admitted for either inpatient *or* outpatient mental treatment without parental consent. When treatment is inpatient, parents are notified.

NOTE: Most agencies rely on their own attorney's opinion to interpret these statutes. Also, most health care providers will assess the client's maturity and abilities, particularly if a youth is homeless. They also encourage teens to discuss the issues with their parent or guardian if appropriate.

NOTE: When discussing with a student any kind of health care for which the student can legally consent, please **be very careful about protecting that student's privacy.** That means not sharing what is said with other students, or students' family members or writing it in the student's permanent record. Disclosing a student's health information even to other teachers or school employees is a violation of privacy and possibly illegal.

[1] Sources: www.washingtonlawhelp.org (see *"Providing Health care to Minors …"*), *Child Welfare Information Gateway,* a service of U.S. Department of Health & Human Services (www.childwelfare.gov/systemwide/laws_policies/statutes/consent.cfm) and Guttmacher Institute (www.guttmacher.org/statecenter/spibs/spib_MRP.pdf)

[2] "RCW" stands for "Revised Code of Washington" – these are the numbers of the laws.

[3] "State v. Koome" is the name of a lawsuit. This is what is called "case law" based on the courts' interpretation of the law.

Sexual Exploitation & Assault Laws in Washington

RAPE

Rape is forced intercourse.[4] There are three degrees, depending on the kind of force used. Rape is a felony crime. *RCW 9A.44.040; RCW 9A.44.050; RCW 9A.44.060*

- First Degree – assailant threatens to use or uses a deadly weapon, kidnaps or inflicts serious physical injury on the victim, breaks in to commit the offense, or renders the victim unconscious through physical injury.
- Second Degree – assailant threatens to harm victim or others, or uses physical force that overcomes resistance; or when the victim is physically helpless (e.g. due to intoxication, or disability), or doesn't understand.[5]
- Third Degree – assailant threatens to harm property; or when the victim's lack of consent is clearly expressed by words or conduct.

RAPE OF A CHILD

Also called *statutory rape*, "rape of a child" is intercourse with a person who is much younger than the offender, even without force. There are three degrees, depending on the ages of the victim and the offender. Rape of a child is a felony crime. *(RCW 9A.44.073; RCW 9A.44.076; RCW 9A.44.079)*

- First Degree – victim is less than 12; offender is at least 24 months older than the victim
- Second Degree – victim is 12 or 13; offender is at least 36 months older than the victim
- Third Degree – victim is 14 or 15; offender is at least 48 months older than the victim

CHILD MOLESTATION

Child molestation is sexual contact with a person who is much younger than the offender. There are three degrees, depending on the ages of the victim and the offender. Child molestation is a felony crime. *(RCW 9A.44.083; RCW 9A.44.086; RCW 9A.44.089)*

- First Degree – victim is less than 12; offender is at least 36 months older than the victim
- Second Degree – victim is 12 or 13; offender is at least 36 months older than the victim
- Third Degree – victim is 14 or 15; offender is at least 48 months older than the victim

INDECENT EXPOSURE

Public indecency is making an open and obscene physical exposure of one's own body or that of another. Public indecency is a misdemeanor; it is a gross misdemeanor if the victim is under 14. *(RCW 9A.88.010)*

INDECENT LIBERTIES

Indecent liberties is the touching of sexual body parts of another person through the use of threat or physical force, or when the victim is physically helpless, or doesn't understand.[6] The crime of indecent liberties is a felony. *(RCW 9A.44.100)*

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[4] "Intercourse" includes vaginal or anal penetration, however slight, as well as oral-genital contact.

[5] Second degree rape includes situations in which the perpetrator is a health care provider and the crime occurs during treatment, or when the perpetrator has a significant relationship with the victim and the victim is a frail elder or vulnerable adult, or when the perpetrator has supervisory authority over the victim and the victim is a resident of a facility for the mentally disturbed or chemically dependent.

[6] Indecent Liberties also includes situations in which the perpetrator is a health care provider and the crime occurs during treatment, or when the perpetrator has a significant relationship with the victim and the victim is a frail elder or vulnerable adult, or when the perpetrator has supervisory authority over the victim and the victim is a resident of a facility for the mentally disturbed or chemically dependent.

INCEST

Incest is intercourse or sexual contact[7] with a person known to be related to the offender (including stepchildren and adopted children under 18). Incest is a felony crime.[8] *(RCW 9A.64.020)*

- First Degree – intercourse
- Second Degree – sexual contact

SEXUAL EXPLOITATION OF CHILDREN

Using children in the production of sexually explicit materials is a felony. (*RCW 9.68A.040)* Patronizing a juvenile prostitute is also a felony. *(RCW 9.68A.100)*

SEXUAL MISCONDUCT WITH A MINOR

Sexual misconduct with a minor is intercourse or sexual contact with a person who is **16-17** by a perpetrator who is at least 60 months older and who abuses a supervisory position (including a foster parent of the youth) in order to engage in such behavior. It is also sexual misconduct when a *school employee* who is at least 60 months older has intercourse or sexual contact with a K-12 student who is age **16-21**. Sexual misconduct with a minor in the first degree (intercourse) is a felony; second degree (sexual contact) is a gross misdemeanor. *(RCW 9A.44.093, RCW 9A.44.096)*

COMMUNICATION WITH A MINOR FOR IMMORAL PURPOSES

Communication with a minor for immoral purposes is a law intended to cover a broad range of sexual behavior or expression directed at a person under the age of 18. Examples include showing pornographic material to a minor, or making sexual solicitations or overtures to a minor. Communication with a minor is a gross misdemeanor; it is a felony crime for repeat offenders. *(RCW 9.68A.090)*

… WITH SEXUAL MOTIVATION

A sexual motivation finding can be attached to any felony. For example, an assault crime can also have *with sexual motivation* added to the offense. The reason for adding *with sexual motivation* to a felony is because the charge is now an offense that will require registration as a sex offender and the requirements of a sexual offense. When attached to certain felonies, it can turn them into "two strikes" offenses when they would otherwise not be. The *sexual motivation* designation increases the "point value" of the offense when it is being scored against another sex offense for purposes of determining the offender score. *(RCW 9.94A.127)*

© 2001 King County Sexual Assault Resource Center, PO Box 300, Renton, WA 98057 (425) 226-5062.

Find **LINKS TO THE LAWS** themselves: www.wcsap.org/legal/RapeLaws.htm

For **HELP, ADVICE,** or **INFORMATION** in Washington State:

- Washington Coalition of Sexual Assault Programs: www.wcsap.org
- Harborview Center for Sexual Assault & Traumatic Stress: http://depts.washington.edu/hcsats/
- King County Sexual Assault Resource Center: www.kcsarc.org or 1-888-99-VOICE

For **HELP, ADVICE,** or **INFORMATION** anywhere in the United States:

- Rape, Abuse and Incest National Network: www.rainn.org or 1-800-656-HOPE

[7] "Sexual contact" means any touching of the sexual or other intimate parts of a person.

[8] Charges of incest are not usually filed. Typically other charges are filed based on the type of assault.

Safe Surrender of Infants in Washington State[9]

A parent who transfers a newborn child less than 72 hours old to a qualified person at an appropriate location has not committed a crime. According to the law, "appropriate location" means the emergency department of a hospital, a fire station or a rural health clinic; and "qualified person" means any person whom the parent believes to be the employee or volunteer of a hospital, fire station or health clinic. *(RCW 13.34.360)*

Beginning July 1, 2011, "appropriate locations" must post a sign indicating that they are an appropriate place for the safe and legal transfer of a newborn. *(RCW 13.34.360)*

Laws Affecting Lesbian, Gay, Bisexual & Transgender Students and Those with LGBT Parents in Washington State

DISCRIMINATION

Washington State law prohibits discrimination on the basis of, race, creed, color, national origin, sex, honorably discharged veteran or military status, sexual orientation (defined as including gender identity and expression), or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability. It prohibits these kinds of discrimination in housing, employment and "public accommodation." Public accommodation includes the right to a public education. Students who fall under any of these categories and whose rights are being violated should understand their rights. *(RCW 49.60.030)*

HATE CRIMES

It is a hate crime to physically injure a person, damage their property or threaten them because of the offender's perception of the victim's race, color, religion, ancestry, national origin, gender, sexual orientation (including, under law, gender identity and expression), or mental, physical, or sensory handicap. *(RCW 9A.36.078)*

FAMILY

Gay and lesbian couples can legally marry in Washington State. Marrying gives them the same state rights and responsibilities as other married couples (e.g., hospital visitation and the right to inherit). It does not give them any of the federal rights that other couples have (e.g., a widow's right to collect their partner's Social Security). It does not protect their rights if they travel outside the state. *(26.60 RCW)* In Washington State, a biological parent's same-sex partner can adopt their child and lesbian, gay, bisexual and transgender people can foster and adopt children.

SCHOOL

Districts' policies must prohibit bullying based on the target's race, creed, color, national origin, sex, veteran or military status, sexual orientation (defined as including gender identity and expression), or disability. *(RCW 28A.300.285)* Districts which offer sexual health education must do it in ways that are age appropriate and appropriate regardless of students' gender, race, disability status, or sexual orientation. *(RCW 28A.300.475)*

HELP, ADVICE, INFORMATION:

- Safe Schools Coalition: www.safeschoolscoalition.org
- Safe Schools Coalition's Washington State Law QUIZ "K12 Schools & Sexual Diversity": www.safeschoolscoalition.org/lawquiz/index.html

[9] See more detail, here: http://apps.leg.wa.gov/RCW/default.aspx?Cite=13.34.360

Age of Marriage in Washington State

In Washington State, the legal age of marriage for both young men and young women is 18 years (for people in both same-sex and heterosexual relationships). Seventeen year olds can marry with permission of their father, mother or guardian. Those under the age of 17 must have a parent's or guardian's consent and also that of the Superior Court.[10,11]

[10] Per the Washington State Bar Association: www.wsba.org/media/publications/pamphlets/marriage.htm
[11] Per the Office of the Secretary of State: http://www.sos.wa.gov/corps/domesticpartnerships/Notice-regarding-same-sex-marriage-and-domestic-partnerships.aspx

Legal Requirements of Sexual Health Education, including HIV prevention education, in the U.S.[12]

BACKGROUND: As the level of concern over teenage pregnancy—and later AIDS—increased in the 1970s and 1980s, so did the number of states that had policies requiring or encouraging the teaching of sex education. Most states require that public schools teach some form of sex or STD/HIV education. Most states, including some that do not mandate the instruction itself, also place requirements on how abstinence or contraception should be handled when included in a school district's curriculum. This guidance is heavily weighted toward stressing abstinence; in contrast, while many states allow or require that contraception be covered, none requires that it be stressed. In an attempt to ensure that students receive truthful and appropriate information, several states require that education on sex and STD/HIV be "medically accurate" and/or appropriate for the age of the students. Further affecting whether students receive instruction on sex or STDs/HIV are parental consent requirements or the more frequent "opt-out" clauses, which allow parents to remove students from instruction the parents find objectionable.

HIGHLIGHTS:

- 21 states and the District of Columbia mandate that public schools teach sex education; many states, including several that do not mandate sex education, place requirements on how abstinence and contraception are treated when taught.
  - 22 states require that abstinence be stressed when taught as part of sex education; 12 states require simply that it be covered during instruction.
  - 17 states and the District of Columbia require that sex education programs cover contraception; no state requires that it be stressed.
- 35 states and the District of Columbia require the provision of STD/HIV education; many place requirements on how abstinence and contraception are treated.
  - 25 states require that abstinence be stressed when taught as part of STD/HIV education; 12 require that it be covered.
  - 19 states require that STD/HIV programs cover contraception; no state requires that it be stressed.
- 29 states and the District of Columbia require that sex and/or STD/HIV education be medically accurate and/or age appropriate.
  - 15 states require that programs teach medically accurate and factual information.
  - 27 states and the District of Columbia require that the education be appropriate for the students' age.
- 37 states and the District of Columbia require school districts to permit parental involvement in sexuality and STD/HIV education.
  - Three states require parental consent in order for students to participate in sex or STD/HIV education.
  - 35 states and the District of Columbia allow parents to remove their children from instruction.

STATE LAWS: Look up the sexual health education law for your state or territory here: www.guttmacher.org/statecenter/spibs/spib_SE.pdf

[12] Reprinted with permission. *State Policies in Brief: Sex and STD/HIV Education.* Guttmacher Institute: www.guttmacher.org © 2010, Guttmacher Institute

Providing Health Care to Minors in the U.S.[13]

BACKGROUND: The legal ability of minors to consent to a range of sensitive health care services—including sexual and reproductive health care, mental health services and alcohol and drug abuse treatment—has expanded dramatically over the past 30 years. This trend reflects the recognition that, while parental involvement in minors' health care decisions is desirable, many minors will not avail themselves of important services if they are forced to involve their parents. With regard to sexual and reproductive health care, many states explicitly permit all or some minors to obtain contraceptive, prenatal and STD services without parental involvement. Moreover, nearly every state permits minor parents to make important decisions on their own regarding their children. In sharp contrast, the majority of states require parental involvement in a minor's abortion.

In most cases, state consent laws apply to all minors age 12 and older. In some cases, however, states allow only certain groups of minors—such as those who are married, pregnant or already parents—to consent. Several states have no relevant policy or case law; in these states, physicians commonly provide medical care without parental consent to minors they deem mature, particularly if the state allows minors to consent to related services. The following list contains seven categories of state law that affect a minor's right to consent. Further information on these issues can be obtained by clicking on the column headings.

HIGHLIGHTS:

- **CONTRACEPTIVE SERVICES:** 26 states and the District of Columbia allow all minors (12 and older) to consent to contraceptive services. 21 states allow only certain categories of minors to consent to contraceptive services. Four states have no relevant policy or case law.
- **STD SERVICES:** All states and the District of Columbia allow all minors to consent to STD services. 18 of these states allow, but do not require, a physician to inform a minor's parents that he or she is seeking or receiving STD services when the doctor deems it in the minor's best interests.
- **PRENATAL CARE:** 32 states and the District of Columbia explicitly allow all minors to consent to prenatal care. Another state allows a minor to consent to prenatal care during the 1st trimester; requires parental consent for most care during the 2nd and 3rd trimesters. 13 of these states allow, but do not require, a physician to inform parents that their minor daughter is seeking or receiving prenatal care when the doctor deems it in the minor's best interests. Four additional states allow a minor who can be considered "mature" to consent. 13 states have no relevant policy or case law.
- **ADOPTION:** 28 states and the District of Columbia allow all minor parents to choose to place their child for adoption. In addition, five states require the involvement of a parent and five states require the involvement of legal counsel. The remaining 12 states have no relevant policy or case law.
- **MEDICAL CARE FOR A CHILD:** 30 states and D.C. allow all minor parents to consent to medical care for their child. The remaining 20 states have no relevant explicit policy or case law.
- **ABORTION:** Three states and the District of Columbia explicitly allow all minors to consent to abortion services. 22 states require that at least one parent consent to a minor's abortion, while 11 states require prior notification of at least one parent. Four states require both notification of and consent from a parent prior to a minor's abortion. Seven additional states have parental involvement laws that are temporarily or permanently enjoined. Six states have no relevant policy or case law.

STATE LAWS: See what forms of health care minors may consent to in your state or territory: www.guttmacher.org/statecenter/spibs/spib_OMCL.pdf

NOTE: When discussing with a student any kind of health care for which the student can legally consent, please **be very careful about protecting that student's privacy.** That means not sharing what is said with other students, or students' family members or writing it in the student's permanent record. Disclosing a student's health information even to other teachers or school employees is a violation of privacy and possibly illegal.

[13] Reprinted with permission. *State Policies in Brief: An Overview of Minors' Consent Law.* Guttmacher Institute. www.guttmacher.org; © 2010, Guttmacher Institute

Sexual Exploitation & Assault Laws in the U.S.

- **STATUTORY RAPE:** These are laws that make it a crime to have sex, even sex that feels consenting to both parties, with someone below a certain age (ages - and age differences between the two people - vary under the law from state to state). Look up your state's statutory rape law here: http://aspe.hhs.gov/hsp/08/SR/StateLaws/index.shtml
- **SEXUAL ABUSE:** These laws define sex crimes committed against minors. Look up your state here: www.womenslaw.org/laws_state_type.php?id=11109&state_code=GE

STATE LAWS: Click on your state to find a state sexual assault program that can answer questions about other state laws, such as those regarding forcible rape, incest and indecent exposure: www.ovw.usdoj.gov/statesexual.htm

HELP, ADVICE, INFORMATION: Rape, Abuse and Incest National Network, www.rainn.org or 1-800-656-HOPE.

Safe Surrender of Infants in the U.S.

From the Child Welfare Information Gateway, a service of the U.S. Department of Social and Health Services. Current through July 2007.

Many State legislatures have enacted legislation to address infant abandonment and infanticide in response to a reported increase in the abandonment of infants. Beginning in Texas in 1999, "Baby Moses laws" or infant safe haven laws have been enacted as an incentive for mothers in crisis to safely relinquish their babies to designated locations where the babies are protected and provided with medical care until a permanent home is found. Safe haven laws generally allow the parent, or an agent of the parent, to remain anonymous and to be shielded from prosecution for abandonment or neglect in exchange for surrendering the baby to a safe haven.

To date, approximately 47 States and Puerto Rico have enacted safe haven legislation. The focus of these laws is protecting newborns. In approximately 15 states, infants who are 72 hours old or younger may be relinquished to a designated safe haven. Approximately 14 states and Puerto Rico accept infants up to 1 month old. Other states specify varying age limits in their statutes.

- **WHO MAY LEAVE A BABY AT A SAFE HAVEN:** In most states with safe haven laws, either parent may surrender his or her baby to a safe haven. In four states (Georgia, Maryland, Minnesota, and Tennessee), only the mother may relinquish her infant. Idaho specifies that only a custodial parent may surrender an infant. In approximately 11 states, an agent of the parent (someone who has the parent's approval) may take a baby to a safe haven for a parent. Six states do not specify the person who may relinquish an infant.
- **SAFE HAVEN PROVIDERS:** The purpose of safe haven laws is to ensure that relinquished infants are left with persons who can provide the immediate care needed for their safety and well-being. To that end, approximately eight states require parents to relinquish their infants to a hospital. Other states designate additional entities as safe haven providers, including emergency medical services, police stations, and fire stations. In four states (Louisiana, Michigan, New Hampshire, and Vermont), emergency medical technicians responding to a 9-1-1 call may accept an infant. In addition, four states (Arizona, New Hampshire, South Carolina, and Vermont) and Puerto Rico allow churches to act as safe havens, but the relinquishing parent must first determine that church personnel are present at the time the infant is left. Generally, anyone on staff at these institutions can receive an infant; however, many states require that staff receiving an infant be trained in emergency medical care.

This publication is a product of the State Statutes Series prepared by Child Welfare Information Gateway, a service of the Children's Bureau, Administration for Children and Families, U.S. Department of Health and Human Services. While every attempt has been made to be as complete as possible, additional information on these topics may be in other sections of a state's code as well as agency regulations, case law, and informal practices and procedures. This material may be freely reproduced and distributed. However, when doing so, please credit Child Welfare Information Gateway.

STATE LAWS: Google the title *"Infant Safe Haven Laws: Summary of State Laws"* or look up your own state's law here: http://safehavenlaws.uslegal.com/ or here: www.childwelfare.gov/systemwide/laws_policies/statutes/safehavenall.pdf .

Laws Affecting Lesbian, Gay, Bisexual & Transgender Students and Those with LGBT Parents in the U.S.

- **SCHOOL:**

  On a federal level, the protections in schools do not explicitly extend to discrimination on the basis of sexual orientation or gender identity/expression. Still, successful lawsuits have been brought by students whose schools banned them from prom, refused to allow their gay-straight alliance to meet, or failed to protect them from harassment due to their being lesbian, gay, bisexual, transgender or gender non-conforming. The bases for these suits have included:
  - The Equal Protection Clause of the 14th Amendment to the U.S. Constitution[14]
  - The First Amendment to the Constitution[15]
  - The Federal Equal Access Act[16]
  - Title IX of the Education Amendments of 1972[17]

- **DISCRIMINATION:**

  Also called "civil rights" laws, these ordinances prohibit discrimination in - usually - housing, employment and public accommodations (including the right to equal treatment at school).

  On a federal level, there is no broad protection against discrimination in housing, jobs or public accommodations for LGBT people as of this printing. Two bills that have been introduced and failed in previous years might change that picture if they are re-introduced. You can do a web search for their current status. They are called the *Student Non-Discrimination Act (SNDA)* and the *Employment Non-Discrimination Act (ENDA).* Check with your state senator's office or do an Internet search to see whether either has been made into law. (They had not as of this printing.)

  Locally, as of January 20, 2012, 16 states and the District of Columbia ban discrimination based on sexual orientation and gender identity/expression. In addition, five states ban discrimination based on sexual orientation, but are silent regarding gender identity/expression. In 29 other states, it is perfectly legal to discriminate on either basis.

- **FAMILY:**

  Marriage laws in all 50 states confer rights and responsibilities on couples such as the right to be with a partner in the hospital, the right not to testify against them in court, and the right to make decisions about their funeral.

[14] See the **Equal Protection Clause**: http://topics.law.cornell.edu/constitution/amendmentxiv

[15] See the **Bill of Rights** www.archives.gov/exhibits/charters/bill_of_rights_transcript.html.

[16] See U.S. **Equal Access Act**, 20 U.S.C. § 4071 *et seq.*, *available at* www.usdoj.gov/crt/cor/byagency/ed4071.php

[17] See **Title IX**: www.justice.gov/crt/cor/coord/titleix.php

On a federal level, the 1996 Defense of Marriage Act[18] allows states to deny rights to same-sex couples married in other states. It also denies federal benefits to legally married same-sex couples, such as a widow's right to collect their partner's Social Security. The issue is being heard by the U.S. Supreme Court as of this printing.

Locally, as of January 23, 2013, 9 states and the District of Columbia provide full marriage equality to all couples. Another 13 have domestic partnership or civil union laws that extend some or all the same rights as marriage without calling them marriages or recognize marriages performed elsewhere. In contrast, 16 states had laws or constitutional amendments banning marriage for same-sex couples and 20 had laws or constitutional amendments banning even such things as domestic partnership.

In cases of divorce (of a different-sex marriage), courts have sometimes denied children with a gay, lesbian, bisexual or transgender **parent** the right to **live with or visit with** that parent. Other courts have found that the parent's sexual orientation or gender identity is irrelevant – that what matters is only how well they parent. Outcomes of these cases vary widely from state to state. Similarly, when *same*-sex couples divorce or separate, courts vary in terms of the rights of the children to live with or visit with their non-biological parent.

As of April 12, 2011, three states prohibit co-habiting couples (regardless of their sexes) or same-sex couples from jointly **fostering or adopting** children. In twenty-six states, gay, lesbian, bisexual and transgender people have been allowed to adopt their partner's or spouse's biological children, either by law or by court decision.

- **HATE CRIMES:**

  These are laws that add penalties to other crimes, when those crimes are committed due to bias regarding the victim's real (and in some states also perceived) characteristics. Most include race, religion, disability and gender.

  On a federal level, the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act of 2009 makes it a crime to injure or threaten to injure a person because of their actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity, or disability under certain limited circumstances where the U.S. government has jurisdiction.[19]

  Locally, as of March 12, 2012, 13 states and the District of Columbia have hate crime laws that include both gender identity/expression and sexual orientation. Another 17 prohibit hate crimes based on sexual orientation, but not those based on gender identity or expression. An additional 15 states have hate crime laws that are silent regarding sexual orientation and gender identity/expression. There is no hate crime law naming targeted groups at all in the remaining five states.

STATE LAWS: See state laws regarding LGBT rights mapped – and find your own state – at www.thetaskforce.org. Go to "Reports & Research" → "issue maps." Or go to http://preview.hrc.org/about_us/state_laws.asp

Age of Marriage in the United States

Age of marriage varies from state to state. Some ban marriage under age 14 even with parents' or guardians' consent. In the states where same-sex marriage is legal (as of this printing, Iowa, Maine, Maryland, Massachusetts, Connecticut, New Hampshire, New York, Vermont, Washington State and Washington, D.C.) the age requirements are the same as for heterosexual couples.

STATE LAWS: See laws regarding age of marriage here: www.usmarriagelaws.com and here: www.coolnurse.com/marriage_laws.htm and here: http://www.thetaskforce.org/reports_and_research/issue_maps

[18] See http://thomas.loc.gov/cgi-bin/query/z?c104:H.R.3396.ENR:

[19] See www.justice.gov/crt/crim/249fin.php