

**ALABAMA**

Same- sex marriage; Civil union; Domestic Partnership	DOMA (1998) (Ala. Admin. Code § 30-1-19)  Marriage only between a man and a woman. Same sex marriage and civil unions performed in another state not recognized. Constitutional Amendment [2006]- (also known as Amendment 774) is comprehensive in denying marital or similar status to same-sex couples, Ala, Const. art. I, § 36.03
Hospital and Nursing Home Visitation	
Medical Decision-making/ funeral Burial Decision-making	An adult can execute a health care proxy naming same sex partner as decision maker. (ALA. CODE § 22-8A-4)  Same sex partners not authorized to make decisions without express directive. (ALA. CODE § 22-8A-11)
Civil claims	Gender neutral domestic violence protection limited to persons of the same household.
Property Transfer Upon Death	Intestacy does not provide for same sex partner. (Ala.Code 1975 § 43-8-42)  Joint tenancy. (Ala.Code 1975 § 35-4-7)
Appointment as Estate Administrator	No specific priority unless named in the will. (Ala.Code 1975 § 43-2-42)
Employment	There are no protections based on sexual orientation. Some private companies and public universities extend health insurance benefits to same-sex partners
Taxation	
Children Adoption	Any adult person or husband and wife jointly who are adults may petition the court to adopt. (Ala. Code § 26-10A-5)  Second Parent adoption approved in some lower courts

**ALASKA**

Same- sex marriage; Civil union; Domestic Partnership	DOMA (1997) (Alaska Stat. § 25.05.013)  Ban on same sex marriage in state constitution (Alaska Const. Art. 1, § 25)  Same sex marriage performed in another state not recognized (Alaska Stat. § 25.05.013)
Hospital and Nursing Home Visitation	
Medical Decision-making/ funeral Burial Decision-making	Any adult can execute durable power of attorney for health care. (AS § 13.52.010)  "One who has exhibited special care and concern" for the incapacitated patient can make medical decisions on the patient's behalf, but they are fifth on the list of priority after spouse, adult child, parents, and adult sibling. (AS §

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel ("ACTEC") does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

	<p>13.52.030)</p> <p>Alaska Stat. § 47.24.016 (2011) Surrogate decision makers for vulnerable adults</p> <p>If the state determines that someone isn't fit to make decisions they can appoint someone to give the disabled's consent. Lists possible appointments by priority and a DOMESTIC PARTNER is recognized as second priority</p>
Civil claims	Gender neutral domestic violence protection limited to persons of the same household.
Property Transfer Upon Death	<p>Intestacy does not provide for same sex partner. (AS § 13.12.103)</p> <p>Joint tenancy abolished except for personalty and tenancy by the entirety. (AS § 34.15.130)</p>
Appointment as Estate Administrator	No specific priority unless named in the will. (Alaska Stat. § 13.16.065)
Employment	Alaska Supreme Court ruled in favor of benefits for same-sex partners of public employees. (ACLU v. State of Alaska & Municipality of Anchorage, 122 P.3d 781 (2005))
Taxation	
Children Adoption	<p>Any unmarried adult may adopt; married persons must petition jointly unless excused by court. (Alaska Code § 25-23-020)</p> <p>Second Parent adoption approved in lower court (Juneau).</p>
<b>ARIZONA</b>	
Same- sex marriage; Civil union; Domestic Partnership	<p>DOMA (1997) (Ariz. Rev. Stat. Ann. § 25-101) and Ariz. Const. art. XXX § 1.</p> <p>Marriage between persons of the same sex is void and prohibited</p> <p>Same sex marriage performed in another state not recognized. (Ariz. Rev. Stat. Ann. § 25-112)</p> <p>DOMA upheld as constitutional in Standhardt v. Superior Court, 77 P.3d 451(Ct. App. 2003) (Arizona Supreme Court denied review 5/25/04.)</p> <p>Domestic partnership registry in Phoenix and Tucson. (Lesbian/Gay Law Notes January 2009)</p> <p>In 2006 an anti-gay marriage ballot measure was defeated</p>
Hospital and Nursing Home Visitation	
Medical Decision-making/	Adult may designate another adult to make health care decisions on their

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel ("ACTEC") does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

funeral Burial Decision-making	<p>behalf. (A.R.S. § 36-3221)</p> <p>Domestic partner is number 4 on the list of healthcare decision makers to act as Surrogate and “close friend” is number 6 on the list. (A.R.S. § 36-3231)</p> <p>Agent or Guardian has priority in anatomical gift [Ariz. Rev. Stat. §36-843]</p>
Civil claims	Gender neutral domestic violence protections only extended to those in the same household.
Property Transfer Upon Death	<p>Bank accounts can have right of survivorship. (A.R.S. § 6-235)</p> <p>Joint tenancy. (A.R.S. § 14-6212)</p>
Appointment as Estate Administrator	No specific priority. (A.R.S. § 14-2103) Unless appointed in a probated will. (A.R.S. § 14-3203)
Employment	<p>Executive order banning discrimination based on sexual orientation for state employees. (Executive Order 2003-22). However, Arizona does not have a state-wide law prohibiting discrimination based on sexual orientation. (Ariz. Rev. Stat. § 41-1463)</p> <p>Health insurance coverage available for domestic partners of state government employees. (Lesbian/Gay Law Notes April 2008)</p>
Taxation	
Children Adoption	<p>Any adult may adopt. (ARS § 8-103)</p> <p>Consideration of bisexuality (among many other factors) approved in denial of pre-adoption certification. (In Re Appeal in Prima County Juvenile Action B-10489, 727 P.2d 830 (App. 1986))</p> <p>Second Parent adoption not yet permitted</p>
<b>ARKANSAS</b>	
Same- sex marriage; Civil union; Domestic Partnership	<p>DOMA (1997) (Ark. Code Ann. § 9-11-109)</p> <p>Ban on same-sex marriage, civil unions, domestic partnerships and the like in state constitution. (AR Const. Amend. 83, § 2)</p> <p>Same sex marriage performed in another state not recognized. (Ark. Code Ann. § 9-11-107)</p> <p>A.C.A. §9-11-208 Same sex applicants are ineligible for a marriage license</p>
Hospital and Nursing Home Visitation	
Medical Decision-making/ funeral Burial Decision-	Individual over 18 years old execute a declaration governing the withholding or withdrawal of life-sustaining treatment. (A.C.A. § 20-17-202)

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel (“ACTEC”) does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

making	Same-sex partners do not have the authority to make a decision for an incapacitated partner in the absence of an advance directive. (A.C.A. § 20-9-602)
Civil claims	Gender neutral domestic violence protection limited to persons of the same household.
Property Transfer Upon Death	Intestacy does not provide for same sex partner. (A.R.S. § 14-2103)  All survivorships of real and personal estate are forever abolished. (A.C.A. § 28-8-101)
Appointment as Estate Administrator	No specific priority unless granted in the will. (A.C.A. § 28-48-101)
Employment	No state-wide protections but AR ST § 9-11-208 says “nothing in this section shall prevent an employer from extending benefits to persons who are domestic partners of employees.”
Taxation	
Children Adoption	Any unmarried adult; married persons must petition jointly unless excused by court. (Ark. Stat. §9-9-204)  State law does prohibit same-sex couples from becoming foster parents  April 2010. An Arkansas state judge overturned a voter referendum that banned unmarried couples from adopting.
<b>CALIFORNIA – DOMESTIC PARTNERSHIPS &amp; CIVIL UNIONS</b>	
Same- sex marriage; Civil union; Domestic Partnership	DOMA (2000) (Cal. Fam. Code § 300-310)  Domestic Partnership registry. Requirements of domestic partnership codified in Cal. Fam. Code § 297. Jan 2005 rights expanded to include nearly all rights and also the responsibilities of spouses under state law, such as complete inheritance rights, community property, joint responsibility for debt, and the right to request support from each other upon dissolution of the relationship.  May 15, 2008 California Supreme Court ruled 4-3 that the state may no longer exclude same-sex couples from civil marriage. (In re Marriage Cases (2008) 183 P.3d 384) On Nov 4, 2008 Proposition 8, measure to change the California Constitution to eliminate same-sex couples’ right to marry, passed. 2009, California Supreme Court upholds Prop 8 as a valid constitutional change but holds it does not affect the continuing validity of marriages same-sex couples celebrated in California or elsewhere before the election. (Strauss v. Horton, 46 Cal. 4th 364)  Perry V. Schwarzenegger [704 F. Supp. 2d 921] 2-16-2011 the 9 <sup>th</sup> circuit couldn’t decide if the people appealing had enough state interest and state discretion to satisfy standing and posited the question to the Supreme Court.

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel (“ACTEC”) does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

	Appeals still pending.
Hospital and Nursing Home Visitation	Domestic partners specifically granted visitation rights. (West's Ann.Cal.Health & Safety Code § 1261)
Medical Decision-making/ funeral Burial Decision-making	Cal Prob. Code §4716 grants domestic partners same rights as spouse.
Civil claims	Gender neutral domestic violence protections are offered to members of the same household and dating partners, including same sex relationships.  §1714.01 Domestic partners can recover for negligent infliction of emotion distress relating to domestic partnership
Property Transfer Upon Death	Same rights as spouse. (West's Ann.Cal.Prob.Code § 6401)  Cal. Prob. Code §6122.1 Revokes all rights in testamentary documents or under other sections of the code upon dissolution of the domestic partnership [makes divorce similar to heterosexual couples]
Appointment as Estate Administrator	Same priority as spouse. (West's Ann.Cal.Prob.Code § 8461)
Employment	Health care extended to domestic partners. (CA INS § 10121.7) (CA HLTH & S § 1374.58)  Sick leave to care for domestic partner. (CA LABOR § 233)  Unemployment Insurance Code includes domestic partners. (CA UNEMP INS § 3301) (CA UNEMP INS § 3303) (CA UNEMP INS § 2705.1)
Taxation	California Revenue and Tax Code §17021.7 Those registered as Domestic Partners are bound by the same obligations as married couples and must file the same as married spouses for tax purposes
Children Adoption	Any adult may adopt. (Fam. Code §§ 8600)  Second Parent adoption permitted. ( <i>Sharon S. v. Superior Court</i> , 31 Cal. 4th 417 (2003).
<b>COLORADO</b>	
Same- sex marriage; Civil union; Domestic Partnership	DOMA (2000) (Colo. Rev. Stat. § 14-2-104)  Marriage only between a man and a woman.  Same sex marriage performed in another state not recognized. (Colo. Rev. Stat. § 14-2-104)  Domestic Partnership Registry in certain cities.***  Designated Beneficiary Agreement Act of 2009 [Colo. Rev. Stat. §15-22-101] Allows designation of beneficiaries for medical and property purposes who

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel ("ACTEC") does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

	<p>can be of the same gender.</p> <p>Ballot measure for Civil Unions failed in 2008</p>
Hospital and Nursing Home Visitation	Rights may be granted to a designated beneficiary in the Designated Beneficiary Agreement [Colo. Rev. Stat. §15-22-105].
Medical Decision-making/ funeral Burial Decision-making	<p>“Close friend of the patient” is listed as one of the people who must help ascertain which “interested person” is to make a decision. (C.R.S.A. § 15-18.5-103)</p> <p>Rights may be granted to a designated beneficiary in the Designated Beneficiary Agreement [Colo. Rev. Stat. §15-22-105]</p>
Civil claims	<p>Gender neutral domestic violence protections apply to members of the same household and dating partners [extended to same-sex couples] [Colo. Rev. Stat. §13-14-101]</p> <p>Rights to have standing to sue for wrongful death and right to receive workers’ compensation benefits may be granted to a designated beneficiary in the Designated Beneficiary Agreement [Colo. Rev. Stat. §15-22-105].</p>
Property Transfer Upon Death	<p>Designated Beneficiaries Agreement Act;</p> <p>Designated beneficiary takes intestate. (C.R.S.A. § 15-11-102.5)</p> <p>Joint tenancy for designated beneficiaries. (C.R.S.A. § 15-22-105)</p>
Appointment as Estate Administrator	No specific priority unless appointed in the will. (C.R.S.A. § 15-12-203) OR priority may be granted in a designated beneficiary agreement [Colo. Rev. Stat. §15-22-105]
Employment	Employers cannot discriminate on the basis of sexual orientation. (C.R.S.A. § 24-34-402)
Taxation	
Children Adoption	<p>Any adult may adopt. (Colo. Code § 19-5-202)</p> <p>***</p> <p>Second parent adoption authorized by statute. (Colo. Rev. Stat. § 19-5-203)</p>
<b>CONNECTICUT – MARRIAGE</b>	
Same- sex marriage; Civil union; Domestic Partnership	<p>In 2008, the Connecticut Supreme Court awards full access to marriage to the state's gay and lesbian residents (Kerrigan v. Commissioner of Public Health, 289 Conn. 135)</p> <p>Connecticut Governor signs Gay Marriage bill, which removes gender references from state marriage laws and also transforms existing civil unions into legally recognized marriages as of October 1, 2010.</p>
Hospital and Nursing Home Visitation	Full rights to same-sex partners.

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel (“ACTEC”) does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

Medical Decision-making/ funeral Burial Decision- making	Married same sex partner is included in “next of kin” and has the same priority as a heterosexual spouse. (C.G.S.A. § 19a-571)
Civil claims	Same as heterosexual marriages.
Property Transfer Upon Death	Same rights as spouse. (C.G.S.A. § 45a-436)  Joint tenancy and tenancy by the entirety. (C.G.S.A. § 45a-468b)
Appointment as Estate Administrator	Same priority as spouse. (C.G.S.A. § 45a-303)
Employment	Same rights as spouses. (CT ST § 46b-3800)  Statutory statewide policy non-discrimination based on sexual orientation [1991]
Taxation	Same filing procedures and responsibilities as heterosexual marriages
Children Adoption	Second parent adoption permitted by statute. (Conn .Gen.Stat. Ann. § 45a-724(a)(3))
<b>DELAWARE- CIVIL UNIONS</b>	
Same- sex marriage; Civil union; Domestic Partnership	Same-Sex Civil Unions as of January 1, 2012 [2011 Del. ALS 22] Del. Code Ann. tit. 13, §§ 201-217. Specifically states in the statute that Civil Unions will be granted to those of the same sex [does this insinuate heterosexual couples ONLY have access to marriage?]  Act also recognizes unions legally entered into in other jurisdictions Same-sex marriage prohibited, Del. Code Ann. tit. 13 § 101(a) and marriages contracted outside of Delaware that would be void in Delaware are not recognized, tit. 13 § 101(d) However, a valid “legal union” between same-sex individuals validly formed in another jurisdiction is recognized as a valid civil union in Delaware, even if not recognized under tit. 13, § 101(d). Del. Code Ann. tit. 13 § 213.
Hospital and Nursing Home Visitation	Civil Union grants all same rights/responsibilities of heterosexual marriage.
Medical Decision-making/ funeral Burial Decision- making	Civil Union grants all same rights/responsibilities of heterosexual marriage.
Civil claims	Civil Union grants all same rights/responsibilities of heterosexual marriage.  Specific incorporation of same sex couples to fall under domestic violence protections SB §57
Property Transfer Upon Death	Civil Union grants all same rights/responsibilities of heterosexual marriage.
Appointment as Estate Administrator	Civil Union grants all same rights/responsibilities of heterosexual marriage.
Employment	Civil Union grants all same rights/responsibilities of heterosexual marriage.

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel (“ACTEC”) does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

	Delaware Governor Jack Markell signed into law S.B. 121, which inserts into the state’s human rights law a ban on discrimination on the basis of “sexual orientation” wherever discrimination is prohibited on other bases such as race or sex or religion. The discrimination ban will extend to employment
Taxation	Civil Union grants all same filing rights/responsibilities of heterosexual marriage.
Children Adoption	An unmarried person is allowed to adopt. (13 Del.Code Ann. § 903)  Second parent adoption approved. ( <i>In re Hart</i> 806 A.2d 1179 (Del. Fam. Ct. 2001))
<b>DISTRICT OF COLUMBIA - MARRIAGE</b>	
Same- sex marriage; Civil union; Domestic Partnership	Any person may enter into a marriage in the District of Columbia with another person, regardless of gender (D.C. Code § 46-401) (2010)  Can establish a Domestic Partnership (D.C. Code § 32-702) (2010)  Same divorce procedures and law [D.C. Code §16-911]
Hospital and Nursing Home Visitation	Registered Domestic Partners recognized as family members
Medical Decision-making/ funeral Burial Decision-making	Spouse and domestic partner have same priority for appointment as medical decision maker. (DC ST § 21-2210)
Civil claims	Gender neutral domestic violence protections extend to those in the same household and dating partners [including same-sex partners].  D.C. Code §14-306 Same protections and confidentiality as spouses in civil, criminal, and domestic relations proceedings regarding testimony as a witness [when compellable and when not]
Property Transfer Upon Death	Same intestacy rights as spouse. (DC ST § 19-302)  Joint tenancy and tenancy by the entirety. (DC ST § 42-516)
Appointment as Estate Administrator	Same sex partners and domestic partner have the same priority as surviving spouse. (DC ST § 20-303)
Employment	Paid leave for caring for a domestic partner. (DC CODE § 32-131.02)  Health care benefits for domestic partners. (DC CODE § 32-704)  Statewide Statutory policy on non-discrimination based on sexual orientation
Taxation	Registered Domestic Partners file jointly.  [D.C. Code §47-4212 Innocent Domestic Partners who file jointly with a partner who commits fraud are NOT liable].

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel (“ACTEC”) does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

Children Adoption	<p>Any person may petition for adoption. (D.C. Code § 16-302)</p> <p>Second parent adoption permitted. (In re M.M.D., 662 A.2d 837 (D.C. 1995))</p>
-------------------	---

**FLORIDA – DOMESTIC PARTNERSHIPS**

<p>Same- sex marriage; Civil union; Domestic Partnership</p>	<p>DOMA (1997); Fla. Stat. § 741.212 (2011).</p> <p>“Marriage” means only a legal union between one man and one woman as husband and wife. Fla. Stat. § 741.212(3) (2011).</p> <p>Marriages between persons of the same sex entered into in any jurisdiction, whether within or outside the State of Florida or any other jurisdiction either domestic or foreign are not recognized for any purpose under Florida law. Fla. Stat. § 741.212 (1) (2011).</p> <p>Domestic Partnership Registries are not recognized at the state level, but may be recognized in certain counties and cities. Individuals registered in a domestic partnership may be entitled to rights such as visitation rights at health care facilities, correctional and juvenile facilities.</p>
<p>Hospital and Nursing Home Visitation</p>	
<p>Medical Decision-making/ funeral Burial Decision-making</p>	<p>In the absence of an advance directive to make health care decisions, a “close friend” is seventh in priority to make health care decisions for the patient. Fla. Stat. § 765.401(1)(g) (2011).</p> <p>Unless the decedent’s funeral and burial directions are expressly designated by the decedent in writing, there are several enumerated classes of persons who have the authority to make funeral and burial decisions before a “friend” may make a decision. Fla. Stat. § 497.005(39) (2011).</p>
<p>Civil claims</p>	<p>The cause of action for an injunction for protection against domestic violence may be sought by a “family or household member”. Fla. Stat. § 741.30(1)(e) (2011).</p> <p>The phrase “family or household member” includes persons who are presently residing together as if a family or who have resided together in the past as if a family and persons who are parents of a child in common regardless of whether they have been married. Fla. Stat. § 741.28(3) (2011).</p> <p>No person shall be precluded from seeking injunctive relief for domestic violence pursuant to this chapter solely on the basis that such person is not a spouse. Fla. Stat. § 741.30(1)(e) (2011).</p> <p>Interpreting Fla. Stat. § 741.30(1), a Florida court stated that the statute</p>

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel (“ACTEC”) does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

	<p>applied to same-sex couples even though they could not marry. <i>Peterman v. Meeker</i>, 855 So.2d 690, 691 (Fla. 1st DCA 2003).</p>
Property Transfer Upon Death	<p>Intestacy does not provide for the same sex partner. Fla. Stat. § 732.103 (2011).</p> <p>Joint tenancy. Fla. Stat. § 689.15 (2011).</p> <p>Tenancy by the entirety is only for married persons.</p>
Appointment as Estate Administrator	<p>There is no specific priority for a domestic partner to serve as personal representative unless: (1) the domestic partner is named in the will to serve as personal representative; or (2) if the person nominated in the will to serve as personal representative is unable or unwilling to serve or if there is no personal representative nominated in the will, then the domestic partner may serve as personal representative if they hold a majority in interest of the decedent's estate. Fla. Stat. § 733.301 (2011).</p>
Employment	<p>Certain counties and cities may afford certain benefits for employees who are parties to a registered domestic partnership.</p> <p>Broward County and the City of Gainesville have extended some benefits to domestic partners. <i>Lowe v. Broward County</i>, 766 So.2d 1199 (Fla. 4th DCA 2000); <i>Martin v. City of Gainesville</i>, 800 So.2d 687 (Fla. 1st DCA 2001).</p> <p>The University of Florida extends the same education benefits to domestic partners as to marital spouses. Fla. Admin. Code. r. 6C1-4.038 (2011).</p>
Taxation	
Children Adoption	<p>According to Fla. Stat. § 63.042(3) (2011), no "homosexual" may adopt. However, Fla. Stat. § 63.042(3) has been declared unconstitutional as a violation of the Equal Protection Clause of the Florida Constitution. <i>Florida Dep't of Children and Families v. Adoption of X.X.G.</i>, 45 So.3d 79 (Fla. 3d DCA 2010). According to Fla. Stat. § 63.042(3) (2011), no "homosexual" may adopt. However, Fla. Stat. § 63.042(3) has been declared unconstitutional as a violation of the Equal Protection Clause of the Florida Constitution. <i>Florida Dep't of Children and Families v. Adoption of X.X.G.</i>, 45 So.3d 79 (Fla. 3d DCA 2010).</p>
<b>GEORGIA</b>	
Same- sex marriage; Civil union; Domestic Partnership	<p>DOMA (1996) (Ga. Code Ann. § 19-3-3.1)</p> <p>Prohibits marriage between same-sex couples (GA CONST Art. 1, § 4, ¶ I)</p> <p>Same sex marriage performed in another state not recognized (Ga. Code Ann. § 19-3-3.1)</p> <p>Right to establish Domestic partnership Registry upheld by GA supreme Court</p>

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel ("ACTEC") does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

	in 1995***
Hospital and Nursing Home Visitation	
Medical Decision-making/ funeral Burial Decision-making	Any person over 18 years of age may appoint a health care agent of their choice. (Ga. Code Ann., § 31-32-5)  Same sex partners not given authority to make decisions for incapacitated patient without an express advance directive. (Ga. Code Ann., § 31-36A-6)
Civil claims	Gender neutral domestic violence protections only extend to members of the same household.
Property Transfer Upon Death	Intestacy does not provide for same sex partner. (Ga. Code Ann., § 53-2-1)  Joint tenancy. (Ga. Code Ann., § 44-6-190)
Appointment as Estate Administrator	No specific priority. (Ga. Code Ann., § 53-6-20)
Employment	No Actual protections for domestic partners. (City of Atlanta v. McKinney, 265 Ga. 161, 454 S.E.2d 517 (1995))  Can extend benefits if ordinance groups “domestic partner” into employee’s “dependents”. (City of Atlanta v. Morgan, 268 Ga. 586, 492 S.E.2d 193 (1997))  The city council in Chamblee, a city in DeKalb County, Georgia, approved a resolution banning sexual orientation discrimination in city employment, following the lead of several other Georgia municipalities: Atlanta, Clarkston, Decatur and Doraville.
Taxation	
Children Adoption	Any adult person may petition to adopt a child (Ga. Code Ann., § 19-8-3)  Second parent adoption has been granted in some lower courts.
<b>HAWAII - CIVIL UNION</b>	
Same- sex marriage; Civil union; Domestic Partnership	Same Sex Civil Unions legal with the same rights and responsibilities as heterosexual marriage as of January 1, 2012 [2011 Hi. ALS 1]
Hospital and Nursing Home Visitation	Civil Unions have the same rights and responsibilities as heterosexual marriages.
Medical Decision-making/ funeral Burial Decision-making	Civil Unions have the same rights and responsibilities as heterosexual marriages.
Civil claims	Gender neutral domestic violence protections extended to members of the same household and dating partners, including same sex relationships.
Property Transfer Upon Death	Civil Unions have the same rights and responsibilities as heterosexual

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel (“ACTEC”) does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

	marriages.
Appointment as Estate Administrator	Civil Unions have the same rights and responsibilities as heterosexual marriages.
Employment	Same sex couples are extended certain rights and benefits that married couples have. (HI ST § 572-C1) (HI ST § 572-C2)  Reciprocal beneficiary relationship (HI ST § 572-C6)  No discrimination based on sexual orientation. (Haw. Rev. Stat. § 368-1) (Haw. Rev. Stat. § 378-2)
Taxation	New law applies the term ‘spouses’ in Hawaii Tax Code to Civil Unions
Children Adoption	Any adult or married persons petitioning jointly may adopt. (Hawaii Rev. Stat. § 578-1)  Second parent adoption approved in some lower courts.
<b>IDAHO</b>	
Same- sex marriage; Civil union; Domestic Partnership	DOMA (1996) (Idaho Code § 32-209)  A marriage between a man and a woman is the only domestic legal union that shall be valid or recognized (Const. Art. III, § 28)  Same sex marriage violate public policy and are not recognized if performed in another jurisdiction (Idaho Code § 32-209)
Hospital and Nursing Home Visitation	
Medical Decision-making/ funeral Burial Decision-making	A same-sex partner may make a medical decision on behalf of an incapacitated partner as a, "competent individual representing himself or herself to be responsible for the health care of such person." Contact must be attempted with at least four individuals (guardian, spouse, parent and relative) prior to the authority being granted. (I.C. § 39-4504)
Civil claims	Gender neutral domestic violence protections applied to members of the same household as well as dating partners, including same-sex relationships
Property Transfer Upon Death	Intestacy does not provide for same sex partner. (I.C. § 15-2-103)  Joint tenancy. (I.C. § 15-6-302)
Appointment as Estate Administrator	No specific priority unless named in the will. (I.C. § 15-3-203)
Employment	No protections for same sex couples.
Taxation	
Children Adoption	Any adult person residing in and having residence in Idaho may adopt. (Idaho Code § 16-1501)  Second parent adoption not yet permitted.

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel ("ACTEC") does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

<b>ILLINOIS- CIVIL UNIONS</b>	
Same- sex marriage; Civil union; Domestic Partnership	Illinois Religious Freedom Protection and Civil Unions Act [2009 Ill. ALS §1513] grants civil unions all the same rights, protections, and responsibilities as heterosexual marital spouses. Also recognizes all civil unions and like of other jurisdictions as of June 1, 2011. 750 Ill. Comp. Stat. Ann. 75/1-90. However, under 750 Ill. Comp. Stat. Ann.5/212 and 213.1 same-sex marriage is prohibited and expressly declared to be contrary to the public policy of the state.
Hospital and Nursing Home Visitation	Same as heterosexual married spouses.
Medical Decision-making/ funeral Burial Decision-making	Same as heterosexual married spouses.
Civil claims	Gender neutral domestic violence protections extended to members of the same household as well as dating partners, including same-sex relationships.
Property Transfer Upon Death	Same as heterosexual married spouses.
Appointment as Estate Administrator	Same as heterosexual married spouses.
Employment	<p style="text-align: center;">Cannot discriminate based on sexual orientation. (775 ILCS 5/1-102) [2005]</p> <p>Allowed to adopt ordinance extending employee benefits to qualified same-sex domestic partners of city employees. (Crawford v. City of Chicago, 304 Ill. App. 3d 818, 237 Ill. Dec. 668, 710 N.E.2d 91 (1<sup>st</sup> Dist. 1999))</p>
Taxation	
Children Adoption	<p style="text-align: center;">A reputable person of legal age and of either sex may adopt. (750 ILCS 50/2)</p> <p>Second parent adoption permitted. (In re K.M. 653 N.E.2d 888 (Ill. App. 1995))</p>
<b>INDIANA</b>	
Same- sex marriage; Civil union; Domestic Partnership	<p>DOMA (1997) (Ind. Code § 31-11-1-1)</p> <p>A marriage between persons of the same gender is void</p> <p>Same sex marriage performed in another jurisdiction is void in Indiana. (Ind. Code § 31-11-1-1)</p> <p>Morrison v. Sadler, 821 N.E.2d 15 (Ind. Ct. App., 2005) – Court held that excluding same-sex couples from right to marry does not violate Indiana constitution. Not appealed.</p>
Hospital and Nursing Home Visitation	
Medical Decision-making/	An adult may grant his or her partner authority to make medical decisions on

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel (“ACTEC”) does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

funeral Burial Decision-making	his on her behalf through a living will. (IC 16-36-4-10)  Same sex partners not authorized to make decisions on behalf of patient without express advance directive. (IC 16-36-1-5)
Civil claims	Gender neutral domestic violence protections only extended to members of the same household.
Property Transfer Upon Death	Intestacy does not provide for same sex partner. (IC 29-1-2-1)  Joint tenancy. (IC 6-4.1-2-5)
Appointment as Estate Administrator	No specific priority unless named in will. (IC 29-1-10-1)
Employment	Employment protections based on sexual orientation in Governor's Policy Statement. (Governor Mitchell E. Daniels, Jr.)
Taxation	
Children Adoption	Any person may adopt. (Ind. Stat. § 31-19-2)  Second parent adoptions permitted. (In re Adoption of K.S.P., 804 N.E.2d 1253 (Ind. Ct. App. 2004)) (In re Adoption of M.M.G.C., 785 N.E.2d 267 (Ind. Ct. App. 2003)) (In re Infant Girl W., 845 N.E.2d 229 (Ind. Ct. App. 2006))
<b>IOWA - MARRIAGE</b>	
Same- sex marriage; Civil union; Domestic Partnership	DOMA (1998) (Iowa Code § 595.2) was held unconstitutional by (Varum v. Brien, 763 N.W.2d 862 (Iowa Dist. Aug 30, 2007))  Iowa allows same sex marriage.
Hospital and Nursing Home Visitation	Same rights and responsibilities as heterosexual marriages.
Medical Decision-making/ funeral Burial Decision-making	Same priority as spouse for medical decision-making. (I.C.A. § 144A.7)
Civil claims	Gender neutral domestic violence protections extended to members of the same household and dating partners, including same-sex relationships
Property Transfer Upon Death	Same intestate rights as spouse. (I.C.A. § 633.211)  Joint tenancy and tenancy by the entirety. (I.C.A. § 633D.3)
Appointment as Estate Administrator	Same priority as spouse. (Iowa Code Ann. § 633.294)
Employment	Cannot discriminate based on sexual orientation. (Iowa Code Ann. § 216.6)  State employees of largest union are eligible for health and dental benefits for their domestic partners and children of domestic partners.
Taxation	

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel ("ACTEC") does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

Children Adoption	Any unmarried adult may adopt; spouse must join petition unless excused by court. (Iowa Code Ann. § 600.4)  Second parent adoption approved in lower courts
<b><u>KANSAS</u></b>	
Same- sex marriage; Civil union; Domestic Partnership	DOMA (1996) (Kan. Stat. Ann. § 23-101)  Marriage shall be constituted by one man and one woman only. All other marriages are declared to be contrary to public policy of This state and are void. (Kansas Constitution Article XV, §16.) [2005]  Kansas does not recognize same sex marriages from other states. (Kan. Stat. Ann § 23-115)
Hospital and Nursing Home Visitation	
Medical Decision-making/ funeral Burial Decision-making	Any adult person may execute a declaration directing the withholding or withdrawal of life-sustaining procedures in a terminal condition. (K.S.A. 65-28,103)  Person not authorized to make decisions on behalf of his or her incapacitated same-sex partner without express advance directive. (K.S.A. 65-4974)
Civil claims	Gender neutral domestic violence protections extended to members of the same household as well as dating partners, including same-sex relationships
Property Transfer Upon Death	Intestacy does not provide for same sex partner. (K.S.A. 59-506)  Joint tenancy. (K.S.A. 58-501)
Appointment as Estate Administrator	No specific priority. (K.S.A. 59-705)
Employment	No protections based on sexual orientation.
Taxation	
Children Adoption	Any adult may adopt. (K.S.A. 59-2113)  Second parent adoption is unclear.
<b><u>KENTUCKY</u></b>	
Same- sex marriage; Civil union; Domestic Partnership	DOMA (1998) (Ky. Rev. Stat. Ann. § 402.020)  Ban on same sex marriage, civil unions, domestic partnerships and the like in state constitution. (Kentucky Constitution § 233A) [KRS §402.005]  Ban on Same sex marriage by Statute. (Ky. Rev. Stat. Ann. § 402.020) (Ky. Rev. Stat. Ann. § 402.005)  Same sex marriage performed in another state not valid. (Ky. Rev. Stat. Ann. § 402.040) (Ky. Rev. Stat. Ann. § 402.045)

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel ("ACTEC") does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

Hospital and Nursing Home Visitation	
Medical Decision-making/ funeral Burial Decision-making	An adult may designate his or her partner, in advance, to make decisions on his or her behalf. (KRS § 311.629)  Person not authorized to make decisions on behalf of his or her incapacitated same-sex partner in the absence of an express advance directive. (KRS § 311.631)
Civil claims	Gender neutral domestic violence protections only extended to those who live in the same household
Property Transfer Upon Death	Intestacy does not provide for same sex partner. (KRS § 391.010)  Joint tenancy. (KRS § 292.6502)
Appointment as Estate Administrator	No specific priority. (KRS § 395.040)
Employment	Executive order by Governor Paul Patton banning discrimination based on sexual orientation. (Executive Order 2003-533)  Some Universities offer health insurance to domestic partners of its employees. (Ky. OAG 07-004, 2007 WL 1652597 (Ky.A.G.))
Taxation	
Children Adoption	Any resident over 18 years of age may adopt. (Ky. Rev. Stat. § 199.470)  Former domestic partner of biological mother was not the stepparent of child, and thus could not adopt the child in a stepparent adoption proceeding. (S.J.L.S. v. T.L.S., 265 S.W.3d 804 (Ky. Ct. App. 2008))  Second parent adoption not yet permitted
<b>LOUISIANA</b>	
Same- sex marriage; Civil union; Domestic Partnership	DOMA (1999) (La. Civ. Code Ann. Art. 89)  Ban on same sex marriage. (Louisiana Constitution Art. XII, § 15) (La. Civ. Code Ann. Art. 89) (La. Civ. Code Ann. Art. 96)  Same sex marriage performed in another state not recognized. (La. Civ. Code Ann. Art. 3520B)  Domestic Partnership Registry on a city by city basis
Hospital and Nursing Home Visitation	Can provide through a power of attorney but no rights by operation of law. Also can designate who cannot be denied access to visit in hospital, nursing home or other healthcare facility. (LSA-R. S. 40:2005)
Medical Decision-making/	Any adult person may make a written declaration directing the withholding or

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel ("ACTEC") does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

funeral Burial Decision-making	<p>withdrawal of life-sustaining procedures in the event such person should have a terminal and irreversible condition. (LSA-R.S. 40:1299.58.3)</p> <p>A person may not make decisions on behalf of his or her incapacitated same-sex partner in the absence of an express advance directive. (LSA-R.S. 40:1299.53)</p>
Civil claims	Domestic Abuse restricted to family members or household members. Same-sex partner is not a family member and a household member must be of the opposite sex from the victim. (LSA. S. 46:2132)
Property Transfer Upon Death	Intestacy does not provide for same sex partner. (LSA-C.C. Art. 880) There is no joint tenancy in Louisiana.
Appointment as Estate Administrator	No specific priority unless appointed in the will. (LSA-C.C.P. Arts. 3081 and 3098)
Employment	Extending health insurance coverage and benefits to unmarried domestic partners of city employees does not violate the Louisiana State Constitution. (Ralph v. City of New Orleans, 4 So. 3d 146 (La. Ct. App. 4 <sup>th</sup> Cir 2009)
Taxation	
Children Adoption	<p>A single person, eighteen years or older, or a married couple jointly may petition to adopt a child. (LSA-Ch.C. Art. 1198)</p> <p>Second parent adoption permitted in selected parishes.</p> <p>Case law forbids joint adoptions by unmarried homosexual couples. (<i>Adoption of Meaux</i>, 417 So. 2d 522 (La. App. 1982))</p> <p>*****</p>
<b>MAINE</b>	
Same- sex marriage; Civil union; Domestic Partnership	<p>DOMA (1997) (Me. Rev. Stat. Ann. Tit. 19-A, §701)</p> <p>Same sex marriage prohibited. (Me. Rev. Stat. Ann. Tit. 19-A, §701) (Me. Rev. Stat. Ann. Tit. 19-A, § 650)</p> <p>In 2009 Maine voters overturned a law that would have allowed gay couples to wed.</p> <p>Domestic Partnership Registry. (22 Me. Rev. Stat. § 2710)</p>
Hospital and Nursing Home Visitation	
Medical Decision-making/ funeral Burial Decision-making	"An adult who shares an emotional, physical and financial relationship with the patient similar to that of a spouse" may make certain medical decisions on behalf of his or her same-sex partner. (18-A M.R.S.A. § 5-805)
Civil claims	Gender neutral domestic violence claims only extended to members of the same household
Property Transfer Upon Death	Intestacy rights are the same for domestic partner and spouse. (18-A M.R.S.A.

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel ("ACTEC") does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

	§ 2-102)
Appointment as Estate Administrator	Domestic partner has same priority as spouse. (18-A M.R.S.A. § 3-203)  Joint tenancy. (18-A M.R.S.A. § 6-303)
Employment	Insurers and health care providers must offer coverage for domestic partners at same cost as for spouse. (ME ST T. 24 § 2319-A) (ME ST T. 24-A § 2741-A) (ME ST T. 24-A § 2832-A) (ME ST T. 24-A § 4249)  Sick leave for domestic partner or child of domestic partner. (ME ST T. 26 § 843)  Employment discrimination not allowed on the basis of sexual orientation. (5 Me. Rev Stat. Ann. § 4571)  Statewide statutory policy against discrimination based on sexual discrimination [2005]
Taxation	
Children Adoption	A husband and wife jointly or an unmarried person may adopt. (18-A Maine Rev. Stat. Ann. § 9-301)  Second parent adoption. Statute that allowed married couple to file joint petition for adoption did not prohibit a joint adoption petition by an unmarried same-sex couple. (In re Adoption of M.A. (2007) Me., 930 A.2d 1088)
<b>MARYLAND</b>	
Same- sex marriage; Civil union; Domestic Partnership	Statute provides that only marriage between one man and one woman is valid in state. (Md. Code Ann., Fam. Law § 2-201)  Marriage statute subject to rational basis review since it did not abridge the fundamental right to marriage, did not discriminate on the basis of sex ( <i>Conaway v. Deane</i> , 401 Md. 219 (Md. 2007))  In <i>Port v. Cowan</i> , A.3d , 2012 WL 1758629, the state’s highest held that valid same-sex marriages will be recognized under the doctrine of comity and allowed a divorce action between to women validly married in California.  On March 1, 2012 the governor signed the Civil Marriage Protection Act legalizing same-sex marriage effective January 1, 2013. The Act is subject to a referendum in November 2012.
Hospital and Nursing Home Visitation	
Medical Decision-making/ funeral Burial Decision-making	Domestic partner has same priority as the spouse. (MD Code, Health - General, § 5-605)
Civil claims	Gender neutral domestic violence protections only extended to members of the

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel (“ACTEC”) does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

	same household
Property Transfer Upon Death	<p>Intestacy does not provide for same sex partner. (MD Code, Estates and Trusts, § 3-104)</p> <p>Joint tenancy. (MD Code, Real Property, § 4-108) Specifically limits “entirety” status to a husband and wife relationship.</p>
Appointment as Estate Administrator	“Any other person” is last on the priority list, first in priority if appointed in the will. (MD Code, Estates and Trusts, § 5-104)
Employment	<p>Employment discrimination based on sexual orientation prohibited. (MD Code, State GOVT § 20-602) (MD State GOVT § 20-606) Any discrimination based on sexual orientation statutorily prohibited [2001]</p> <p>Allowed to extend employment benefits to domestic partners of county employees. (<i>Tyma v. Montgomery County</i>, 369 Md. 497, 801 A.2d 148)</p> <p>Maryland updated its benefits policy for state employees to include same sex spouses who possess a valid marriage certificate from another jurisdiction.</p>
Taxation	
Children Adoption	<p>Any adult may petition to adopt. (MD. Code, Family Law, § 5-331)</p> <p>Second parent adoption permitted by trial court in selected counties.</p> <p>Visitation order that restricted non-custodial parent’s visits with children because of parent’s gay domestic partner was vacated because the test is “best interests of the child” and there were no findings related to that standard. (<i>Boswell v. Boswell</i>, 721 A.2d 662 (Md.))</p>
<b>MASSACHUSETTS – MARRIAGE</b>	
Same- sex marriage; Civil union; Domestic Partnership	<p><i>Goodridge v. Department of Public Health</i>, 440 Mass. 309, 798 N.E.2d 941 (2003), the Supreme Judicial Court held that denying marriage to same-sex couples violates the state constitution</p> <p>Honor marriages of same sex couples from other jurisdictions</p>
Hospital and Nursing Home Visitation	Same as for all married couples
Medical Decision-making/ funeral Burial Decision-making	Same as for all married couples. (M.G.L.A. 201D § 16)
Civil claims	Gender neutral domestic violence protections extended to members of the same household as well as dating partners, including same sex relationships
Property Transfer Upon Death	<p>Same as for all surviving spouses. (M.G.L.A. 190B § 2-102)</p> <p>Tenancy in common and tenancy by the entirety. (M.G.L.A. 201E § 103)</p>
Appointment as Estate	Same as for all married couples. (M.G.L.A. 193 § 1)

DISCLAIMER ON USE:

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel (“ACTEC”) does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

Administrator	
Employment	<p>Unlawful to discriminate based on sexual orientation. (Mass. Gen. Laws. Ch. 151B § 4 (2005))</p> <p>Statutory statewide policy against discrimination based on sexual orientation [1989]</p> <p>Allowed to extend group health insurance benefits to registered domestic partners of city employees. (Connors v. City of Boston, 430 Mass. 31, 714 N.E.2d 335, 74 A.L.R.5<sup>th</sup> 761 (1999))</p>
Taxation	
Children Adoption	<p>Any person of full age may adopt. ( Mass. Gen .Laws Ann. 210 § 1)</p> <p>Second parent adoption permitted. Adoption statute did not preclude same-sex cohabitants from jointly adopting child. (Adoption of Tammy, 416 Mass. 205, 619 N.E.2d 315 (1993))</p>
<b>MICHIGAN</b>	
Same- sex marriage; Civil union; Domestic Partnership	<p>DOMA (1996) (Mich. Comp. Laws § 551.1)</p> <p>Ban on same sex marriage. (Mich. Comp. Laws § 551.1) (Mich. Comp. Laws § 551.2) (Mich. Comp. Laws § 551.3) (Mich. Comp. Laws § 551.4)</p> <p>Ban on same sex marriage, civil unions, domestic partnerships and the like in state constitution. (Mich. Comp. Laws Const. Art. 1, § 25)</p> <p>Same sex marriage performed in another state not recognized. (Mich. Comp. Laws Ann. § 551.271) (Mich. Comp. Laws Ann. § 551.272)</p>
Hospital and Nursing Home Visitation	
Medical Decision-making/ funeral Burial Decision-making	<p>An adult may appoint a patient advocate to make medical decisions on his or her behalf. (M.C.L.A. 700.5506)</p> <p>“Patient surrogate” gives consent for medical treatment if the patient cannot. (M.C.L.A. 333.5653)</p>
Civil claims	Gender neutral domestic violence protections extended to members of the same household as well as dating partners, including same sex relationships
Property Transfer Upon Death	<p>Intestacy does not provide for same sex partner. (M.C.L.A. 700.2103)</p> <p>Joint tenancy. (M.C.L.A. 565.49)</p>
Appointment as Estate Administrator	No specific priority unless appointed in the will. (M.C.L.A. 700.3203)
Employment	<p>Cannot be denied healthcare on the basis of sexual orientation. (Ch. 333, Art. 17, § 20201)</p> <p>Can provide healthcare to same-sex domestic partner. (National Pride at</p>

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel (“ACTEC”) does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

	Work, Inc. v. Governor of Michigan, 481 Mich. 56, 748 N.W.2d 524 (2008))
Taxation	
Children Adoption	Any person may adopt. (M.C.L.A. 710.24)  Second parent adoption approved in some lower courts.
<b>MINNESOTA</b>	
Same- sex marriage; Civil union; Domestic Partnership	DOMA (1997) (Minn. Stat. Ann. § 517.01)  Same sex marriage not valid in this state. (Minn. Stat. Ann. § 517.01) State amendment to ban gay marriage passed in May 2011 and will be placed on the 2012 ballot.  Same sex marriage from other states not recognized. (Minn. Stat. Ann. § 517.03)  Lawsuit has been filed seeking to strike down DOMA (1997) (Minn. Stat. Ann. § 517.01). The case was dismissed in March 2011 saying that Baker V. Nelson, which upheld §517.01 was ‘binding precedent’.  Domestic Partnership Registry in nine cities.
Hospital and Nursing Home Visitation	
Medical Decision-making/ funeral Burial Decision-making	A principal with the capacity to do so may execute a health care directive that appoints his or her same sex partner to make medical decisions. (M.S.A. § 145C.02)  Person in same sex relationship not authorized to make medical decisions for his or her partner. (M.S.A. § 144.651)
Civil claims	Gender neutral domestic violence protections extended to members of the same household as well as dating partners, including same sex relationships.
Property Transfer Upon Death	Intestacy does not provide for same sex partner. (M.S.A. § 524.2-103)  Joint tenancy. (M.S.A. § 524.6-302)
Appointment as Estate Administrator	No specific priority unless appointed in the probated will. (M.S.A. § 524.3-203)
Employment	Cannot discriminate based on sexual orientation. (Minn. Stat. Ann. § 363A.02) (Minn. Stat. Ann. § 363A.03)  Statutory statewide policy prohibiting discrimination based on sexual orientation [1993].
Taxation	
Children Adoption	Any person may adopt. (Minn. Stat. Ann. § 259.22)

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel (“ACTEC”) does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

	Second parent adoption approved in lower courts.
<b><u>MISSISSIPPI</u></b>	
Same- sex marriage; Civil union; Domestic Partnership	<p>DOMA (1997) (Miss. Code Ann. § 93-1-1)</p> <p>Ban on same sex marriage. (Miss. Code Ann. § 93-1-1) (Miss. Const. art. 14 § 263A) [2004]</p> <p>Same sex marriage performed in another state not recognized. (Miss. Const. art. 14 § 263A) (Miss. Code Ann. § 93-1-3)</p>
Hospital and Nursing Home Visitation	<p>Agent may be appointed to make health care decisions for principal who lacks capacity. Miss. Code Ann. §§ 41-41-203(c), -205(5) and 209.</p>
Medical Decision-making/ funeral Burial Decision-making	<p>“An adult who has exhibited special care and concern for the patient, who is familiar with the patient's personal values” may act as a surrogate decision maker. Listed in priority after spouse, adult child, parent, and adult brother or sister. (Miss. Code Ann. § 41-41-211)</p> <p>Agent may be appointed to make health care decisions for principal who lacks capacity. Miss. Code Ann. §§ 41-41-203(c), -205(5) and 209.</p>
Civil claims	<p>Gender neutral domestic violence protections extended to members of the same household as well as dating partners, including same-sex relationships</p>
Property Transfer Upon Death	<p>Intestacy does not provide for same sex partner. (Miss. Code Ann. § 91-1-3)</p> <p>Joint tenancy with rights of survivorship permitted if expressly stated in instrument. Miss. Code Ann. § 89-1-7.. (Miss. Code Ann. § 89-1-7)</p>
Appointment as Estate Administrator	<p>Relative who applies to be appointed with preference to spouse and then other relatives entitled to distribution, but court may select stranger. Miss. Code Ann. §91-7-63. (Miss. Code Ann. § 91-7-63)</p>
Employment	<p>No benefits for same sex partners.</p>
Taxation	
Children Adoption	<p>Adoption by couples of the same gender is prohibited. (Miss. Code Ann. § 93-17-3[2]).</p> <p>Unmarried adults may adopt. Miss. Code Ann. § 93-17-3(1).</p>
<b><u>MISSOURI</u></b>	
Same- sex marriage; Civil union; Domestic Partnership	<p>DOMA (2001) (Mo. Ann. Stat. § 451-022)</p> <p>Ban on same sex marriage. (Missouri Constitution Art. 1, § 33) (Mo. Ann. Stat. § 451-022) [2004]</p> <p>Same sex marriage performed in another state not recognized. (Mo. Ann. Stat. § 451-022)</p>

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel (“ACTEC”) does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

	The Columbia City Council unanimously approved a city domestic partnership registry measure. The measure does not obligate any institution to recognize the partnership as legally binding. [Only binding in St. Louis]
Hospital and Nursing Home Visitation	
Medical Decision-making/ funeral Burial Decision-making	Not allowed to make decisions on behalf of incapacitated same-sex partner. (V.A.M.S. 431.061)
Civil claims	Gender neutral domestic violence protections extended to members of the same household as well as dating partners, including same-sex relationships
Property Transfer Upon Death	Intestacy does not provide for same sex partner. (V.A.M.S. 474.010)  Joint tenancy. (V.A.M.S. 370.287)
Appointment as Estate Administrator	Could fall under the category “one or more of those who are entitled to distribution of the estate”, but otherwise, no specific authority unless appointed in the will. (V.A.M.S. 473.110)
Employment	Missouri State University Faculty Senate recently agreed to recommend the university extend employee benefits -- such as health insurance -- to domestic partners.  The Kansas City, Missouri, City Council voted unanimously to enact an ordinance forbidding discrimination on the basis of gender identity in employment.
Taxation	
Children Adoption	Any person may adopt. (V.A.M.S. 453.010)  Second parent adoption approved in some lower courts.

DISCLAIMER ON USE:

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel (“ACTEC”) does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

**MONTANA**

Same- sex marriage; Civil union; Domestic Partnership	DOMA (1997) (Mon. Code Ann. §40-1-401(1)(d); prohibition on contracts for the purpose of achieving a civil relationship that is prohibited under subsection (1); declared to be contrary to public policy, §40-1-401(4) <u>State Constitution</u> : Ban on same sex marriage. MT CONST Art. XIII, § 7
Hospital and Nursing Home Visitation	
Medical Decision-making/ funeral Burial Decision-making	<u>Snetsinger v. Montana University System</u> , 325 Mont. 148, 104 P.3d 445 Mont.,2004. Health insurance coverage for partners violated state constitution since common law opposite sex couples were granted coverage despite non-legal marital relationship.
Civil claims	Gender neutral domestic violence protections explicitly exclude same sex survivors of domestic violence from making claims
Property Transfer Upon Death	
Appointment as Estate Administrator	
Employment	<u>Jones v. County of Missoula</u> , 330 Mont. 205, 127 P.3d 406 Mont.,2006. Upheld Missoula County to extension of dependent health care benefits to domestic partners of county employees
Taxation	
Children Adoption	n/a <u>Kulstad v. Maniaci</u> , 352 Mont. 513, 220 P.3d 595. Mont.,2009. The court held that an ex-partner could receive visitation rights. Appealed and affirmed by the state’s highest court.

**NEBRASKA**

Same- sex marriage; Civil union; Domestic Partnership	<u>State Constitution</u> : Prohibits same sex-marriage, civil unions, domestic partnerships and the like and provides that same sex marriage performed in another state shall not be recognized. (Neb. Const. art I, §29) [2004]  <u>Citizens for Equal Protection v. Bruning</u> , 455 F.3d 859 C.A.8 (Neb.),2006. Court held that § 29 (above) and other laws limiting the state-recognized institution of marriage to heterosexual couples are rationally related to legitimate state interests and therefore do not violate the Constitution of the United States.
Hospital and Nursing Home Visitation	
Medical Decision-making/ funeral Burial Decision-making	Nebraska law does not allow a partner to make decisions on behalf of his or her incapacitated partner. § 44-2808.  An adult may designate his or her partner to make medical decisions on his or her behalf. A power of attorney for health care shall be in writing, identify the principal, the attorney in fact, and the successor attorney in fact, if any, specifically authorize the attorney in fact to make health care decisions on behalf of the principal in the event the principal is incapable,

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel (“ACTEC”) does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

	be dated and, be witnessed and signed by at least two adults, or be signed and acknowledged by the principal before a notary public. § 30-3404. <i>Neb. Rev. Stat. § 44-2808; Health Care Power of Attorney: Neb. Rev. Stat. §§ 30-3401 to § 30-3432 and Rights of the Terminally Ill Act: Neb. Rev. Stat. §§ 20-401 to 20-416</i>
Civil claims	Gender neutral domestic violence protections only extended to members of the same household.
Property Transfer Upon Death	
Appointment as Estate Administrator	
Employment	
Taxation	
Children Adoption	Not permitted in <u>In re Adoption of Luke</u> , 263 Neb. 365, 2002 WL 360741 (March 8, 2002). <u>Russell v. Bridens</u> , 264 Neb. 217; 647 N.W. 2 <sup>nd</sup> 56 (Neb. 2006) Nebraska Ct. of Appeals held that Nebraska must recognize a second parent adoption granted in PA, even though the adoption would not have been permitted in Nebraska.
<b><u>NEVADA</u></b>	
Same- sex marriage; Civil union; Domestic Partnership	<u>State Constitution</u> : Only marriage between a male and female shall be recognize. Art 1 §21 [2002]  <u>Statutory</u> : State statute defines persons capable of marriage. (Nev. Stat. 122.020) Effective October 1, 2009, Nevada permits same-sex couples and unmarried different-sex couples to register as domestic partners and receive essentially all the rights and responsibilities provided to spouses under state law. NEV. CONST. art I, Sec. 21; Senate Bill 283 (2009). [Nev. Rev. Stat. Ann. §122A.100] Recognition of similar unions, but not marriages, validly formed in other jurisdictions, Nev. Rev. Stat. Ann. §122A.500
Hospital and Nursing Home Visitation	Registered Domestic Partners have same rights as marital spouses.
Medical Decision-making/ funeral Burial Decision-making	Nevada law does not allow a partner to make decisions on behalf of his or her incapacitated same-sex partner. § 449.626.  An adult may designate his or her partner to make medical decisions on his or her behalf by executing a durable medical power of attorney. § 449-810. To be valid, the declarant’s signature on the power of attorney must be acknowledged before a notary public or witnessed by two adult witnesses who know the principal personally. § 449-840. Nev. Rev. Stat. §§ 449.540 to 449.690 and Nev. Rev. Stat. §§ 449-800 to 449-860.
Civil claims	Gender neutral domestic violence protections extend to members of the same household as well as dating partners, including same-sex relationships

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel (“ACTEC”) does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

Property Transfer Upon Death	Registered Domestic Partners have same rights as marital spouses.
Appointment as Estate Administrator	Registered Domestic Partners have same rights as marital spouses.
Employment	Statutory state-wide policy against discrimination based on sexual orientation [1999].
Taxation	
Children Adoption	Approved in lower courts.
<b>NEW HAMPSHIRE- MARRIAGE</b>	
Same- sex marriage; Civil union; Domestic Partnership	<p><b>Statutory: Equal Access to Marriage.</b> Marriage is the legally recognized union of 2 people. Any person who otherwise meets the eligibility requirements of this chapter may marry any other eligible person regardless of gender. N.H. Rev. Stat. § 457:1-a effective Jan. 1, 2010</p> <p>Recognize valid same-sex marriages N.H. Rev. Stat. § 457:3                  Recognizes a civil union legally contracted outside New Hampshire as a marriage in New Hampshire N. H. Rev. Stat. § 457:45</p>
Hospital and Nursing Home Visitation	Same rights granted as heterosexual couples.
Medical Decision-making/ funeral Burial Decision-making	<p>Under New Hampshire law, an adult may designate his or her same-sex partner to make medical decisions on his or her behalf. The advance directive shall be signed by the principal in the presence of either two or more subscribing witnesses or a notary public. § 137-J:14.</p> <p>As of January 2008, same-sex partners will be able to enter into civil unions in New Hampshire and receive all the rights and benefits of marriage under state law. <i>N.H. Rev. Stat. Ann. §§ 137-j:1 to 137-J:33 ; N.H. Rev. Stat. Ann. §§ 137-H:1 to 137-H:16 superseded by marriage effective January 1, 2010</i></p>
Civil claims	Equal to heterosexual marriages.
Property Transfer Upon Death	Equal to heterosexual marriages.
Appointment as Estate Administrator	Equal to heterosexual marriages.
Employment	Statutory state-wide policy against discrimination based on sexual orientation [1997]
Taxation	Filing processes and responsibilities same as heterosexual marriages.
Children Adoption	
<b>NEW JERSEY- CIVIL UNION</b>	
Same- sex marriage; Civil union; Domestic Partnership	<p>Same sex couple may enter into a civil union and thereby obtain all state law rights, benefits and responsibilities of spouses. L. 2006, c. 103 § 4 -- N.J.S.A. 37:1-30 (2007), which implements <i>Lewis v. Harris</i>, 188 N.J. 415; 908 A.2d 196 (N.J. 2006)(equal protection guarantee of Article I, paragraph 1 of the State Constitution was violated by denying rights and benefits to committed same-sex couples which were statutorily given to their heterosexual counterparts.)</p>

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel ("ACTEC") does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

	<p>Domestic Partnership Act for same-sex couples and heterosexual couples over age 62, enacted in 2004, remains in effect. N.J.S. 26:8A-1 et seq.  <b>However, after February 19, 2007, no new domestic partnerships may be created except between person who are each 62 or older.</b></p> <p>Valid same-sex relationships under the laws of other states and countries will be recognized in New Jersey as either civil unions or as domestic partnerships, depending on the nature of the rights and responsibilities conferred by the law of the other jurisdiction. NJ Attorney General Formal Opinion No. 3-2007 (February 16, 2007)                  N.J. STAT. ANN. §37:1; §37:2; and §26:8.</p> <p>Civil unions offer same-sex couples state-level spousal rights and responsibilities, but none of the federal protections (such as Social Security survivor benefits), and there is no guarantee that the unions will be recognized by other states or the federal government.</p>
<p>Hospital and Nursing Home Visitation</p>	<p>. Civil union partner afforded the same rights as a spouse. Hospital and nursing home visitation for domestic partners and their children. N.J.S.A. 26:2H-12.22</p> <p>New Jersey law states that a civil union partner has the same rights and responsibilities as a spouse with regard to "laws relating to emergency and nonemergency medical care and treatment, hospital visitation and notification, and any rights guaranteed to a hospital patient." N.J.Stat. Ann. §37:1-32j.</p> <p>An adult may execute an advance directive designating his or her same-sex partner as having authority to make medical decisions on their behalf. The advance directive shall be signed and dated by, or at the direction of, the declarant in the presence of two subscribing adult witnesses. § 26:2H-56.  <i>New Jersey Advanced Directives for Health Care Act: N.J. Stat. Ann. §§ 26: 2H-53 to 2H-91</i></p>
<p>Medical Decision-making/ funeral Burial Decision-making/Insurance Coverage</p>	<p>New Jersey law states that a civil union partner has the same rights and responsibilities as a spouse with regard to "laws relating to insurance, health and pension benefits." N.J. Stat. Ann. sec. 37:1-32e</p> <p><b>17B:27-71. Group life insurance coverage extended to dependents; conditions.</b> N.J.S.A. 17B:27-71:</p> <p>Except for a policy issued under subsection b. of section 1 of this act, a group life insurance policy may be extended to insure the employees or members against loss due to the death of their spouses, domestic partners</p>

DISCLAIMER ON USE:

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel ("ACTEC") does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

	<p>and dependent children, and any other persons dependent upon the insured employees or members, or any class thereof, subject to the following:</p> <p>a. The premium for the insurance shall be remitted by the policyholder either from funds contributed by the employer, union, association or other person to whom the policy has been issued, or from funds contributed by the covered persons, or from both. Except as provided in subsection b. of section 1 of this act, a policy on which no part of the premium for the spouse's, domestic partner's, dependent child's and other dependent's coverage is to be derived from funds contributed by the covered persons shall insure all eligible employees or members with respect to their spouses, domestic partners, dependent children and other dependents, or any class thereof.</p> <p>b. An insurer may exclude or limit the coverage on any spouse , domestic partner, dependent child or any other person dependent upon the insured employee or member as to whom evidence of individual insurability is not satisfactory to the insurer.</p> <p>c. The amounts of insurance for any covered spouse, domestic partner, dependent child or any other person dependent upon the insured employee or member under the policy may not exceed 100% of the amount of insurance for which the employee or member is insured.</p>
<p>Civil claims</p>	<p>Causes of action related to or dependent upon spousal status, including an action for wrongful death, emotional distress, loss of consortium, or other torts or actions under contracts reciting, related to, or dependent upon spousal status; N.J.S.A. 37:1-32b</p>
<p>Property Transfer Upon Death</p>	<p>Civil union couples shall have all of the same benefits, protections and responsibilities under law, whether they derive from statute, administrative or court rule, public policy, common law or any other source of civil law, as are granted to spouses in a marriage. N.J.S.A. 37:1-32a, 1-32c.</p>
<p>Appointment as Estate Administrator</p>	<p>Laws relating to title, tenure, descent and distribution, intestate succession, survivorship, or other incidents of the acquisition, ownership or transfer, inter vivos or at death, of real or personal property, including but not limited to eligibility to hold real and personal property as tenants by the entirety. N.J.S.A. 37:1-32a.</p>
<p>Employment</p>	<p>A civil union partner has the same rights as a spouse with respect to employment and benefits. N.J.S.A. 37:1-32.</p> <p>34:11A-20. Employee contributions to health benefits plans:</p>

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel ("ACTEC") does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

	<p>a. An employer that provides a health benefits plan as defined in section 2 of P.L.1997, c. 192 (C.26:2S-2) to its employees and their dependents in this State may require that an employee contribute a portion or the full amount of the cost of dependent coverage under the plan for the employee's domestic partner as defined in section 3 of P.L.2003, c. 246 (C.26:8A-3).</p> <p>b. Nothing in P.L.2003, c. 246 (C.26:8A-1 et al.) shall be construed to require an employer to provide dependent coverage for an employee's domestic partner.</p> <p>c. Notwithstanding any other provisions of law to the contrary, the provisions of subsections a. and b. of this section shall not be deemed to be an unlawful discrimination under the "Law Against Discrimination," P.L.1945, c. 169 (C.10:5-1 et seq.).</p>
<p>Taxation</p>	<p>Surviving civil union partner treated the same as spouse for state tax purposes. Marital deduction for N.J. estate tax purposes is allowed. N.J.A.C. 18:26-3A.8(e).</p> <p>Surviving domestic partner exempt from state inheritance tax on the same grounds as spouse but no marital deduction for NJ estate tax; domestic partner may be claimed as personal exemption for state income tax purposes if partner does not file separate income tax return. <u>Hennefeld v. Township of Montclair</u>- NJ amended statute in 2005 to grant 100% exemption. Tax court found no basis under NJ law to recognize Canadian marriage for purpose of extending 50% disabled veterans exemption on property to 100% exemption.</p>
<p>Children Adoption</p>	<p>Permitted in <u>In re Adoption of Two Children by H.N.R.</u>, 285 N.J. Super 1 (App. Div. 1995).</p> <p>The laws of domestic relations, including annulment, premarital agreements, separation, divorce, child custody and support, property division and maintenance, and post-relationship spousal support, shall apply to civil union couples. N.J.S.A. 37:1-31(c).</p> <p>The rights of civil union couples with respect to a child of whom either becomes the parent during the term of the civil union, shall be the same as those of a married couple with respect to a child of whom either spouse or partner in a civil union couple becomes the parent during the marriage. N.J.S.A. 37:1-31(e).</p> <p>Surviving Domestic Partner's claim on custody is evaluated the same as the surviving spouse of a heterosexual marriage [N.J.A.C. §18:26-2.6]</p> <p>The legal benefits, protections, and responsibilities of a heterosexual married couples apply in like manner to civil union partners with respect to</p>

DISCLAIMER ON USE:

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel ("ACTEC") does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

	adoption law and procedures. N.J.S.A. 37:1-32d.
<b><u>NEW MEXICO</u></b>	
Same- sex marriage; Civil union; Domestic Partnership	<u>Statutory</u> : Same sex marriage performed in another state recognized. (N.M. Stat. Ann. §40-1-4)
Hospital and Nursing Home Visitation	
Medical Decision-making/ funeral Burial Decision-making	<p>New Mexico law permits a partner to make decisions for an incapacitated same-sex partner, as an "individual in a long-term relationship of indefinite duration with the patient in which the individual has demonstrated an actual commitment to the patient similar to the commitment of a spouse and in which the individual and the patient consider themselves to be responsible for each other's well-being." § 24-7A-5.</p> <p>An adult or emancipated minor, while having capacity, also has the right to make his or her own health-care decisions and may give individual instructions that are limited for specific conditions. These can be written or oral. If an instruction is made orally it should be given directly to the health care provider. § 24-7A-5. A written advance directive should be witnessed by two individuals. § 24-7A-4.                  N.M. Stat. Ann. §§ 24-7A-1 to 24-7A-18</p>
Civil claims	Gender-neutral domestic violence protections extended to members of the same household as well as dating partners, including same-sex relationships
Property Transfer Upon Death	
Appointment as Estate Administrator	
Employment	<p>Benefits extended to domestic partners of state employees to same extent as spouses. Executive Order No. 2003-010 (2003)</p> <p>Prohibition of discrimination based on sexual orientation specifically in state jobs [§1.7.1.7 N.M.A.C.]</p> <p>Statutory state-wide policy prohibiting discrimination based on sexual orientation [2003]</p>
Taxation	
Children Adoption	Approved in some lower courts.
<b><u>NEW YORK-MARRIAGE</u></b>	
Same- sex marriage; Civil union; Domestic Partnership	<p>Same-sex marriage begins July 24, 2011 under the Marriage Equality Act (L. 2011 c. 96 and c. 97 [enacting certain religious exemptions]) adding Domestic Relations Law §§ 10-a and 10-b.</p> <p>Honors marriages of same-sex couples from other jurisdictions</p> <p><u>Hernandez v. Robles</u>, 7 N.Y.3d 338, 821 N.Y.S.2d 770, 855 N.E.2d 1 (2006) (<i>the New York Constitution does not compel recognition of marriages between members of the same sex; whether such marriages</i></p>

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel ("ACTEC") does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

	<i>should be recognized is question to be addressed by the Legislature);</i>
Hospital and Nursing Home Visitation	
Medical Decision-making/ funeral Burial Decision-making	<p><b>2805-q. Hospital visitation by domestic partner</b>                  McKinney's Public Health Law § 2805-q</p> <p>1. No domestic partner or surrogate as defined by <u>subdivision twenty-nine of section twenty-nine hundred ninety-four-a</u> of this chapter shall be denied any rights of visitation of his or her domestic partner or of the patient or resident for whom he or she is the surrogate, when such rights are accorded to spouses and next-of-kin at any hospital, nursing home or health care facility.</p> <p>2. For purposes of this section only, "domestic partner" means a person who, with respect to another person:</p> <p>(a) is formally a party in a domestic partnership or similar relationship with the other person, entered into pursuant to the laws of the United States or of any state, local or foreign jurisdiction, or registered as the domestic partner of the other person with any registry maintained by the employer of either party or any state, municipality, or foreign jurisdiction; or</p> <p>(b) is formally recognized as a beneficiary or covered person under the other person's employment benefits or health insurance; or</p> <p>(c) is dependent or mutually interdependent on the other person for support, as evidenced by the totality of the circumstances indicating a mutual intent to be domestic partners including but not limited to: common ownership or joint leasing of real or personal property; common householding, shared income or shared expenses; children in common; signs of intent to marry or become domestic partners under paragraph (a) or (b) of this subdivision; or the length of the personal relationship of the persons.</p> <p>3. Each party to a domestic partnership shall be considered to be the domestic partner of the other party. "Domestic partner" shall not include a person who is related to the other person by blood in a manner that would bar marriage to the other person in New York state. "Domestic partner" also shall not include any person who is less than eighteen years of age or who is the adopted child of the other person or who is related by blood in a manner that would bar marriage in New York state to a person who is the lawful spouse of the other person.</p> <p><u>Cross check</u>                  New York law permits a partner to make medical decisions on behalf of an incapacitated same-sex partner as a "close friend." However, priority is given to other individuals first (adult children, parent, adult siblings). § 2965.</p> <p>An adult may designate his or her partner as having authority to make medical decisions on their behalf through a health care proxy. A competent adult may appoint a health care agent by a health care proxy, signed and</p>

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel ("ACTEC") does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

	<p>dated by the adult in the presence of two adult witnesses who shall also sign the proxy. § 2981. A domestic partner may not be refused visitation rights in New York. § 2805-q.</p> <p><i>Citation: McKinney’s Public Health Law: N.Y. Pub. health §§ 2960 to 2978; Health Care Agents and Proxies: N.Y. Pub. health §§ 2980 to 2994 and Hospitals; Hospital visitation by domestic partner: N.Y. Pub. health § 2805-q</i></p>
Civil claims	<p>Surviving partner of Vermont civil union who lived in NY is not a “distributee” under the NY wrongful death statute and the denial of marital status under that statute is not constitutional. <i>Langan v. St. Vincent’s Hospital of NY</i>, 2005 WL 2542658 (2005). <i>Valentine v. American Airlines-domestic partner of a flight attendant who died in crash not entitled to workers com death benefits as a surviving spouse.</i></p> <p>Specific laws in Domestic Violence protect surviving victims of same-sex domestic violence</p>
Property Transfer Upon Death	
Appointment as Estate Administrator	
Employment	State and NYC employee are eligible for health, vision and dental benefits for their domestic partners.
Taxation	Married couples file joint New York State income tax returns, TSB M-11(8)(C) and marital deduction for state estate tax purposes allowed in estate of first spouse to die, TSB M-11(8)(M)
Children Adoption	<p>Second Parent Adoption Approved in <i>In re Jacob</i>, 86 N.Y.2d 651, 636 N.Y.S.2d 716, 660 N.E.2d 397 (1995)</p> <p>Upheld at the appellate level.</p> <p>Joint adoption approved in <i>Matter of Adoption of Carolyn B.</i>, N.Y.S.2d, 2004 WL 575028 (N.Y. App. Div., 2004)</p>
<b><u>NORTH CAROLINA</u></b>	
Same- sex marriage; Civil union; Domestic Partnership	<p>N.C. Const. Art. XIV, § 6 “Marriage between one man and one woman is the only domestic legal union that shall be valid or recognized in this State.” Approved in a referendum May 8, 2012.</p> <p>DOMA (1997) (N.C. Gen. Stat. §51-1.2)</p> <p><u>Statutory:</u> Same sex marriage performed in another state not recognized. (N.C. Gen. Stat. §51-1)</p>
Hospital and Nursing Home Visitation	<p>Patients' Bill of Rights gives each patient "the right to designate visitors who shall receive the same visitation privileges as the patient's immediate family members, regardless of whether the visitors are legally related to the patient" -- a right that applies in every hospital in the State. 10A NCAC 13B.3302 [North Carolina Administrative Code]</p>

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel (“ACTEC”) does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

Medical Decision-making/ funeral Burial Decision- making	Statute provides for written designation of a health care agent N.C.G.S.A. §§ 32A-15 through -27. “Any competent person who is not engaged in providing health care to the principal for remuneration, and who is 18 years of age or older, may act as a health care agent.” N.C.G.S.A. § 32A-18.
Civil claims	Gender-neutral domestic violence protections only apply to members of the same household.
Property Transfer Upon Death	
Appointment as Estate Administrator	
Employment	
Taxation	
Children Adoption	N/A In <i>Boseman v. Jarrell</i> , 364 N.C. 537, 704 S.E.2d 494 (2010) a divided North Carolina Supreme Court reversed the trial and intermediate appellate courts and held a second parent adoption void <i>ab initio</i> but affirmed the custody decree recognizing the parentage of the adopting parent because the birth parent “acted inconsistently with her paramount parental status” by approving the second parent adoption, thus allowing the trial court to use a best interest of the child standard in resolving custody issues.
<b><u>NORTH DAKOTA</u></b>	
Same- sex marriage; Civil union; Domestic Partnership	DOMA (1997) <u>State Constitution</u> : Marriage consists only of a legal union between a man and woman. No other domestic union, however denominated, may be recognized as marriage . NDCC Const. Art. 1 §28 <u>Statutory</u> : N.D. Cent. Code§14-03-01  Marriages of foreign jurisdiction will only be recognized as they are between one man and one woman [ND Cent. Code §14-03-08]
Hospital and Nursing Home Visitation	
Medical Decision-making/ funeral Burial Decision- making	North Dakota law permits partners to may make decisions regarding their incapacitated same-sex partner’s medical treatment as a "close friend." However, there are at least seven others listed that would receive priority ahead of the partner. § 23-12-13.  An adult may execute an advance health care directive, which may include one or more health care instructions to health care providers, others assisting with health care, family members, and a health care agent. § 23-06.5-03. To be valid the directive must be in writing, dated, state the principal's name, be executed by a principal with capacity to do so, and contain verification of the principal's signature by either a notary public or by witnesses. § 23-06.5-05. <i>N.D. Cent. Code § 23-12-13 and Health Care Directives: N.D. Cent. Code</i>

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel (“ACTEC”) does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

	§§ 23-06.5-01 to 23-06.5-18
Civil claims	Gender-neutral domestic violence protections extended to members of the same household as well as dating partners, including same-sex relationships
Property Transfer Upon Death	
Appointment as Estate Administrator	
Employment	
Taxation	
Children Adoption	State law explicitly excludes and restricts adoption and foster care by prospective same-sex couples [ND Central Code §14-09-06.2]

**OHIO**

Same- sex marriage; Civil union; Domestic Partnership	State Constitution: Marriage is between a man and woman. Ohio Const. Art. XV §11) (2004) OH CONST Art. XV, § 11 Defense of marriage, held unconstitutional Statutory: Same sex marriage performed in another state shall not be recognized. Ohio Rev Code Ann §3101.01
Hospital and Nursing Home Visitation	
Medical Decision-making/ funeral Burial Decision-making	Ohio law does not permit partners to make medical decisions on behalf of incapacitated same-sex partners in the absence of a written directive. § 2133.08.  An adult may designate his or her partner a health care agent through a durable power of attorney for health care. It shall be signed at the end of the instrument by the declarant state the date of its execution and acknowledged before a notary public. § 1337.12. <i>Ohio Rev. Code Ann. §§ 2133.01 to 2133.26 and Durable Power of Attorney for Health Care: Ohio Rev. Code Ann. §§ 1337.11 to 1337.20</i>
Civil claims	Gender-neutral domestic violence protections only extended to members of the same household.
Property Transfer Upon Death	
Appointment as Estate Administrator	
Employment	
Taxation	
Children Adoption	Disapproved by intermediate appellate court in <i>In re Adoption of Jane Doe</i> , 719 N.E.2d 1071 (Ohio App. 9th Ninth Dist. 1998).  Adoption by gay man allowed in <i>In re Adoption of Charles B.</i> , 552 N.E.2d 884 (Ohio 1990). Gay and lesbian parents can enter into enforceable agreements to share custody of their children. <i>In re Bonfield</i> , 780 N.E.2d 241 (Ohio 2002).

**OKLAHOMA**

Same- sex marriage; Civil union; Domestic Partnership	DOMA (1996)
---	-------------

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel ("ACTEC") does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

	<p><u>State Constitution</u>: Marriage is between one man and one woman. Marriages between persons of same gender will not be recognized whether they are titled marriage, civil union, domestic partnership, or anything else. Marriage between persons of same gender in another state is not recognized as valid in Oklahoma. (Okla Const. art 2 §35)</p> <p><u>Statutory</u>: Marriage between persons of same gender in another state is not recognized as valid in Oklahoma. (43 Okla. Stat. §3.1)</p>
Hospital and Nursing Home Visitation	
Medical Decision-making/ funeral Burial Decision-making	<p>An adult may appoint any person, including a same sex partner, to make medical decisions. The directive must be signed by the declarant and witnessed by two adults who are not legatees, devisees, or heirs at law. (63 Okla. Stat. §3101.4)</p> <p>A same sex partner may not grant consent for experimental treatment or drugs. (63 Okla. Stat. §3102A)</p>
Civil claims	Gender-neutral domestic violence protections extended to members of the same household as well as dating partners, including same-sex relationships
Property Transfer Upon Death	<p>Same sex partners have no right to inherit from an intestate estate. (84 Okla. Stat. §213)</p> <p>Same sex partners cannot elect to take against the will of the first to die. (84 Okla. Stat. §44)</p>
Appointment as Estate Administrator	Same sex partners may serve as an administrator of an intestate estate only after all relations and all creditors have declined to serve. (58 Okla. Stat. §122)
Employment	
Taxation	Same sex partners may not file joint state income tax returns. (68 Okla. Stat. §2361).
Children Adoption	<p>Although an unmarried person may adopt, two persons who are not married may not adopt together. (10 Okla. Stat. §7503-1.1)</p> <p>By statute, Oklahoma does not recognize an adoption by more than one individual of the same sex from any other jurisdiction. (10 Okla. Stat. §7502-1.4). That provision was struck down in <i>Finstuen v. Crutcher</i>, 496 F.3d 1139 (10<sup>th</sup> Cir. 2007) as violating full faith and credit.</p>
<b><u>OREGON- DOMESTIC PARTNERSHIP</u></b>	
Same- sex marriage; Civil union; Domestic Partnership	<p><u>State Constitution</u>: Only a marriage between one man and one woman shall be valid or legally recognized as a marriage. OR CONST Art. XV, § 5a</p> <p><u>Statutory</u>: Recognizes same- sex relationships as Domestic Partnerships. [2007 Ore. ALS §703 and §99] Effective January 1, 2008.</p> <p>Domestic Partnerships, Oregon Family Fairness Act (Laws 2007, c. 99, §§ 1 to 9, eff. Jan. 1, 2008, amended by Laws 2009, c. 595, §§ 65b, 65c, eff. June</p>

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel ("ACTEC") does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

	26, 2009) O.R.S. §§ 106.300 to 340 (limited to same-sex partners)
Hospital and Nursing Home Visitation	
Medical Decision-making/ funeral Burial Decision-making	<p>Oregon law currently permits a partner to make medical decisions for an incapacitated partner as an "adult friend" Or. Rev. Stat. § 127.635. However, adult children, parents, or adult siblings of the incapacitated partner would have priority (unless they agreed to cede authority to the partner).</p> <p>A capable adult may designate in writing a competent adult to serve as attorney-in-fact or health care representative. The instruction shall be effective when it is signed and witnessed. § 127-515.</p> <p>The Oregon Family Fairness Act permits same-sex couples to enter into domestic partnerships, and provides domestic partners with all the rights and benefits provided to spouses under state law. This includes the right to make medical decisions for an incapacitated partner pursuant to Or. Rev. Stat. 127.635.</p> <p><i>Citation: Advance Directives for Health Care; Or. Rev. Stat. §§ 127.505 to 127.645</i></p>
Civil claims	Gender-neutral domestic violence protections extended to members of the same household as well as dating partners, including same-sex partners
Property Transfer Upon Death	
Appointment as Estate Administrator	
Employment	Medical, dental, life insurance and long-term care benefits available to domestic partners of state employees.
Taxation	<p><u>Oregon Administrative Rule (OAR) 150-316.007-(B)</u> <sup>FNI</sup> provides an exclusion from Oregon taxable income for the imputed value of health insurance benefits provided to <b>same-sex</b> domestic partners.</p> <p>Haldeman v. Department of Revenue <b>2008 WL 4371517</b></p>
Children Adoption	Approved in lower courts.
<b><u>PENNSYLVANIA</u></b>	
Same- sex marriage; Civil union; Domestic Partnership	<p>DOMA (1996) Same sex marriages performed in a foreign jurisdiction also are not recognized.</p> <p><u>Statutory:</u> Same sex marriage performed in another state not recognized. (23 Pa cons. Stat. Ann. §1704) [1996]</p> <p>Marriage is defined as a civil contract by which one man and one woman take each other for husband and wife. 23 Pa.C.S.A §1102</p> <p>Domestic partnership registries: Philadelphia and Harrisburg have life</p>

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel ("ACTEC") does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

	<p>partnership registries, and Pittsburgh has a domestic partnership registry. Harrisburg, Pa. Code § 4-201.1 (2009); Phila., Pa. Code § 9-1106 (2008); Pittsburgh, Pa. Code § 186.03 (2008); see City of Harrisburg, Life Partnership Registry Information Sheet, <a href="http://harrisburgcitycouncil.com/InformationSheet.doc">http://harrisburgcitycouncil.com/InformationSheet.doc</a> (last visited Nov. 5, 2009); Phila. Comm'n on Human Relations, Life Partnership, <a href="http://www.phila.gov/humanrelations/pdfs/Documents.pdf">http://www.phila.gov/humanrelations/pdfs/Documents.pdf</a> (last visited Nov. 5, 2009).</p>
<p>Hospital and Nursing Home Visitation</p>	<p>Registration provides only limited benefits. In Pittsburgh and Harrisburg, domestic partners and life partners have the same hospital visitation rights as spouses. In Harrisburg, employees get the same bereavement leave for the death of a life partner as for a spouse and, in residential leases in that city, the word “family” is to be interpreted to include life partners. In Pittsburgh, life partners get the same access to city facilities as spouses. And, in all three cities, registration can be used as evidence of commitment to gain access to public- or private-employer-provided benefits. 71 U.Pitt.L.Rev.187</p>
<p>Medical Decision-making/                  funeral Burial Decision-making</p>	<p>Pennsylvania Supreme Court stated, “[a] more distant relative, or even a friend, not connected by ties of blood, may have a superior right, under exceptional circumstances, to one nearer of kin.” With regard to the need under the current statute to prove enduring estrangement or incompetence in order to overcome the preference for next of kin, it would seem that the circumstances would truly need to be exceptional for a surviving same-sex partner to be given control of the deceased partner's remains. <i>Pettigrew V. Pettigrew</i>, 207 Pa. 313, 56 A. 878 (1902).</p> <p>Pennsylvania law does not specifically provide for a partner to make decisions on behalf of an incapacitated same-sex partner, but, "an adult who has knowledge of the principal's preferences and values..." is among those listed. Contact must be attempted with at least five individuals before a partner would have authority. § 5461.</p> <p>An adult may appoint his or her partner to make health care decisions on his or her behalf. A valid health care power of attorney must identify the principal, appoint the health care agent and declare that the principal authorizes the health care agent to make health care decisions on behalf of the principal. § 5453.</p> <p><i>Citation: Health Care; Health Care Agents and Representatives: 20 Pa. Cons. Stat. §§ 5451 to 5465</i></p> <p>20 Pa.C.S.A. §305(b) provides that if a decedent’s will does not indicate how his remains should be disposed of, the surviving spouse has sole</p>

DISCLAIMER ON USE:

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel (“ACTEC”) does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

	<p>authority on matters pertaining to the disposition of a decedents remains, absent estrangement, incompetence, contrary intent or waiver and agreement. If there is no surviving spouse, the next of kin has sole authority. IF the decedent wants to grant such rights to a partner, the decedent should memorialize this in his or her will, or through an agreement with the person or persons entitled to make such decisions under the statute.</p>
<p>Civil claims</p>	<p>Gender-neutral domestic violence protections extend to members of the same household as well as dating partners, including same-sex relationships</p>
<p>Property Transfer Upon Death</p>	<p>If a member of a same-sex couple dies without a will (or without a comprehensive will), the laws of intestate succession will apply 20 Pa. Cons. Stat. § 2101(a) (2008).</p> <p>In Pennsylvania, a surviving different-sex spouse inherits the entire estate if the decedent dies intestate and has no surviving parent or issue. If the decedent dies intestate and is survived by a parent or issue, then the surviving different-sex spouse is entitled to receive a portion of the estate. 20 Pa. Cons. Stat. § 2102 (2008).</p> <p>Any portion of the decedent's estate not passing to a surviving different-sex spouse passes, in the following order, to: (1) issue, (2) parents, (3) siblings and their issue, (4) grandparents and their issue, (5) uncles and aunts and their issue, or (6) the Commonwealth of Pennsylvania. 20 Pa. Cons. Stat. § 2103 (2008).</p> <p>Laws governing intestate succession make no provision for inheritance by same-sex partners or by the decedent's non-biological, non-adopted children. [20 Pa. Cons. Stat. §2101]</p> <p>Same-sex couples can hold title to property either as tenants in common or as joint tenants with right of survivorship. 71 U.Pitt.L.Rev. 187.</p> <p>If there is no surviving issue of the decedent, but there is a surviving parent of the decedent, the surviving spouse takes the first \$30,000.00 and one-half of the intestate estate. If there are surviving issue of the decedent who are issue of the surviving spouse, the surviving spouse takes the first \$30,000.00 and one half of the intestate estate. If there are surviving issue of the decedent, one or more of whom are not issue of the surviving spouse, the surviving spouse takes one-half of the intestate estate. 20 Pa.C.S.A §2102.</p> <p>The surviving spouse has a right to an 'elective share' of one-third of certain property owned [and/or conveyed] by the decedent. 20 Pa.C.S.A §2203.</p>

DISCLAIMER ON USE:

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel ("ACTEC") does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

	<p>There is a rebuttable presumption that property held by husband and wife is held by the entirety. See, e.g., <i>In re Holmes' Estate</i>, 414 Pa. 403 (1964)</p>
<p>Appointment as Estate Administrator</p>	<p>Letters to administer the estate are given in the following order of priority (1) individual named in the will; (2) those entitled to the residuary estate under the will; (3) surviving spouse; (4) intestate beneficiaries; (5) creditors; (6) other fit persons; (7) the nominee of anyone under categories 2 through 6 who renounces; (8) a guardianship support agency; and (9) a redevelopment authority. 20 Pa.C.S.A. §3155.</p>
<p>Employment</p>	<p>In <i>Procito v. Unemployment Compensation Board of Review</i>, the court faced the question of whether the “following the spouse doctrine” applies to same-sex couples, who do not have the option to marry in Pennsylvania. The majority sidestepped the issue by holding that, even if the doctrine applied, Procito's partner did not leave her job for reasons beyond her control. A dissenting judge disagreed and concluded that excluding same-sex couples from the benefit of the doctrine violates the guarantee of equal protection of the laws. <i>Procito v. Unemployment Comp. Bd. of Review</i>, 945 A.2d 261, 264 (Pa. Commw. Ct. 2008).</p> <p>Family and sick leave to care for domestic partners of some state employees and their children.</p>
<p>Taxation</p>	<p>Husband and wife may file a joint income tax return. There are no tax benefits under Pennsylvania income tax law for filing jointly; rather it is for the convenience of the taxpayer. In addition, one spouse cannot offset gain with the loss of the other spouse in the same or another class of income. 61 Pa. Code §121.15.</p> <p>Realty transfers between husband and wife [or between persons who were previously husband and wife, provided that such property was acquired by them or one of them prior to the entry of the final divorce decree] are exempt from the Realty Transfer Tax. 72 P.S. §8102-C.3(6). The Realty Transfer Tax is a 1% tax due to the state and 1% (or more) tax split between the municipality and school district.</p> <p>At death, Pennsylvania imposes an inheritance tax on beneficiaries of an estate, with the rate based on the relationship of the beneficiary to the decedent. Property passing to or for the use of a husband or wife, or property passing to the natural, adoptive or stepparent of a decedent child who is 21 years of age or younger, is taxed at the rate of 0%. Property passing to or for the use of a lineal descendant or ancestor is taxed at the rate of 4.5%. Property passing to or for the use of a sibling is taxed at the rate of 12%. Property passing to or for the use of any other individual is taxed at the rate of 15%. 72 P.S. §9116(a).</p>
<p>Children Adoption</p>	<p>Expressly permitted by <i>In re Adoption of R.B.F.</i>, 803 A.2d 1195 (Pa. 2002).</p>

DISCLAIMER ON USE:

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel (“ACTEC”) does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

	<p>Any person may be adopted, regardless of the person’s age or residence. 23 Pa.C.S.A. §2311.</p> <p>Any individual may become an adopting parent 23 Pa.C.S.A. §2312.</p>
<b>RHODE ISLAND- Civil Unions</b>	
<p>Same- sex marriage; Civil union; Domestic Partnership</p>	<p>Chapter 3.1 of Title 15 of the General Laws signed by the Governor on July 2, 2011 creates Civil Unions for same-sex couples which give them the same state law rights and obligations of married couples.</p> <p>Civil Union legislation grants reciprocal recognition of out-of-state civil unions and domestic partnerships “that extend[ ] benefits and responsibilities without the status of marriage” Gen. Laws 1956 § 15-3.1-8</p> <p>State courts cannot entertain divorce proceedings for same-sex couples validly married elsewhere. <i>Chambers v. Ormiston</i>, 935 A.2d 956 (R.I. 2007)</p> <p>On May 14, 2012, Governor Lincoln Chafee signed Executive Order 12-02 ordering all state agencies to recognize lawful same-sex marriages wherever performed.</p>
<p>Hospital and Nursing Home Visitation</p>	<p>Enjoy hospital rights. Under civil union statute but may not apply in hospitals connected with religious organizations. Nursing home patients are entitled to visits from persons of their choice. <i>R.I. Gen.Laws §23.17.5-12(a)</i>.</p>
<p>Medical Decision-making/ funeral Burial Decision-making</p>	<p>Rhode Island law does not permit a partner to make medical decision on behalf of a same-sex partner in the absence of an advance directive.</p> <p>An adult in Rhode Island may designate his or domestic partner as able to make health care decisions on his or her behalf by executing a health care power of attorney. The power of attorney must be signed and either witnessed by two individuals or notarized. § 23-4.10-2.</p> <p><i>Citation: Health Care Power of Attorney: R.I. Gen. Laws §§ 23-4.10-1 to 23-4.10-12</i></p> <p>Civil Union statute should allow domestic partner to qualify as proper authority for funeral arrangements and disposition of human remains. In the absence of a civil union, domestic partner as defined in <i>R.I. Gen. Laws § 5-33.2-24(4)</i> qualifies as proper authority. RI Gen. Laws § 5-33.2-24.</p> <p>Domestic partner qualifies as proper authority for funeral arrangements and disposition of human remains. RI Gen. Laws § 5-33.2-24.</p>
<p>Civil claims</p>	<p>Loss of consortium should be available under Civil Union statute.</p>

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel (“ACTEC”) does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

	<p>Otherwise, valid arguments can be made for recognition of a same-sex loss of consortium claim in Rhode Island and New Mexico where, since the enactment of the Defense of Marriage Act, other states have statutorily defined marriage or otherwise expressly prohibited same-sex marriages, Rhode Island and New Mexico have not. See Defense of Marriage Act, 28 U.S.C. § 1738C; <i>Chambers v. Ormiston</i>, 935 A.2d 956 (R.I. 2007).</p> <p>Gender-neutral domestic violence protections extend to members of the same household as well as dating partners, including same-sex partners R.I. Gen. Laws. § 12-29-2(b).</p>
Property Transfer Upon Death	Same-sex couples who have entered into a civil union or who were married in other states should have rights as spouses under the Rhode Island rules of descent.
Appointment as Estate Administrator	The survivor of a same-sex couple who has entered into a civil union or the surviving spouse of a couple married in another state should have the right to appointment as a administrator.
Employment	<p>Statutory state-wide policy prohibiting discrimination based on sexual orientation [2001]. R.I. Gen. Laws. §§28-5-3 and 5</p> <p>Health insurance coverage and benefits for domestic partners of state employees [R.I. Gen. Laws. §36-12-1]</p> <p>Judicial Personnel must be hired under specific equal opportunity of non-discrimination based on sexual orientation [CRIR §45-000-002]</p>
Taxation	Same-sex couples who have entered into a civil union or who were married in other states should be able to utilize Rhode Island estate-tax marital deduction
Children Adoption	<p>Approved in lower courts.</p> <p>State supreme court has enforced agreement between lesbian partners for visitation after breakup. <i>Rubano v. DiCenzo</i>, 759 A.2d 959 (R.I. 2000)</p>
<b><u>SOUTH CAROLINA</u></b>	
Same- sex marriage; Civil union; Domestic Partnership	<p><b><u>DOMA (1996)</u></b></p> <p><u>State Constitution: Marriage is between one man and one woman.</u> S.C. CONST Art. XVII, § 15</p> <p><u>Statutory: marriage between persons of the same sex is void.</u> Code 1976 § 20-1-15</p>
Hospital and Nursing Home Visitation	
Medical Decision-making/ funeral Burial Decision-making	<p>South Carolina law does not permit a partner to make a medical decision on behalf of an incapacitated same-sex partner in the absence of an advance directive. § 44-66-30.</p> <p>An adult may give his or her same-sex partner power of attorney for</p>

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel ("ACTEC") does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

	<p>medical decisions. A valid health care power of attorney must be substantially in the form set forth in § 62-5-504(D), be dated and signed by the principal or in the principal's name by another person in the principal's presence and by his direction, and witnessed by at least two individuals. § 62-5-504.</p> <p><i>Citation: Adult Health Care Consent Act: S.C. Code Ann. § 44-66-10 to 44-66-80 and Powers of Attorney; Health Care Power of Attorney: S.C. Code Ann. § 62-5-504</i></p>
Civil claims	Gender-neutral domestic violence protections explicitly exclude survivors of same-sex domestic violence
Property Transfer Upon Death	
Appointment as Estate Administrator	
Employment	
Taxation	
Children Adoption	State law is unclear
<b><u>SOUTH DAKOTA</u></b>	
Same- sex marriage; Civil union; Domestic Partnership	<p>DOMA  <b>State constitution:</b>                  Only marriage between a man and a woman shall be valid or recognized in South Dakota. The uniting of two or more persons in a civil union, domestic partnership, or other quasi-marital relationship shall not be valid or recognized in South Dakota. Const. Art. XXI, § 9 [2006]</p> <p>Statute: Same sex marriage performed in another state not recognized. DCL §25-1-38</p>
Hospital and Nursing Home Visitation	
Medical Decision-making/ funeral Burial Decision-making	<p>Under South Dakota law, a partner may make medical decisions for an incapacitated same-sex partner as a "close friend". A number of other people, including adult children, parents, and adult siblings, have priority ahead of the same-sex partner, however. § 34-12C-3.</p> <p>A competent adult may at any time execute a declaration governing the withholding or withdrawal of life-sustaining treatment. The declaration shall be signed by the declarant, or another at the declarant's direction, and witnessed by two adult individuals. § 34-12D-2. An adult may also create a health care agent through a power of attorney. The power of attorney must specifically state that the agent is to continue acting if and when the declarant becomes incapacitated. § 59-7-2.1.  <i>S.D. Codified Laws §§ 34-12C-1 to 34-12C-8; Living Wills: S.D. Codified Laws §§ 34-12D-1 to 34-12D-29 and Agency: S.D. Codified Laws §§ 59-2-1 to 59-7-2.5</i></p>
Civil claims	
Property Transfer Upon Death	

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel ("ACTEC") does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

Appointment as Estate Administrator	
Employment	
Taxation	
Children Adoption	State law is unclear
<b>TENNESSEE</b>	
Same- sex marriage; Civil union; Domestic Partnership	DOMA (1996) Same sex marriage performed in another state not recognized. (Tenn. Code Ann. §36-3-113) State Constitution: The historical institution and legal contract solemnizing the relationship of one man and one woman shall be the only legally recognized marital contract in this state and anything else void. TN Const. Art. 11, § 18
Hospital and Nursing Home Visitation	
Medical Decision-making/ funeral Burial Decision-making	Under Tennessee law, a partner may make medical decisions for an incapacitated partner as "an adult who has exhibited special care and concern for the patient, who is familiar with the patient's personal values, who is reasonably available, and who is willing to serve." However, a number of other people have priority ahead of the same-sex partner. § 68-11-1806.  An adult may create a durable power of attorney for health care, designating his or her same-sex partner to make health care decisions in the event of incapacitation. To be valid the principal's signature must be either attested by a notary public or witnessed by 2 witnesses. § 34-6-203. <i>Tenn. Code Ann. §§ 68-11-1801 to 68-11-1815 and Durable Power of Attorney for Health Care: Tenn. Code Ann. §§ 34-6-201 to 34-6-218</i>
Civil claims	Gender-neutral domestic violence protections extend to members of the same household as well as dating partners, including same-sex relationships
Property Transfer Upon Death	
Appointment as Estate Administrator	
Employment	
Taxation	
Children Adoption	n/a maybe follow up Recent signs of growing tolerance. Adoption by individual lesbian approved in <i>In re Adoption of M.J.S.</i> , 44 S.W.3d 41 (Tenn. Ct. App. 2000). Sexual orientation neutral visitation standards adopted. <i>Hogue v. Hogue</i> , 2004 WL 578593 (Tenn. Ct. App., March 24, 2004); <i>Eldridge v. Eldridge</i> , 42 S.W.3d 82 (Tenn. 2001) (affirming unrestricted overnight visitation for lesbian mother living with partner).
<b>TEXAS</b>	
Same- sex marriage; Civil union; Domestic Partnership	Marriage license may not be granted to same- sex couples. Tex, Family Code §2.001  State Constitution: Marriage is between a man and woman. The state does

DISCLAIMER ON USE:

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel ("ACTEC") does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

	<p>not recognize any legal status identical to marriage. Texas Const. Art I §32</p> <p>V.T.C.A., Family Code § 6.204(a) In this section, “civil union” means any relationship status other than marriage that:</p> <p>(1) is intended as an alternative to marriage or applies primarily to cohabitating persons; and</p> <p>(2) grants to the parties of the relationship legal protections, benefits, or responsibilities granted to the spouses of a marriage.</p> <p>(b) A marriage between persons of the same sex or a civil union is contrary to the public policy of this state and is void in this state.</p> <p>(c) The state or an agency or political subdivision of the state may not give effect to a:</p> <p>(1) public act, record, or judicial proceeding that creates, recognizes, or validates a marriage between persons of the same sex or a civil union in this state or in any other jurisdiction; or</p> <p>(2) right or claim to any legal protection, benefit, or responsibility asserted as a result of a marriage between persons of the same sex or a civil union in this state or in any other jurisdiction.</p> <p><b>ALL OF THESE ARE INVALID.</b></p> <p>The legislature found the following when they enacted the statute, The legislature finds that through the designation of guardians, the appointment of agents, and the use of private contracts persons may adequately and properly appoint guardians and arrange rights relating to hospital visitation, property, and the entitlement to proceeds of life insurance policies without the existence of any legally recognized familial relationship between the persons.”</p> <p>The 2010 case of <i>In re Marriage of J.B. and H.B.</i>, 326 S.W.3d 654 (Tex. App.–Dallas 2010), held among other things: State courts have no subject-matter jurisdiction to adjudicate divorce petitions in the context of same-sex marriage; Sexual orientation was not a suspect classification; the right to legal recognition of same-sex marriage was not a fundamental right; and the statute prohibiting same-sex marriage did not violate Equal Protection Clause.</p> <p><i>Ross v. Goldstein</i>, 203 S.W.3d 508 (Tex. App.–Houston [14 Dist.], 2006), rejected the “marriage-like relationship doctrine.”</p> <p>In <i>State v. Naylor</i>, 330 S.W.3d 434 (Tex. App.–Austin 2011), the court held that the State of Texas was not bound by judgment of divorce of a same-sex couple and thus was not virtually represented in divorce proceedings between the same sex couple, who had married under Massachusetts law, as would give Texas standing to appeal divorce judgment despite the untimeliness of its intervention in case; case was not a suit to declare a</p>
--	--

DISCLAIMER ON USE:

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel (“ACTEC”) does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

	<p>statute unconstitutional or enjoin its enforcement, but a private divorce proceeding involving issues of property division and child custody, neither of the named parties raised any constitutional challenge to any state statute or mounted any defense of the constitutionality of any state statute, and petition for divorce was not implied constitutional challenge to state statute providing that state could not give effect to right asserted as result of same-sex marriage, and trial court could grant divorce without finding statute unconstitutional. This case is up on appeal to the Texas Supreme Court but they have yet to decide whether or not to hear the case.</p>
Hospital and Nursing Home Visitation	
Medical Decision-making/ funeral Burial Decision-making	<p>Texas law does not permit a partner to make a medical decision on behalf of an incapacitated same-sex partner in the absence of an advance directive. § 313.004.</p> <p>An adult may designate his or her same sex partner as a health care agent through an advance health care directive. To be valid the directive must be signed by the declarant in the presence of two witnesses. § 166.154.  <i>Tex. Rev. Civ. Stat. Ann., Health &amp; Safety, §§ 313.001 to 313.007 and Advanced Directives: Tex. Rev. Civ. Stat. Ann., Health &amp; Safety, §§ 166.031 to 166.053</i></p>
Civil claims	Gender-neutral domestic violence protections extended to members of the same household as well as dating partners, including same-sex relationships
Property Transfer Upon Death	
Appointment as Estate Administrator	
Employment	
Taxation	
Children Adoption	Approved in lower courts.
<b>UTAH</b>	
Same- sex marriage; Civil union; Domestic Partnership	<p>Same sex marriage will not be valid or recognized in the state. Utah Code Ann. §30-1-2) (predates federal DOMA)</p> <p>State const: Ban on same sex marriage, civil unions, domestic partnerships and the like in state constitution. (Utah Const. art. I, §29) [2004]</p>
Hospital and Nursing Home Visitation	
Medical Decision-making/ funeral Burial Decision-making	<p>Under Utah law, a partner may make medical decisions for an incapacitated same-sex partner as someone who "has exhibited special care and concern for the patient, is familiar with the patient's personal values; and is reasonably available to act as a surrogate". § 75-2a-108. However, several others (spouse, children, parents, siblings, grandparent, grandchildren) have priority ahead of the same-sex partner,</p>

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel ("ACTEC") does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

	<p>An adult may designate his or her domestic partner as having the authority to make medical decisions on their behalf. An advance health care directive may be oral or written and must be witnessed by a disinterested individual. § 75-2a-107.  <i>Advance Health Care Directive Act: Utah Code Ann. §§ 75-2a-101 to 75-2a-124</i></p>
Civil claims	Gender-neutral domestic violence protections only extended to members of the same household.
Property Transfer Upon Death	
Appointment as Estate Administrator	
Employment	
Taxation	
Children Adoption	<p>Not yet permitted.                  Maybe follow up Joint adoption not permitted under 2000 enactment, which also extends to foster care placements. State's agencies have a history of resistance to adoption by lesbians and gay men.</p>
<b>VERMONT – MARRIAGE</b>	
Same- sex marriage; Civil union; Domestic Partnership	<p>Marriage is the legally recognized union of two people. 15 V.S.A. § 8 Civil union also exists. 15 V.S.A. § 1201, et seq. ,</p> <p>15 V.S.A. § 1204 Parties to a civil union shall have all the same benefits, protections and responsibilities under law, whether they derive from statute, administrative or court rule, policy, common law or any other source of civil law, as are granted to spouses in a marriage.</p> <p><i>Baker v. State</i>, 744 A.2d 864 (Vt. 1999)- Same-sex couples are entitled to the same benefits and protections as married heterosexual couples.</p>
Hospital and Nursing Home Visitation	A member of a civil union is considered a spouse for all medical treatment decisions and visitation rights. 15 § 1204(b).
Medical Decision-making/ funeral Burial Decision-making	<p>A member of a civil union is considered a spouse for all medical treatment decisions and visitation rights. 15 § 1204(b).</p> <p>An adult may also designate his or her same-sex partner as having the authority to make medical decisions on his or her behalf. § 9701. To be valid an advance directive must be dated, executed by the principal or by another individual in the principal's presence at the principal's express direction if the principal is physically unable to do so, and signed in the presence of two or more witnesses. § 9703.                  VT. STAT. ANN. tit. 15 §§ 1201 to 1207 and <i>Vt. Stat. Ann. tit. 18, §§ 9700 to 9720</i></p>
Civil claims	<p>Victim's compensation rights under 13 V.S.A. § 5351.                  Causes of action related to or dependent upon spousal status, including an action for wrongful death, emotional distress, loss of consortium, dramshop,</p>

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel ("ACTEC") does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

	<p>or other torts or actions under contracts reciting, related to, or dependent upon spousal status; 15 V.S.A. § 1204(e)(2).</p> <p>Gender-neutral domestic violence protections extend to members of the same household as well as dating partners, including same-sex partners</p>
Property Transfer Upon Death	<p>Family landowner rights to fish and hunt under 10 V.S.A. § 4253;</p> <p>Laws relating to title, tenure, descent and distribution, intestate succession, waiver of will, survivorship, or other incidents of the acquisition, ownership, or transfer, inter vivos or at death, of real or personal property, including eligibility to hold real and personal property as tenants by the entirety (parties to a civil union meet the common law unity of person qualification for purposes of a tenancy by the entirety); 15 V.S.A. § 1204(e)(1).</p>
Appointment as Estate Administrator	<p>Advance directives under 18 V.S.A. chapter 111; 15 V.S.A. § 1204(e)(11).</p> <p>Probate law and procedure, including non-probate transfer; 15 V.S.A. § 1204(e)(3).</p>
Employment	<p>Group insurance for state employees under 3 V.S.A. § 631, and continuing care contracts under 8 V.S.A. § 8005;</p> <p>State pay for military service under 20 V.S.A. § 1544;</p> <p>Family leave benefits under 21 V.S.A. chapter 5, subchapter 4A; 15 V.S.A. § 1204(e)(12)</p> <p>Public assistance benefits under state law. 15 V.S.A. § 1204 (e)(13)</p> <p>Statutory state-wide policy prohibiting discrimination based on sexual orientation [1992]</p>
Taxation	<p>The homestead rights of a surviving spouse under 27 V.S.A. § 105 and homestead property tax allowance under 32 V.S.A. § 6062;</p> <p>Same as married laws relating to taxes imposed by the state or a municipality; 15 V.S.A. § 1204 (e)(14);</p>
Children Adoption	<p>Approved in <i>Adoptions of B.L.V.B. and E.L.V.B.</i>, 628 A.2d 1271 (Vt. 1993), codified at 15A V.S.A. 1-102(b)(if family consists of parent and partner, and adoption is in child's best interest, stepparent adoption may be allowed).</p> <p>Partners in civil union may adopt on the same terms as spouses. The rights of parties to a civil union, with respect to a child of whom either becomes the natural parent during the term of the civil union, shall be the same as</p>

DISCLAIMER ON USE:

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel ("ACTEC") does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

	<p>those of a married couple, with respect to a child of whom either spouse becomes the natural parent during the marriage. 15 V.S.A. § 1204(f).</p> <p>Partners in civil union may adopt on the same terms as spouses.</p>
<b><u>VIRGINIA</u></b>	
Same- sex marriage; Civil union; Domestic Partnership	<p>DOMA (1997) Only a union between one man and one woman may be a marriage valid or recognized. VA Const. Art. 1, § 15-A [2006] Same sex marriage performed in another state not recognized. (VA. Code Ann. §20-45.2) [2004] Civil unions between persons of the same sex is prohibited (VA Code Ann. §20-45.3) (added in 2004)</p>
Hospital and Nursing Home Visitation	
Medical Decision-making/ funeral Burial Decision-making	<p>Domestic partners are not listed among those who may give consent for an incapacitated partner in Virginia. § 54.1-2986.</p> <p>An adult may also designate their domestic partner as having the authority to make medical decisions on their behalf. A written advance directive shall be signed by the declarant in the presence of two subscribing witnesses. An oral advance directive shall be made in the presence of the attending physician and two witnesses. § 54.1-2983.</p> <p>Virginia law requires licensed hospitals to permit adult patients to receive visits from any individual, including a same-sex partner.</p> <p><i>Citation: Health Care Decisions Act: Va. Code Ann. §§ 54.1-2981 to 54.1-2993</i></p>
Civil claims	Gender-neutral domestic violence protections explicitly exclude survivors of same-sex domestic violence.
Property Transfer Upon Death	
Appointment as Estate Administrator	
Employment	
Taxation	
Children Adoption	State law is unclear.
<b><u>WASHINGTON- DOMESTIC PARTNERSHIP</u></b>	
Same- sex marriage; Civil union; Domestic Partnership	<p>DOMA (1999) Prohibits marriage when parties are persons other than male and female. (Wash. Rev. Code. §26.04.020) West's RCWA 26.60.015 State registered Domestic Partnerships</p> <p>Domestic Partnership Bill signed by Governor in April, 2007, effective July 2007 [SB §5336] creates a new status of 'state registered domestic partnership' and it creates a registry within the office of Secretary of State. There are requirements to qualify as domestic partners and a fee must be</p>

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel ("ACTEC") does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

	<p>paid to register.                  Recognizes same-sex legal unions legal in other states as domestic partnerships under Washington law, Wash. Rev. Code § 26.60.090</p>
Hospital and Nursing Home Visitation	<p>A patient's state registered domestic partner shall have the same rights as a spouse with respect to visitation of the patient in a health care facility as defined in <u>RCW 48.43.005</u>. West's RCWA 26.60.070</p>
Medical Decision-making/ funeral Burial Decision-making	<p>Under Washington law, registered domestic partners have the same right to make medical decisions for a partner as a spouse.</p> <p>An adult may authorize his or her attorney-in-fact to provide informed consent for health care decisions on the principal's behalf. There must be a written document that confers the power of the agent to act on the principals behalf, stating, "This power of attorney shall not be affected by disability of the principal," or "This power of attorney shall become effective upon the disability of the principal," or similar words showing the intent of the principal that the authority conferred shall be exercisable. § 11.94.010.</p> <p><i>Citation: Actions for Injuries Resulting From Health Care: Wash. Rev. Code Ann. § 7.70.065; Uniform Durable Power of Attorney Act: Wash. Rev. Code Ann. § 11.94 and Natural Death Act: Wash. Rev. Code Ann. §§ 70.122.010 to 70.122.905</i></p>
Civil claims	<p>Gender-neutral domestic violence protections extended to members of the same household as well as dating partners, including same-sex relationships.</p> <p>Tort claims survive in favor of a registered domestic partner in the same manner as for a spouse.</p>
Property Transfer Upon Death	<p>West's RCWA 26.60.080, WA ST 26.60.080 Any community property rights of domestic partners established by chapter 6, Laws of 2008 shall apply from the date of the initial registration of the domestic partnership or June 12, 2008, whichever is later.</p> <p>A registered domestic partner received the same intestate share as a spouse. This will cause confusion in WA until there is clarification regarding the community property implications of that provision. A former registered domestic partner is cut out of decedents non-probate assets in the same manner as an ex-spouse, and appointment of a former domestic partner as attorney in fact is revoked upon termination of the domestic partnership.</p>
Appointment as Estate Administrator	<p>A registered domestic partner has the same rights to serve as personal representative as a spouse. A registered domestic partner now has the same rights to administer the community estate as a surviving spouse. RCW 11.28.030</p>
Employment	<p>Statutory state-wide policy prohibiting discrimination based on sexual orientation [2006]</p>

DISCLAIMER ON USE:

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel ("ACTEC") does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

	Benefits for partners of state employees same for marital spouses as it is for domestic partnerships.
Taxation	
Children Adoption	Approved in some lower courts
<b>WEST VIRGINIA</b>	
Same- sex marriage; Civil union; Domestic Partnership	DOMA: W.Va.Code § 48-3-104(c) Statutory: Recognition of marriages of same-sex couples from other jurisdictions prohibited. <i>West Virginia Code § 48-2-603.</i>
Hospital and Nursing Home Visitation	
Medical Decision-making/ funeral Burial Decision-making	Under West Virginia law, a partner may, under certain circumstances, be authorized by a physician or nurse practitioner to make medical decisions for an incapacitated same-sex partner as a "close friend". A number of other people, including spouse, adult children, parents, have priority ahead of the same-sex partner, however. § 16-30-8.  An adult may designate his or her same-sex partner as having the authority to make medical decisions on his or her behalf. An advance directive must be in writing, executed by the principal or by another person in the principal's presence at the principal's express direction if the principal is physically unable to do so, dated and signed in the presence of two or more witnesses. § 16-30-4.  <i>Citation: West Virginia Health Care Decisions Act: W. Va. Code Ann. §§ 16-30-1 to 16-30-24</i>
Civil claims	Gender-neutral domestic violence protections extended to members of the same household as well as dating partners, including same-sex partners
Property Transfer Upon Death	
Appointment as Estate Administrator	
Employment	
Taxation	
Children Adoption	
<b>WISCONSIN</b>	
Same- sex marriage; Civil union; Domestic Partnership	Only marriage between one man and one woman shall be valid or recognized. All co-equal forms of marriage shall be denied. (WSA Const. art. XIII, §13) (2006)  Wisconsin now recognizes domestic partnerships defined W.S.A. 770.01. 2009 Act 28, § 3218, eff. July 1, 2009; limited to same-sex couples <u>W.S.A.770.05(5)</u>
Hospital and Nursing Home Visitation	Same as a spouse if registered Domestic Partner [2009 Wis. ALS 28]
Medical Decision-making/	An adult may, by advance directive, designate his or her same-sex partner

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel ("ACTEC") does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

<p>funeral Burial Decision-making</p>	<p>as having the authority to make medical decisions on their behalf. An advance directive must be in writing, dated and signed by the principal or by an individual who has attained age 18, at the express direction and in the presence of the principal and signed in the presence of two witnesses. § 155.10. An adult may also designate those individuals which they grant access to visit them in the hospital. § 146.95.</p> <p><i>Citation: Powers of Attorney for Health Care: Wis. Stat. §§ 155.01 to 155.80 and Miscellaneous Health Provisions; Patient Visitation: Wis. Stat. § 146.95</i></p> <p>Ability to consent to autopsy for deceased partner</p> <p>Ability to make anatomical donation in the event of partner's death</p>
<p>Civil claims</p>	<p>Ability to file suit for <u>wrongful death</u></p> <p>Right to receive death benefits if the deceased partner was killed in a workplace accident</p> <p>Crime victim compensation</p>
<p>Property Transfer Upon Death</p>	<ul style="list-style-type: none"> <li>• <b>Administration and transfer of deceased partner's estate</b> <ul style="list-style-type: none"> <li>○ Ability to inherit partner's estate in the absence of a will</li> <li>○ Priority with respect to certain personal property</li> <li>○ Can be awarded the couple's home and vehicles that are titled in the name of the deceased partner, as well as personal and household items of the deceased partner, by a probate court</li> <li>○ Exempting certain property transferred to the surviving partner from creditors' claims</li> <li>○ Family support during administration of a deceased individual's estate</li> <li>○ Transfer of real estate titles without paying fee</li> <li>○ Transfer of motor vehicle titles</li> </ul> </li> </ul> <p>Find source of law</p> <p>Presumption of <u>joint tenancy</u> in real estate</p>
<p>Appointment as Estate Administrator</p>	<p>Rights related to <u>power of attorney</u> for property and finances</p>
<p>Employment</p>	<p>Statutory statewide policy prohibiting discrimination based on sexual orientation [1982].</p>

DISCLAIMER ON USE:

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel ("ACTEC") does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.

	Extends insurance benefits to Domestic Partners under the new statute [2009 Wis. ALS 28]
Taxation	
Children Adoption	Disapproved in <i>In the Interest of Angel Lace M.</i> , 516 N.W.2d 678 (Wis. 1994).  Court of Appeals upheld the dismissal of a former same-sex partner's guardianship claim to children. <i>In re O.G.M-K.</i> Slip Copy, 2010 WL 2519625. Wis. App. 2010. [Questioned in 666 A.2d 535]
<b><u>WYOMING</u></b>	
Same- sex marriage; Civil union; Domestic Partnership	Same- sex marriage prohibited by statute. (WYO. State. Ann. §20-1-101) (predates DOMA) Marriage is a civil contract between a male and a female.
Hospital and Nursing Home Visitation	
Medical Decision-making/ funeral Burial Decision-making	Under Wyoming law, a partner may make medical decisions for an incapacitated same-sex partner as someone who "has exhibited special care and concern for the patient, is familiar with the patient's personal values; and is reasonably available to act as a surrogate". However, several others (spouse, adult children, parents, adult siblings, grandparent, grandchildren) have priority ahead of the same-sex partner, § 35-22-406.  An adult may designate his or her same-sex partner as having the authority to make medical decisions on their behalf through a power of attorney. The power must be in writing and signed by the principal or by another person in the principal's presence and at the principal's expressed direction. It should be either notarized or witnessed by two individuals. § 35-22-403. Wyoming Health Care Decisions Act: Wyo. Stat. Ann. §§ 35-22-401 to 35-22-416.
Civil claims	Gender-neutral domestic violence protections extended to members of the same household and dating partners, including same sex relationships
Property Transfer Upon Death	
Appointment as Estate Administrator	
Employment	
Taxation	
Children Adoption	<i>Christiansen v. Christiansen</i> , 253 P.3d 153 (Wyo. 2011), 2011 WY 90 → Wyoming appellate court found that a lower court <i>had</i> jurisdiction to entertain a divorce proceeding, and that the jurisdiction did not need to recognize same-sex marriage to preside over the case. In the case, the union had taken place in Canada.

**DISCLAIMER ON USE:**

The reader is cautioned to confirm the information provided in this Survey by independent research and analysis to ensure that it is accurate, complete, and current. The publication and dissemination of this Survey by any means by the American College of Trust and Estate Counsel ("ACTEC") does not constitute the rendering of legal, accounting, or other professional advice. ACTEC disclaims any liability with respect to use of this Survey.