

# The State of Relationship Recognition in 2012



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## Takeaways

This report quantifies that tipping point, documenting 4 major changes in just the past year that demonstrate the swiftness of our country's evolution in both policy and politics—and illustrate this unique moment as we begin to cross the threshold on a variety of measures:

- The number of Americans living in places that recognize gay couples is quickly approaching a majority.
- This year may be the first time marriage wins at the ballot.
- Democrats are now unifying behind marriage for gay couples.
- The Republican Party is warming and is now where Democrats were ten years ago.

In 1996, when the *Defense of Marriage Act* was passed, only 5% of Americans lived in a place that had any recognition for gay and lesbian couples. Sixteen years later, that number is poised to become a majority—currently hovering at 48%. The ground has shifted substantially under our feet, and the country is now approaching a tipping point for the first time in history. If our country continues to move forward at this pace, it is likely that within the next decade marriage for gay couples will be a reality—not a debate—across the nation.

## Change #1

## The number of Americans living in places that recognize gay couples is quickly approaching a majority.

In our 2011 report, we found that the number of Americans living in a jurisdiction with some level of relationship recognition for gay couples had grown from 5% in 1996 to 46%. Today, 48% of the U.S. population lives in a place that recognizes gay couples—a total of 147 million Americans, up 5 million from just a year ago. And should marriage laws passed this year in Maryland and Washington go into effect, 15% of the country—48 million Americans—will live in a state that allows gay couples to marry. That means we are quickly approaching the moment when a majority of the country lives in a jurisdiction with some form of relationship recognition, perhaps in the next year.

A full 38% already live in a state that either has marriage or a civil union or domestic partnership law that purports to grant all the same state protections as marriage. Another 4% live in a state with some lower level of domestic partnership benefits, and an additional 6% live in a city or county that provides some level of domestic partnership recognition. In the past year, nearly two dozen cities and counties across the country have added such protections in purple and red states like Missouri, Minnesota, Ohio, Pennsylvania, Texas, and Florida.

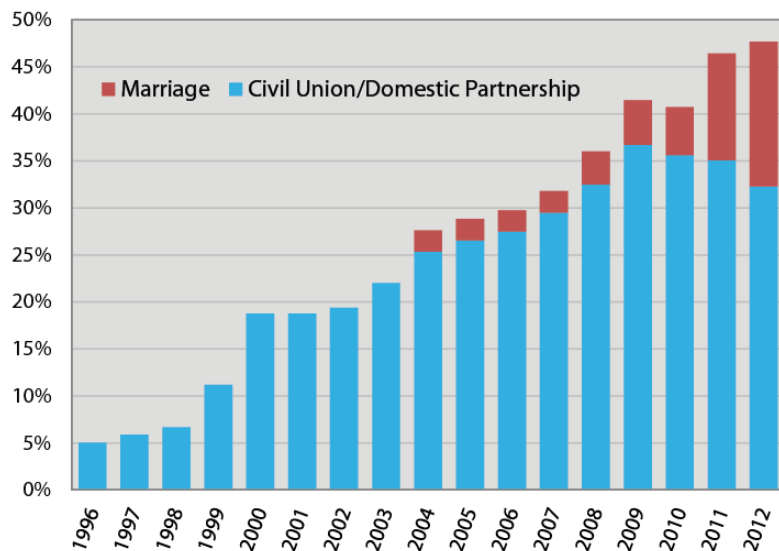
### Breakdown of U.S. Population Living in Jurisdictions with Relationship Recognition Laws <sup>1</sup>

Living in a state that allows gay couples to marry*	15.4%
Living in a state with a civil union/domestic partnership law that purports to give all the state protections of marriage	22.3%
Living in a state with lower level domestic partnership benefits	3.9%
No statewide protections but living in a city or county that has domestic partnerships	6.1%
<b>Total living in a state or locality with a relationship recognition law</b>	<b>47.7%</b>

Includes Maryland and Washington, where marriage laws have been passed but may be repealed by voters in November before going into effect.

It is notable that while the overall percentage of the population living in a place with relationship recognition increased only 2 percentage points in the past year, the modest increase is largely due to the fact that where progress has been made it has been in states that already had some level of protection for gay couples. In fact, the gain in the number of people living in marriage states is higher than the overall gain for relationship recognition—since Maryland and Washington had already provided some level of relationship recognition prior to their passage of marriage this year.

### Percentage of U.S. Population Living in Jurisdictions with Relationship Recognition <sup>2</sup>



This observation reinforces the importance of passing other forms of relationship recognition where marriage for gay couples is not yet on the table—both because it sets the stage for future progress (rather than stunting it, as some have argued), and because it can offer protections to the majority of Americans who currently live in a state without any. The next set of states where marriage legislation is being discussed—like New Jersey, Rhode Island, Oregon, and Illinois—all have civil union or equivalent domestic

partnership laws already in place. Passage of those interim relationship recognition laws hasn't thwarted the efforts for marriage in those states, and moving more states into that queue by passing civil union or domestic partnership laws where possible could only be helpful, not harmful, to our country's long-term journey on this issue.

## **Change #2**

### **This year may be the first time marriage wins at the ballot.**

This November, the voters of four states will vote on marriage initiatives or referenda at the ballot—and it is more likely than ever that for the first time marriage advocates will claim victory in one or more of those elections. In Maryland and Washington, voters will decide whether to repeal marriage laws passed by their state legislatures. In Minnesota, they will be faced with a constitutional amendment permanently banning marriage for gay couples, similar to those passed in many states in 2004 and 2006. And in Maine, for the first time, marriage supporters are affirmatively heading to the ballot to attempt to win marriage by popular vote.

While up to this point voters in a state have never sided with marriage for gay couples on these kinds of ballot initiatives, this is conceivably that tipping point year. Polls now consistently show that a majority of Americans support marriage for gay couples, and those voters in the center of the electorate who are key to winning these measures favor marriage by significant margins. The latest Gallup numbers show that Independents support marriage 57% to 40%.<sup>3</sup> For moderates, the numbers are 58% in favor to 38% opposed.<sup>4</sup>

And the surveys in these specific states show a path to victory, with all four having surpassed the 50% mark in marriage support. In Minnesota, a recent poll showed that 52% said they agreed with President Obama that gay couples should be able to marry, and only 42% disagreed.<sup>5</sup> In Maryland, 52% said they favored marriage for gay couples in the most recent poll, while 39% were opposed, and previous

polling showed those numbers at 50% and 44%.<sup>6</sup> In Washington State, 54% of likely voters said they believe marriage for gay couples should be legal, with 33% saying it should not.<sup>7</sup> And 54% of Maine voters said they supported allowing gay couples to marry, with only 41% opposed.<sup>8</sup>

If marriage advocates are able to win one or more of these initiative votes, it will mark a major turning point on the issue. It will eliminate marriage opponents' argument that every time the American people have voted on this issue they have rejected it. And it will indicate that we have finally hit a tipping point on marriage, where the massive shift of public opinion may finally translate into electoral victory.

## Change #3

### **Democrats are now unifying behind marriage for gay couples.**

On May 9, 2012, President Obama announced that he had come to the conclusion that gay couples should be able to marry. In an interview with ABC News' Robin Roberts, he explained his evolution this way:

*I have to tell you that over the course of several years, as I talk to friends and family and neighbors. When I think about members of my own staff who are incredibly committed, in monogamous relationships, same-sex relationships, who are raising kids together. When I think about those soldiers or airmen or marines or sailors who are out there fighting on my behalf and yet, feel constrained, even now that Don't Ask, Don't Tell is gone, because they're not able to commit themselves in a marriage. At a certain point, I've just concluded that for me personally, it is important for me to go ahead and affirm that I think same-sex couples should be able to get married.<sup>9</sup>*

With this statement, this President became the first in history to support allowing gay couples to marry. It was an astounding act given that the prior Democratic president was so concerned about the political blowback of the issue that he signed a law cementing the opposite stance into federal law. But President Obama's evolution mirrors the one so many Americans have taken on the issue since that time, and among those in his own party, it could even be said he was a bit behind the curve. A recent Gallup poll showed 65% of Democrats support marriage for gay couples,<sup>10</sup> and Pew found that this support has grown nearly ten points since President Obama was elected in 2008 and nearly 20 points since 2001.<sup>11</sup> In fact, more Democrats now say they support marriage for gay couples than say they consider themselves pro-choice.<sup>12</sup>

With the President strongly voicing his support for marriage, many leaders in his party who had not yet done so took the occasion to follow. House Minority Whip Steny Hoyer (D-MD), the highest ranking House Democrat who hadn't yet publicly supported marriage for gay couples, echoed the President the following day, saying, "I believe that extending the definition of marriage to committed relationships between two people, irrespective of their sex, is the right thing to do."<sup>13</sup> And Senate Majority Leader Harry Reid (D-NV) concurred, even though he had admitted to personally voting for a constitutional amendment to ban marriage for gay couples in Nevada ten years ago.<sup>14</sup> With these additions, Democratic Congressional leadership in both chambers is now squarely in favor of marriage.

Many of the traditional Democratic constituency groups have come on board for marriage as well. Unions like the AFL-CIO declared they were "happy to stand with millions of Americans and with President Obama" on the issue,<sup>15</sup> Latino organizations like the National Council of La Raza applauded the President for his announcement,<sup>16</sup> and civil rights groups joined the chorus, with the NAACP passing a resolution supporting marriage for gay couples in the weeks that followed.<sup>17</sup>

Given the President's support for marriage, and the fact that his announcement spurred other leaders in his party to openly embrace it, it is possible that the Democratic Party platform may include support for allowing gay couples to marry as a plank for the first time this year. There is no longer a question about where the Democratic Party stands on marriage for gay couples—President Obama's leadership has provided a definitive answer.

## **Change #4**

### **The Republican Party is warming and is now where Democrats were ten years ago.**

While the Democratic Party position is solidifying, the Republican Party is also experiencing a massive shift and now finds itself about where Democrats were a decade ago: increasingly becoming the party of civil unions.

In the past, Republican policymakers have been at the forefront of the opposition to marriage—or often any level of relationship recognition—for gay couples. And too frequently, that opposition has been downright vitriolic. But in the past year, Republican leaders have torqued, with many voicing their support for some level of relationship recognition for gay couples, and even those who still oppose any level of recognition turning down the heat on the issue substantially.

In each of the states that have enacted marriage for gay couples legislatively this past year, Republican lawmakers have supported it—often as the deciding votes. And in a stunning first in New Hampshire earlier this year, the state House of Representatives—dominated by Republicans 3 to 1—roundly defeated an attempt to repeal the state's marriage law by an overwhelming vote of 211 to 116.<sup>18</sup> Never before had so many Republican state legislators voted against repealing marriage for gay couples.

While support for marriage among Republicans still lags behind other groups, recent polls have found that a bare majority of Republicans support civil unions for gay couples,<sup>19</sup> and less than a third oppose basic domestic partnership protections like hospital visitation.<sup>20</sup> And in a marked shift, that stance has become a frequent rebuttal for leading Republicans, who have attempted to pivot to their support for other forms of relationship recognition rather than attacking marriage for gay couples directly. New Jersey Governor Chris Christie, who vetoed a marriage bill passed by his state legislature in February, vowed to strengthen his state's relationship recognition for gay couples, saying:

*“I have been just as adamant that same-sex couples in a civil union deserve the very same rights and benefits enjoyed by married couples—as well as the strict enforcement of those rights and benefits.”<sup>21</sup>*

If you contrast that statement to the venomous attacks waged by many Republicans on the issue just a few years ago, it is clear that the tide has turned. In fact, in the wake of President Obama's announcement of support for marriage, former George W. Bush pollster Jan van Lohuizen warned Republicans against attacking too ferociously on the issue, noting the huge shift in public opinion both among Americans generally and among Republican voters. He recommended a message framework reinforcing support for relationship recognition instead of one attacking those who support marriage, offering this example statement:

*“People who believe in equality under the law as a fundamental principle, as I do, will agree that this principle extends to gay and lesbian couples; gay and lesbian couples should not face discrimination and their relationship should be protected under the law. People who disagree on the fundamental nature of*

*marriage can agree, at the same time, that gays and lesbians should receive essential rights and protections such as hospital visitation, adoption rights, and health and death benefits.”<sup>22</sup>*

And Republican leaders have largely heeded this advice. Governor Mitt Romney, the Republican presidential nominee, responded to the President’s announcement by saying he would “respect the right of the president to reach the conclusion he has”<sup>23</sup> and then pivoting to reinforce his own support for some level of state domestic partnership benefits and allowing gay couples to adopt.<sup>24</sup> And Speaker of the House John Boehner (R-OH) dismissed the President’s support for marriage as a distraction, saying, “I’m going to stay focused on jobs.”<sup>25</sup>

Indeed, it seems that the party who credited their attacks against marriage for gay couples as the issue that delivered them the 2004 election has reconsidered, at least to some degree, in the face of shifting public opinion and is becoming the civil union party. Ironically, RNC Chair Reince Priebus actually accused President Obama of “playing politics” by announcing his support for marriage—implying that the Republican Party chair believes America’s views have changed so drastically that marriage support is the position that offers political benefit at this point—not marriage opposition.<sup>26</sup> What a difference eight years makes.

This shift has been evident on the *Defense of Marriage Act* (DOMA) as well. While the Republican House of Representatives nominally decided to step in and defend DOMA in court after the President declined to do so, Republican leadership has avoided putting the issue front and center. And this year, the legislation to repeal DOMA gained its first Republican supporter, when in September Ileana Ros-Lehtinen (R-FL) decided to cosponsor it. Although the Senate version of the bill has not yet garnered a Republican cosponsor, the dynamics have shifted in that chamber as well. When the Senate Judiciary Committee held a hearing on the

bill last summer, every Democratic committee member attended and spoke in favor of the bill—yet only one Republican member, Senator Charles Grassley (R-IA), decided to participate and question the witnesses in opposition. And when the Judiciary Committee passed the bill in November along party lines, Republican Senators focused their objections on process and eschewed vitriolic attacks on supporters of DOMA repeal.

While the Republican Party lags behind the rest of the nation, it too is on a journey. And unlike on other issues, the movement on relationship recognition and marriage seems to only flow in one direction, so it is likely the days of ferocious attacks a la 2004 will continue to fade in the rearview mirror.

## **Conclusion**

Our country is making massive strides forward on marriage and other forms of relationship recognition for gay couples every year, and we are approaching a major tipping point. In 2012, for the first time in history, the President of the United States supports marriage for gay couples. Democratic leaders are solidifying behind that view, and Republican leaders are shifting quickly in order to avoid being left behind by the tide. Legislation to repeal the *Defense of Marriage Act* is beginning to move and boasts bipartisan support. More and more Americans—now nearly a majority—live in a place that already recognizes gay couples in some way. And this year will likely bring the first-ever victory for marriage at the ballot box.

The state of relationship recognition in our country is growing stronger with every moment, and if this momentum continues unabated, our children will likely look back with confusion on a time when we struggled to determine how to recognize the relationships of committed gay couples

## **Appendix A**

### **States with Relationship Recognition**

State	Type	Law
CA	Domestic Partnership Registry	Cal. Fam. Code §297-297.5
CO	Designated Beneficiaries Agreement	Colo. Rev. Stat. § 15-22-101 et seq
CT	Marriage	<i>Kerrigan and Mock v. Connecticut Department of Public Health</i> ; Public Act No. 09-13
DC	Marriage	<i>The Religious Freedom &amp; Civil Marriage Equality Amendment Act of 2009</i> , DC Code Sec. 46-401 et seq.
DE	Civil Union	Del. Code Ann. tit. 13 §2
HI	Civil Union	2011 Hi. ALS 1
IA	Marriage	<i>Varnum v. Brien</i>
IL	Civil Union	<i>Illinois Religious Freedom Protection and Civil Union Act</i> , SB 1716 (2011)/ Public Act 96-1513
MA	Marriage	<i>Goodridge v. Department of Public Health</i>
MD	Marriage	<i>Civil Marriage Protection Act</i> , HB 438/SB 241 (2012)
ME	Domestic Partnership Registry	Me. Rev. Stat. Ann. tit. 22, sec. 2710
NH	Marriage	HB 73/HB 436 (2009)
NJ	Civil Union	<i>Civil Union Act</i> , P.L. 2006, Ch. 103 (2006)
NV	Domestic Partnership Registry	SB 283 (2009)
NY	Marriage	A08354
OR	Domestic Partnership Registry	<i>Oregon Family Fairness Act</i> , Public Law Number 99 (2007)
RI	Civil Union	H 6103/General Laws Title 15, Ch. 3.1
VT	Marriage	SB 115 (2009)
WA	Marriage	HB 2516/SB 6239
WI	Domestic Partnership Registry	<i>2009 Wisconsin Act 28</i> , Assembly Bill 75, Section 774

## Appendix B

### Cities and Counties with Relationship Recognition

City	State	Ordinance
Eureka Springs	Arizona	City Ordinance 2052
Phoenix	Arizona	Ordinance G-5295
Tucson	Arizona	Ordinance 9898/ Tucson Code 17-70
Arcata	California	City Ordinance No. 1285, Title V, §4500
Berkeley	California	Human Relations and Welfare Commission Resolution No. 56, 106 N.S.
Cathedral City	California	Title 11, §11.97
Davis	California	Davis Municipal Code Ch. 10.05.05
LA County	California	Los Angeles County Code Ch. 2.210
Laguna Beach	California	Laguna Beach Municipal Code, Title 1, Ch. 1.12
Long Beach	California	Long Beach Municipal Code Ch. 8.95
Marin County	California	Marin County Code Ch. 6.88
Oakland	California	Oakland City Council Resolution No. 72752
Palm Springs	California	Palm Springs Municipal Code Ch. 2.45.070
Palo Alto	California	Administrative Procedure – no citation available
Petaluma	California	Petaluma City Ordinance No. 2089/ Code Ch. 1.20.010
Sacramento	California	Sacramento City Code Title 2.120
San Francisco	California	San Francisco Administrative Code §62
Santa Barbara	California	Santa Barbara Municipal Code Ch. 9.135
Santa Barbara County	California	Santa Barbara County Code §42
Santa Monica	California	Santa Monica Municipal Code §4.60
West Hollywood	California	West Hollywood Municipal Code §2.84
Boulder	Colorado	Boulder Revised Code 12-4
Denver	Colorado	Denver Revised Municipal Code 28-200
Hartford	Connecticut	Hartford Code of Ordinances §2-63
Broward County	Florida	Broward County Domestic Partner Act of 1999
Clearwater	Florida	Ordinance No. 8329-12
Gainesville	Florida	Ordinance No. 0-07-46
Gulfport	Florida	Ordinance 1212-10
Key West	Florida	Key West Code of Ordinances §§38-291 through 296
Miami	Florida	Administrative Policy Manual 1-09
Miami Beach	Florida	Miami Beach City Code Ch. 62, Article IV
Miami-Dade County	Florida	Domestic Partners and Family Health Coverage Ordinance
Monroe County	Florida	Resolution 081-1998
Orange County	Florida	Orange County Domestic Partnership Registry & Health, Education & Life Protections Ordinance
Orlando	Florida	Article VI – Ch. 57 of the Orlando City Code
Palm Beach County	Florida	Ordinance No. 2006-002
South Miami	Florida	Ordinance 01-10-2026

St. Petersburg	Florida	Domestic Partnership Registry Ordinance, St. Petersburg City Code Ch. 15 Art. II
Tampa	Florida	Ordinance No. 2012-37
West Palm Beach	Florida	Ordinance 3838-05
Volusia County	Florida	Ordinance 2012-09
Athens-Clark County	Georgia	ACC Code §1-23-1
Atlanta	Georgia	Atlanta Code of Ordinances, Ch. 94, Article VII
Fulton County	Georgia	Code of the Laws of Fulton County, Article V, Ch. 154
Cook County	Illinois	Cook County Ordinance No. 03-O-18
Oak Park	Illinois	Oak Park Village Code Ch. 2-10-13
Urbana	Illinois	Ordinance No. 2005-04-061
Iowa City	Iowa	Iowa City City Code Title 2 Ch. 6
City of Lawrence	Kansas	Ch. 10, Article 2 of the Code of the City of Lawrence, Kansas, 2006 Edition
New Orleans	Louisiana	City Code Ch. 87
Portland	Maine	Ch. 13.6
Takoma Park	Maryland	Res. 93-77
Boston	Massachusetts	City of Boston Ordinance 12 §9A
Brewster	Massachusetts	City Bylaws Ch. 87 §§1-6
Brookline	Massachusetts	Brookline Town Bylaws Article 9.1
Cambridge	Massachusetts	Cambridge City Code Title 2 §2.119
Nantucket	Massachusetts	Code of the Town of Nantucket, Part I, Administrative Laws, Ch. 34
Provincetown	Massachusetts	Provincetown General Bylaws, Ch. 7
Truro	Massachusetts	Town of Truro General Bylaws, Section 5
Ann Arbor	Michigan	Ann Arbor City Code Ch. 110 §§9.85-9.95
Crystal	Minnesota	Ordinance No. 2011-10
Duluth	Minnesota	Duluth City Code Ch. 29D
Eagan	Minnesota	Eagan City Code Ch. 2 § 2.82
Eden Prairie	Minnesota	Eden Prairie City Code Section 5.73
Edina	Minnesota	Edina City Code Section 195
Falcon Heights	Minnesota	Ordinance No. 11-03, Falcon Height City Code Ch. 2 Art. VIII
Golden Valley	Minnesota	Golden Valley City Code Section 2.22
Hopkins	Minnesota	Hopkins City Code Section 1025
Maplewood	Minnesota	Domestic Partnership Ordinance
Minneapolis	Minnesota	Code of Ordinances Title 7 Ch. 142
Red Wing	Minnesota	City Code, Section 2.15
Richfield	Minnesota	Section 120.03 Subd. 2 of the Richfield City Code
Robbinsdale	Minnesota	Ordinance No. 11-08
Rochester	Minnesota	City Ordinance Ch. 81
St. Louis Park	Minnesota	St. Louis Park City Code of Ordinance - Ch. 5

St. Paul	Minnesota	St Paul Legislative Code Ch. 186
Shoreview	Minnesota	Shoreview City Code Ch. 600 § 611
Shorewood	Minnesota	Ordinance No. 486, Shorewood City Code Title 100 Ch. 110
Clayton	Missouri	Bill No. 6299, Clayton Municipal Code Ch. 225 Art. IV
Columbia	Missouri	Columbia Code of Ordinances 12-72-12-77
Jackson County	Missouri	Civil Union Registry
Kansas City	Missouri	Kansas City Council Resolution No. 030953
Olivette	Missouri	Bill No. 2676, City of Olivette Municipal Code Title 2 Ch. 245
St. Louis	Missouri	Saint Louis City Revised Code Ch. 8.37
University City	Missouri	Domestic Partner Ordinance, No. 6852
Albany	New York	Code of the City of Albany Ch. 245 §§12-14
City of Ithaca	New York	Code of the City of Ithaca, Part II, Ch. 215, Article IV, §§215-19 to 215-27
East Hampton	New York	Code of the Town of East Hampton, Part II, Ch. 90
Huntington	New York	Code of the town of Huntington, NY Part II Ch. 98
New York City	New York	Executive Order No. 48 of 1993
North Hempstead	New York	Code of the Town of North Hempstead, Ch. 14A
Rochester	New York	City Code Ch. 47B
Rockland County	New York	Local Law No. 9 OF 2006
Southampton	New York	Code of the Town of Southampton Ch. 152
Southold	New York	Code of the Town of Southold, New York Part II, Ch. 121
Suffolk County	New York	Local Law 26-2006
Town of Ithaca	New York	Resolution No. 2008-078
Village of Great Neck	New York	Code of the Village of Great Neck, Ch. 244
Village of Great Neck Plaza	New York	Code of the Village of Great Neck Plaza, Part II, Ch. 104
Village of Roslyn Estates	New York	Code of the Village of Roslyn Estates, Ch. 37
Westchester County	New York	Laws of Westchester County, Ch. 550
Asheville	North Carolina	Resolution No. 11-43
Carrboro	North Carolina	Town Code §3-2.1
Chapel Hill	North Carolina	Resolution 95-4-24/R-11c and Ordinance 95-4-24/O-8a
Athens	Ohio	City of Athens, Ohio Code of Ordinances, Title 3 Ch. 3.11
Cleveland	Ohio	Title I, Ch. 109
Cleveland Heights	Ohio	Cleveland Heights Codified Ordinances Ch. 181
Dayton	Ohio	Ordinance No. 31167-12
Toledo	Ohio	Domestic Partner Registry Ordinance
Yellow Springs	Ohio	Ch. 632 of the Village codified ordinances
Ashland	Oregon	City Program
Eugene	Oregon	Eugene City Code §§2.815 & 2.820
Multnomah County	Oregon	Ordinance No. 948

Marathon County	Oregon	Ordinance No. 740
Harrisburg	Pennsylvania	City of Harrisburg's Ordinance 13-2008, Section 4-201.3
Philadelphia	Pennsylvania	Executive Order No. 2-96
Pittsburg	Pennsylvania	Pittsburgh Code, Title One, Administrative, Article XI Personnel, Ch. 186
State College Borough	Pennsylvania	Domestic Partner Registry Ordinance
Travis County	Texas	Austin City Council Domestic Partner Resolution
Salt Lake City	Utah	Mutual Commitment Registry, Ordinance No. 16 of 2008
Lacey	Washington	Lacey Municipal Code §2.86
Olympia	Washington	Olympia Municipal Code §2.82
Seattle	Washington	Seattle City Ordinance No.117244
Tumwater	Washington	Tumwater Municipal Code §5.60/Ordinance 099-046
Dane County	Wisconsin	Ordinance Ch. 60

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