

THE CQ Researcher

PUBLISHED BY CONGRESSIONAL QUARTERLY INC.

Gay-Rights Update

Is the movement gaining ground?

Vermont is on the verge of becoming the first state to grant marriagelike status to gay and lesbian couples. Elsewhere in the country, however, opposition to same-sex marriage remains strong. Meanwhile, other gay-rights measures are gaining support despite continuing opposition from conservatives. Eleven states and some 124 municipalities have anti-discrimination legislation, and many school districts have allowed high school students to form “gay-straight alliance” clubs. On the military front, the Defense Department is promising a crackdown on anti-gay harassment but defending the “don’t ask, don’t tell” policy. The issues divide the major presidential candidates: Democrat Al Gore backs gay-rights measures while Republican George W. Bush is opposed.



INSIDE THIS ISSUE

THE ISSUES	307
BACKGROUND	313
CHRONOLOGY	315
CURRENT SITUATION	316
OUTLOOK.....	320
AT ISSUE	321
BIBLIOGRAPHY	325
THE NEXT STEP	326

CQ

April 14, 2000 • Volume 10, No. 14 • Pages 305-328

FREE WEB TRIAL
See back cover

THE ISSUES

- 307 • Should same-sex relationships be legally recognized?
 • Should the military's "don't ask, don't tell" policy be changed?
 • Are additional laws needed to prohibit discrimination on the basis of sexual orientation?

BACKGROUND

- 313 **Birth of a Movement**
 The relentless persecution of homosexuals after World War II led to the first gay-rights groups.
- 313 **Successes and Setbacks**
 The gay-rights movement made fitful advances in the 1960s and '70s.
- 314 **'A Seat at the Table'**
 Gay rights became a focus of national debate for the first time during the 1992 presidential election.

CURRENT SITUATION

- 316 **Debating 'Civil Unions'**
 The Vermont Supreme Court's ruling in the same-sex marriage case touched off a statewide debate.
- 318 **'Disturbing' Harassment**
 Anti-gay harassment is pervasive in the military, a Pentagon report says.
- 319 **Playing Politics**
 The gay and lesbian community is working to increase its political clout.

OUTLOOK

- 320 **Marching on Washington**
 A gay-rights rally planned for the end of April has been marred by missteps and disagreements.

SIDEBARS AND GRAPHICS

- 308 **Laws Prohibiting Discrimination**
 Eleven states bar discrimination in private employment based on sexual orientation.
- 310 **Military Discharges for Homosexual Conduct**
 Discharges have increased since the "don't ask, don't tell" policy was adopted.
- 315 **Chronology**
 Key events since 1951.
- 316 **How Americans Feel About Gay Rights**
 They believe sexual relations between two adults of the same sex are "always wrong."
- 317 **Can the Boy Scouts Exclude Gays?**
 The U.S. Supreme Court will hear arguments on April 26.

- 321 **At Issue**
 Should high schools permit "gay-straight alliance" clubs?
- 322 **Gay-Straight Club Divides California Community**
 Teenager wanted to make his high school a better place for homosexuals.

FOR MORE INFORMATION

- 325 **Bibliography**
 Selected sources used.
- 326 **The Next Step**
 Additional articles from current periodicals.

April 14, 2000
 Volume 10, No. 14

MANAGING EDITOR
 Thomas J. Colin

ASSISTANT MANAGING EDITOR
 Scott W. Wright

STAFF WRITERS
 Mary H. Cooper
 Kenneth Jost
 Kathy Koch
 David Masci

PRODUCTION EDITOR
 Angela S.D. Shoemaker

EDITORIAL ASSISTANT
 Scott D. Kuzner

CQ PRESS
 A Division of
 Congressional Quarterly Inc.

VICE PRESIDENT AND GENERAL MANAGER
 John A. Jenkins

DIRECTOR, LIBRARY PUBLISHING
 Kathryn Suarez

DIRECTOR, OPERATIONS
 Sandra D. Adams

CONGRESSIONAL QUARTERLY INC.

CHAIRMAN
 Andrew Barnes

VICE CHAIRMAN
 Andrew P. Corty

PRESIDENT AND PUBLISHER
 Robert W. Merry

Copyright 2000 Congressional Quarterly Inc. (CQ). CQ reserves all copyright and other rights herein, unless previously specified in writing. No part of this publication may be reproduced electronically or otherwise, without prior written permission. Unauthorized reproduction or transmission of CQ copyrighted material is a violation of federal law carrying civil fines of up to \$100,000.

The CQ Researcher (ISSN 1056-2036). Published weekly, except Jan. 7, June 30, July 7, July 21, Aug. 11, Aug. 18, Dec. 1 and Dec. 29, by Congressional Quarterly Inc. Annual subscription rate for libraries, businesses and government is \$444. Single issues are available for \$10 (subscribers) or \$20 (non-subscribers). Quantity discounts apply to orders over 10. Additional rates furnished upon request. Periodicals postage paid at Washington, D.C., and additional mailing offices. POSTMASTER: Send address changes to The CQ Researcher, 1414 22nd St., N.W., Washington, D.C. 20037.

Cover: Nina Beck and Stacy Jolles holding their one-month-old son, Seth, at a press conference in Burlington, Vt. (AP Photo/Toby Talbot)

Gay-Rights Update

BY KENNETH JOST

THE ISSUES

After Nina Beck and Stacy Jolles met and fell in love, they pledged themselves to each other in a commitment ceremony. That was nearly 10 years ago. But despite what she calls “our spiritual union,” Beck worries that she and Stacy have no legal bonds to each other.

For the past three years, Beck and Jolles have been trying to win legal recognition of their relationship in Vermont, their adopted state. And on March 22, their ninth anniversary, they went to the Statehouse in Montpelier to plead their cause.

Benefits automatically enjoyed by married heterosexual couples are simply unavailable to gay or lesbian couples, Beck told the Senate Judiciary Committee. “Civil marriage is currently the only construct by which these benefits are granted in our society,” she said.

“Without access to this system, we are denied any legal recognition of our unions and of our families,” Beck continued. “Without legal recognition, we are vulnerable.”¹

But the Vermont senators also heard from one of their colleagues who opposes legal recognition for same-sex couples. “Civil rights should not be judged by lifestyle or sexual behavior,” Sen. Julius Canns, a Republican, told the committee. “The vast majority of my constituents support traditional marriage and feel threatened by level recognition of same-sex legal unions.”

Pastoral Vermont might seem an unlikely battleground for same-sex marriage. But it’s on the verge of becoming the first state to grant a full complement of marriagelike rights and benefits to gay and lesbian



AP Photo/Toby Talbot

The three couples who sought the right to same-sex marriage in Vermont are Holly Puterbaugh and Lois Farnham, front, and rear, from left, Stacy Jolles and Nina Beck and Stan Baker and Peter Harrigan.

couples — including property rights, insurance coverage and child custody.

The Vermont House has already passed a bill allowing “civil unions” between lesbians or gay men, and the state Senate is expected to give its approval by the end of the month. The legislature is acting under orders from the Vermont Supreme Court, which ruled on Dec. 20 that gay and lesbian couples are entitled to the same legal benefits as heterosexual, married couples.

Beck and Jolles were among three couples who challenged state laws after local officials rejected their applications for marriage licenses. The state high court’s ruling in *Baker v. State* said the legislature had to allow same-sex couples either to marry or to form a “domestic partnership” or some alternative relationship.² The decision was based on an interpretation of a provision in the Vermont Constitution and therefore could not be appealed to the U.S. Supreme Court, which cannot override a state court’s interpretation of state law.³

Same-sex marriage is one of several gay-rights issues that have risen to the top of the national agenda in recent months. Gay-rights advocates

have been pressing their efforts to modify or repeal the military’s “don’t ask, don’t tell” policy on homosexuality ever since the murder of a gay soldier at an Army base in Kentucky in June 1999.⁴ They renewed their arguments last March following a Defense Department report that found evidence of widespread harassment of gay and lesbian servicemembers (see p. 318).

Vice President Al Gore, campaigning for the Democratic presidential nomination, has vowed to repeal the policy if elected; Texas Gov. George W. Bush, the presumptive Republican nominee, favors the existing policy.

Gore also has called for federal legislation prohibiting job discrimination based on sexual orientation. Gay-rights groups have won passage of anti-discrimination legislation in 11 states and more than 100 municipalities, but they have failed to get a federal bill through either the House or the Senate. Bush opposes such legislation (see p. 319).

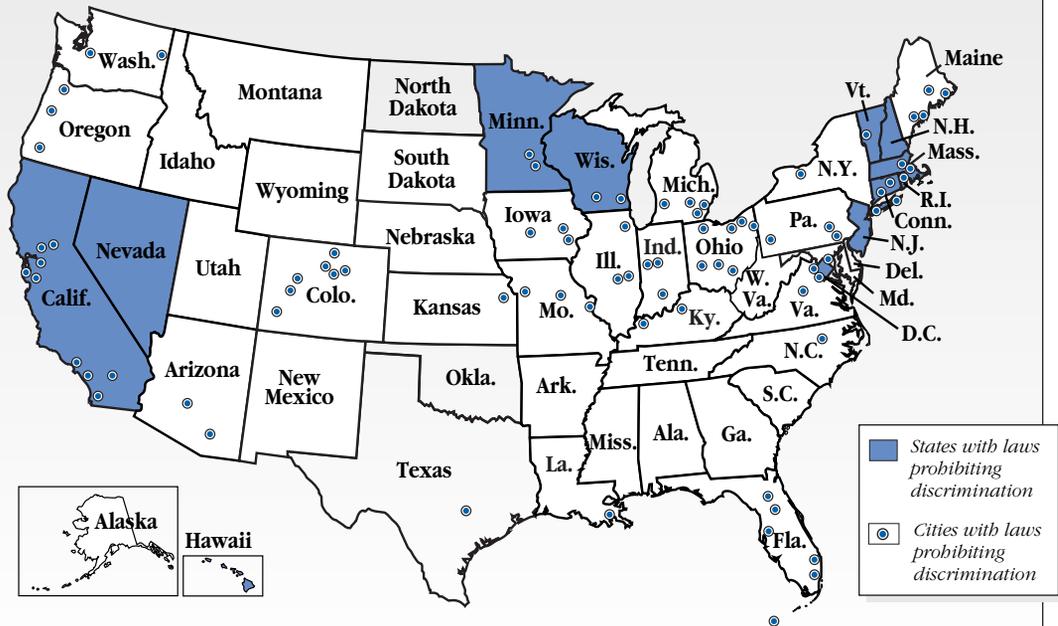
Meanwhile, the U.S. Supreme Court is set to consider a New Jersey case testing whether the Boy Scouts of America can bar open homosexuals as leaders. The state Supreme Court ruled that the policy violated the state’s anti-discrimination law, but the Scouts contend the ruling infringes on their First Amendment rights (see p. 317).

In addition, some school districts are debating whether to allow high school students to form so-called gay-straight alliance clubs. Proponents say the clubs help promote tolerance and combat harassment of gay and lesbian students; critics say they promote homosexuality. (See story, p. 322; see “At Issue,” p. 321.)

In Vermont, the state legislature quickly turned to the same-sex mar-

Laws Prohibiting Discrimination

Legislation prohibiting discrimination in private employment based on sexual orientation is in force in 11 states, the District of Columbia and some 124 municipalities and counties. Similar federal legislation has failed in the House and Senate.



Source: Wayne van der Meide, "Legislating Equality: A Review of Laws Affecting Gay, Lesbian, Bisexual, and Transgendered People in the United States," National Gay and Lesbian Task Force

ily Law Project of the National Gay and Lesbian Task Force (NGLTF). "It's really about economic benefits and the support systems that government provides to families. It's much less about being a proper procreative form or having a male head of household."

The opposing advocacy groups also clash on the role of the courts in dealing with the issue. "We feel that it needed to be taken to the people, that five judges shouldn't make that decision for all of us," Cummings says.

"The judicial branch's very reason for being is to protect the rights of the

riage issue in January, a month after the state high court's ruling. Most lawmakers rejected marriage for same-sex couples in favor of allowing homosexuals to form a "civil union" with essentially all the legal rights of marriage. The Vermont House narrowly approved the bill in March; the more liberal Senate is expected to follow suit. The state's Democratic governor, Howard Dean, has said he will sign the bill, which would take effect in September.

Opponents nonetheless are still mounting arguments against legal recognition for homosexual couples. "I disagree with the concept that they're entitled to the same things that heterosexual couples are entitled to," says Michele Cummings, president of the ad hoc lobbying group Take It to the People. "We do not believe that

benefits should be awarded on the basis of sexual activity."

Cummings, a mother of seven with no previous experience in politics or lobbying, considers homosexuality immoral and says the Vermont Supreme Court's ruling "is changing the fabric of what makes the world what it is."

National groups make similar arguments. "If you say two men constitute a marriage, you are creating a counterfeit," says Robert Knight, director of cultural studies for the Family Research Council. "Homosexual relationships are not a facsimile of marriage. They are entirely different."

Gay-rights advocates, however, contend that the reasons for refusing to recognize same-sex relationships are outdated. "Our social context of marriage has changed so much," says Paula Ettelbrick, director of the Fam-

minority," counters Susan Murray, one of the attorneys for the same-sex couples in the Vermont case. "If we waited for the majority to grant rights that they're not interested in thinking about granting, it would take a heck of a longer time."

If enacted, the Vermont measure would represent a major victory for the gay-rights movement. But a leading gay-rights advocate says the civil unions to be recognized under the bill can also be viewed as a "second-best" status. "The glass is still at least half-empty," says William Rubenstein, a law professor at UCLA. "No same-sex couple can be married anywhere in the United States."

Rubenstein, formerly director of the American Civil Liberties Union's National Lesbian and Gay Rights Project, says gay-rights advocates have com-

parable records in other areas. "There has been enormous progress in the last 30 years," he says, "but there is still an enormous amount of work to go." Only a minority of states have enacted anti-discrimination laws, he notes, while some 19 states have retained anti-sodomy laws once widely used to prosecute homosexuals for consensual sexual behavior. (*See map, p. 312.*)

Nonetheless, a new *Newsweek* poll shows that Americans' level of comfort with homosexuality is improving: In 1998 54 percent said homosexuality was a sin compared with 46 percent today.

Critics and opponents, however, accuse the gay-rights movement of fostering legal and social changes that are undermining traditional morality.

"When you have corporations promoting open homosexuality, when you have ordinances on the books of many cities adding sexual orientation to civil rights laws, you are well on the way to suppressing dissent on the issue," Knight says. "But like any good activist, they say they are never satisfied. Just a few years ago, they were demanding tolerance. Now they're demanding gay marriages and homosexual curriculums in the schools. That's quite an advance, particularly for such a tiny segment of the population."

The debate — part political, part legal, part cultural — will move to center stage at the end of April, when gay-rights groups are planning a major march in Washington to highlight their agenda. Here are some of the major questions they and their opponents are debating:

Should same-sex relationships be legally recognized?

Over the past five years, attorneys Murray and Beth Robinson talked to dozens of church and civic groups in Vermont as they made the case for legal recognition of same-sex rela-

tionships. Audiences were skeptical initially, Murray recalls, but most people ended with greater sympathy for their position.

"If we can talk to Vermonters about the tangible benefits that married couples obtain simply by obtaining a marriage certificate, fair-minded Vermonters sit back and say, 'Wow, I've never thought of it that way; of course, gay couples deserve that,'" she says.

By the time Vermont lawmakers took up the issue last month, a poll — commissioned by the Vermont Freedom to Marry Task Force — found that most people supported allowing homosexual partners either to marry (30 percent) or to form "civil unions" (25 percent). Only 40 percent opposed either legal recognition for same-sex couples.

Across the nation, however, same-sex marriage still draws fire. National polls consistently show solid majorities opposed to homosexual marriages.⁵ And Congress and some 30 states have passed laws to block recognition of same-sex marriages.

Gay-rights advocates view the government's refusal to recognize same-sex relationships as outright discrimination. "The issue is not so much marriage, it's a denial of equal benefits," Ettelbrick says. "That's the constitutional problem. That's where the state most fundamentally treats same-sex partners differently."

Opponents, however, insist that recognizing same-sex relationships would lead to myriad practical problems. "Marriage is about more than the two individuals involved," the Family Research Council's Knight says. "It's how kinship develops and family names are passed down and the generations are linked and property is distributed and where new life is created."

Advocates of same-sex marriage say legal recognition would benefit homosexuals as well as society at large. "Same-sex marriage is good for

gay people and good for America," writes Yale Law School Professor William Eskridge Jr., "and for the same reason: It civilizes gays, and it civilizes America."⁶

Eskridge argues that recognizing same-sex marriage would encourage the broad social trend toward tolerance for homosexuality while reducing promiscuity among homosexuals, especially gay men. Other gay-rights advocates, however, back away from any such claim.

"I see the issues as different," UCLA's Rubenstein says. "There's the question of legal recognition, and there's the question of sexual practices."

Indeed, some gay-rights advocates are less than enthusiastic about marriage for homosexual couples. Ettelbrick, for example, has previously denounced marriage as a "patriarchal" institution. "I don't think marriage should be the only way that we describe or support families," she says. "Good public policy will accept and provide economic support for people who are caring for each other whether they're married or not."⁷

In any event, opponents are unconvinced that recognizing same-sex marriage would reduce the incidence of multiple sexual partners among homosexuals. "That is a disingenuous argument," says Lynn Wardell, a law professor at Brigham Young University in Provo, Utah. "I'm waiting to see the evidence."

Given the strong opposition to same-sex marriage, gay-rights organizations began working in the 1980s for a less ambitious goal: winning workplace benefits such as health insurance for same-sex couples. On that front, there has been what Ettelbrick calls "tremendous success." Thousands of employers, including many of the country's biggest businesses, today allow unmarried employees — homosexuals as well as heterosexuals — to designate their partners for health insurance coverage.

Military Discharges for Homosexual Conduct

President Clinton was forced to back away from a post-election promise to lift the strict Pentagon ban on homosexuals and in 1993 fashioned a compromise known as “don’t ask, don’t tell.” Despite the seeming liberalization of the policy, the number of servicemembers discharged for homosexuality has increased since 1993 along with the reported incidence of anti-gay harassment.

Total discharged



U.S. Navy Photo/Photographer's Mate
Airman Darryl I. Wood

Source: Department of Defense

Anti-gay-rights groups, however, also object to domestic partnerships — though perhaps not as fiercely. “If you want the benefits of marriage, you have to meet the qualifications,” Knight says, “the first of which is that you have to open your life to a person of the opposite sex and make a life-long commitment.”

Wardell agrees, though he says he would allow some recognition for same-sex couples — for example, in hospital visitation. “Hospital visitation ought not depend on a marital relationship,” he says.

Vermont’s civil union bill goes further than any previous law or employer policy in providing same-sex couples the rights enjoyed by heterosexuals. After the Vermont House vote, the Family Research Council called the measure “nothing short of an endorsement of ‘same-sex marriage.’”

For her part, though attorney Murray says the bill does not go far enough. “Marriage, of course, is the only thing that gives gay and lesbian couples true equality,” she says. “This is a very good bill, but it is a first step, not the end of the road.”

Should the military’s “don’t ask, don’t tell” policy be changed?

Pfc. Barry Winchell suffered through four months of taunting, harassment and anti-gay epithets from fellow soldiers at Fort Campbell in Kentucky before his murder on July 5, 1999. Two soldiers have been convicted in the killing: Pvt. Calvin Glover, who shattered Winchell’s skull with a baseball bat, and Spec. Justin Fisher, who gave Glover the bat.

Gay-rights groups, however, believe the real culprit in the Winchell case is the Army itself — for tolerat-

ing anti-gay harassment — as well as the military’s “don’t ask, don’t tell” policy — for forcing homosexual servicemembers to conceal their identities in order to serve their country.

“There is no safe haven for military members to turn to if they are harassed or threatened,” says Michelle Benecke, co-director of the Servicemembers Legal Defense Network (SLDN). “How many people have to be harassed or murdered before people take this problem seriously?”

SLDN says that despite the seeming liberalization of “don’t ask, don’t tell,” the number of servicemembers discharged for homosexuality has increased since 1993 along with the incidence of anti-gay harassment. (See graph, p. 310.) Winchell’s murder did prompt the Defense Department to adopt more explicit anti gay-harassment policies. But the “don’t ask, don’t tell” policy remains in effect, seven years after its adoption as

a compromise of sorts following President Clinton’s failure to win support for lifting the ban on homosexuals in the military altogether.

The Winchell episode did renew debate in Washington and across the country over the military’s policy. But some opponents of homosexuals in military say that the harassment issue has been exaggerated, and they remain convinced that homosexuality is “incompatible” with military service — just as Congress declared in 1993 in a Defense Department authorization bill that Clinton signed into law.

“There are no doubt incidents in which drill sergeants and platoon leaders have used derogatory language, and they’re wrong,” says Robert Maginnis, a retired Army lieutenant colonel and now director of national security and foreign affairs at the Family Research Council. “But I

don't think that it's part of the dominant culture."

Maginnis calls Winchell's killing "a terrible situation." But he discounts SLDN's statistics on anti-gay harassment and considers the new anti-harassment policy an overreaction. "Why are we getting so bent out of shape about a group of people that we've decided ought to be excluded?" he asks.

Gay-rights advocates continue to regard "don't ask, don't tell" as unfair to gay and lesbian servicemembers. The policy "discriminates against lesbian, gay and bisexual servicemembers," Benecke says. "Gay people are kicked out for saying and doing the same thing straight people do every day."

In addition, Benecke and other critics say the policy is bad for the military at a time when the services are having difficulty recruiting and retaining personnel. "This law is forcing commanders to kick good people out of the military," she says.

Supporters of the policy continue to defend the restrictions on open expressions of homosexuality as necessary to protect the rights of straight servicemembers forced to live with fellow soldiers and sailors in close quarters.

"You're talking about the privacy rights of straights as well as gays," says Charles Moskos, a professor of sociology at Northwestern University in Evanston, Ill., and an adviser to the administration at the time of the policy's adoption. "It might be that in the future people won't mind," he says, "but that's not the era we live in right now."

Maginnis cites other reasons for opposing homosexuals in the military, including the risk of sexually transmitted diseases and what he says is an adverse effect on the morale of individual units. "When we throw the ingredient of sex in, whether it's heterosexual or same-sex attraction, it undermines the confidence and trust

we must have in these teams," he says.

Gay-rights advocates say they want the military to honor the "don't ask, don't tell" policy by ensuring that commanders do not investigate servicemembers suspected of being homosexual and that they crack down on anti-gay harassment. In the long term, though, they believe the policy should be replaced by one that permits homosexuals to serve openly.

"Ultimately, this law should be replaced with a principle of non-discrimination where everyone is evaluated according to their merit rather than a characteristic that has nothing to do with their performance," Benecke says.

Maginnis, on the other hand, wants to reinstitute an outright ban on service by homosexuals — the policy that he says is prescribed by law but circumvented by the Clinton administration's regulations. "The law is very clear: it's an exclusion policy," Maginnis says. The administration, he says, "has forced something on the military that is not in the best interest of the service."

Moskos, however, sees no better alternative than the current policy. "It's much like what Winston Churchill said about democracy," Moskos says. "It's the worst system possible, except for any other."

Are additional laws needed to prohibit discrimination on the basis of sexual orientation?

Dwayne Simonton claimed in a federal civil rights suit that his co-workers at the Farmingdale, N.Y., post office mercilessly ridiculed him because of his homosexuality. A federal judge last June found their conduct "offensive" but dismissed Simonton's sexual-harassment lawsuit. The reason: The federal Civil Rights Act does not prohibit discrimination on the basis of sexual orientation.⁸

Gay-rights advocates have been pushing for two decades for passage

of laws to prohibit discrimination against homosexuals in the workplace, in housing and in public accommodations. "There's a tremendous amount of individual bias against gay people," says Beatrice Dohrn, legal director for the Lambda Legal Defense and Education Fund. "Some people want us to continue having second-class status."

Polls show that a substantial majority of Americans — more than 80 percent — believe that homosexuals should not be discriminated against in the workplace. (*See poll, p. 316.*) But efforts to enact anti gay-discrimination laws have fallen short in Washington and in most state capitals in the face of a swirl of arguments raised by conservative advocacy groups.

They warn of a parade of horrors that would result, in particular, from a proposed federal law, the Employment Non-Discrimination Act (ENDA): job quotas, heavy-handed federal enforcement, invasive questioning about employees' sexual orientation and intrusions on the religious liberties of faith-based employers. Most broadly, opponents say the law would undermine traditional morality and give "special rights" to a group that neither needs nor deserves special legal protections.

ENDA "requires the federal government to abandon its commitments to the traditions of marriage and family and to declare that all sexual preferences are equally valid," says a Family Research Council position paper. The bill "affords special protection to a group that is not disadvantaged," the paper continues. "Homosexuals, as a group, outpace most other Americans economically and educationally, and no one can dispute their political power and savvy."

Lobbyists insist the opponents are exaggerating or misstating the provisions of the federal bill. "This is a very modest piece of legislation," says Winnie Stachelberg, po-

Sixteen States Still Have Anti-Sodomy Laws

Anti-sodomy laws historically have been used to prosecute homosexuals for oral and anal sex, although they also typically apply to heterosexuals. The laws are rarely enforced today but are still used, according to gay-rights advocates, to deny employment and child custody and visitation rights to gays. Supporters say that even if the laws are rarely enforced, they help to safeguard the legal and moral status of the family and to contain sexual conduct that is a factor in sexually transmitted diseases.



Lambda Legal Defense and Education Fund

Source: Lambda Legal Defense and Education Fund, March 4, 2000

They acknowledge the bill includes an exemption for religious organizations but say it does not extend to individuals and might not apply to some church-sponsored social services. Supporters again say the warnings are off base. The bill “has a religious exemption so big you could push the National Cathedral through it,” Dohrn says.

Despite the failure of the federal bill, some 11 states, the District of Columbia and 124 municipalities and counties have passed gay-rights measures — almost all of them with employment-discrimination provisions. Gay-rights advocates say, somewhat regretfully, that the laws have not generated the kind of rush of litigation that opponents have warned about.

“The laws are under-used, and that’s because using them is an expensive, uphill battle,” Dohrn says. “Coming out is still a dangerous proposition in many parts of the country, and litigating against

your employer is always a risky proposition.”

litical director of Human Rights Campaign (HRC), a gay-rights organization. “All it would say is you can’t be fired from your job for sexual orientation — because of a factor that has nothing to do with your job performance.”

Opponents acknowledge that the bill bars the use of quotas or preferences for homosexuals. But they contend that administrative enforcement and litigation will pressure employers into adopting such schemes anyway. “Employers will be forced to learn more about their employees’ sex lives,” the Family Research Council warns, “in order to defend them-

selves against possible lawsuits.”

Supporters of the bill dismiss such fears as groundless. “I don’t think there’s any reason to believe that having laws [in some states] has injected all sorts of sexual-orientation questions into the workplace,” Dohrn says. “The laws provide an incentive for employers to leave the subject out.” In any event, the notion of quotas is “kind of ridiculous,” she says. “There is no way in the world to count how many people are gay.”

Opponents also warn that the bill could force religious organizations to hire homosexuals despite religious convictions against homosexuality.

your employer is always a risky proposition.”

Congress has had only one recorded vote on the federal bill: in the Senate in September 1996. The measure failed 49-50, with one senator absent. The vote was largely symbolic since the House would have had no time to act on the measure late in the session. Since that time, Stachelberg says, the Republican leadership in the House and the Senate has kept the bill “bottled up.”

The Family Research Council’s Knight acknowledges that more states and municipalities are likely to pass such laws, though he doubts Con-

gress will. But he also sees a likely backlash. “You’re going to see more of these laws challenged,” he says. “People will say you shouldn’t create a sweeping new category” for civil rights laws.

But Dohrn thinks the movement to enact such laws will continue. “It’s remarkable how many people think that discrimination on the basis of sexual orientation is already illegal,” she says. “Eventually, the law will conform to people’s expectations about the law.” ■

BACKGROUND

Birth of a Movement

Homosexuals were largely invisible, politically unorganized and legally vulnerable from the founding of the United States until the early 20th century. When homosexual subcultures started becoming more visible, the social pressures against homosexuality turned into legal strictures with expansively written “crime-against-nature” laws.

The legal crackdown on homosexuals increased from the 1920s through the decades after World War II. Ironically, the crackdown spawned the gay-rights movement, as homosexuals organized first to protect themselves from prosecution and then to demand legal recognition and equal rights.⁹

The legal crackdown on homosexuality was multifaceted. Under the 1917 Immigration Act, the government barred “sexual perverts” from entering the country, much as a 1921 Army regulation permitted exclusion for “sexual perversion.” Homosexual organizations were shut down through the use of disorderly-con-

duct laws. Gay bars found their licenses suspended or revoked. Most dramatically, homosexuals were subject to criminal prosecution for sodomy, lewd conduct or other offenses. On the eve of World War II, Yale’s Eskridge writes, “a homosexual with an active social life had a good chance of spending time in jail.”¹⁰

The pursuit of homosexuals intensified after World War II, when Eskridge estimates that as many as 100,000 gays per year, mostly men, were arrested for consensual sexual behavior. Some states moved to bar homosexuals as teachers or as lawyers. Thousands of soldiers and sailors were discharged on grounds of homosexuality, proven or suspected.

The crackdown finally engendered resistance — and the first stirrings of the gay-rights movement. The leading resistance group was the Mattachine Society, formed in Los Angeles in 1951. Taking its name from a medieval Italian court jester who expressed unpopular truths from behind a mask, the group vowed to unify homosexuals and to assist “our people who are victimized daily as a result of our oppression.”¹¹

The Mattachine Society and the Daughters of Bilitis — the first lesbian organization, founded in San Francisco in 1955 — both adopted assimilationist strategies. Mattachine wanted to educate homosexuals and heterosexuals alike to an “ethical homosexual culture,” while the Daughters advocated “a mode of behavior and dress acceptable to society.”

The non-confrontational approach combined with liberalizing trends in politics, law and society to produce some tangible gains. Illinois became the first state to decriminalize sodomy in 1961. The California Supreme Court acted to protect gay bars from arbitrary closures, and the U.S. Supreme Court limited the Post Office’s power to censor male physique magazines.

The number of gay organizations increased in the 1960s — from 15 in 1966 to nearly 50 three years later — and the groups became both more visible and more aggressive.¹² Then in 1969, two days of disturbances touched off by a police raid at a dilapidated — and unlicensed — gay dance bar in New York City gave new impetus and militancy to the gay-rights movement.¹³ Plainclothes officers ordered patrons out of Greenwich Village’s Stonewall Inn on June 28 and loaded three men dressed as women into paddywagons. When the crowd threw cans and bottles, the police retreated and reinforcements arrived to clear the streets.

The next night, as hundreds of protesters gathered, the mood was camp rather than revolution. But a milestone had been reached. Gay people, author Eric Marcus writes, “were finally pushed to the point where they’d had enough, and they fought back.” A month later, activists in Greenwich Village organized what they called the city’s “first gay-power vigil.

“Do you think homosexuals are revolting?” a leaflet asked, capturing the movement’s new sense of pride and militancy. “You bet your sweet ass we are,” it answered in capital letters.¹⁴

Successes and Setbacks

The gay-rights movement made fitful advances over the next two decades. Anti-sodomy statutes were repealed or invalidated in many states, while a few states and many municipalities prohibited discrimination against homosexuals. But social conservatives — the so-called New Right — responded with lobbying and citizen initiatives to block gay-rights measures or in a few cities to repeal ordinances already enacted.

The Supreme Court also dealt the movement a setback, upholding state anti-sodomy statutes. Meanwhile, same-sex marriage made no headway in the courts, although some cities enacted domestic partnership laws. And the Pentagon actually toughened its policy on homosexuality, explicitly excluding homosexuals from the military.¹⁵

The movement's broadest success came in eradicating sodomy laws. Connecticut followed Illinois' lead in repealing its anti-sodomy statute in 1971. By 1992, similar laws had been repealed in some 19 other state legislatures and nullified by court rulings in four others.

Nonetheless, the U.S. Supreme Court in 1986 voted 5-4 to uphold the constitutionality of enforcing sodomy statutes against private, consensual homosexual conduct. Writing for the majority in *Bowers v. Hardwick*, Justice Byron White said Georgia's law could be justified on the basis of "the presumed belief of a majority of the electorate in Georgia that homosexual conduct is immoral and unacceptable."

Gay-rights advocates began winning enactment of anti-discrimination laws at the local level in the 1970s and then in a handful of states in the '80s. Generally, the laws prohibited discrimination in government or private employment on the basis of sexual orientation; some also barred discrimination in housing or public accommodations.

Opponents succeeded in several cities in overturning ordinances through the referendum process — notably in Miami-Dade County, Fla., in a 1977 campaign led by pop singer Anita Bryant and fueled by conservative religious groups. At the state level, opponents succeeded in stalling bills or — for example, in California in 1985 — in persuading the governor to veto a measure approved by lawmakers. Despite the difficulties, by 1992 gay-rights laws were on the books in seven states and some

90 municipalities — mostly large cities or university towns.

Advocates of same-sex marriage made no headway before the 1990s. A few couples brought suits, but courts rejected their constitutional claims almost out of hand. None of the major gay and lesbian organizations supported their efforts. The community was, in fact, divided on the issue, with many gay and lesbian activists viewing marriage as the kind of hierarchical institution that the movement should seek to displace.

In the 1980s, gay-rights groups did support the emerging effort to win workplace equality through recognition of domestic partnerships. The San Francisco Board of Supervisors passed a domestic partnership bill in 1981, but it was vetoed by then-Mayor Dianne Feinstein. A year later, Berkeley, Calif., became the first city to enact such an ordinance. By 1991, another two dozen cities had followed suit — including San Francisco.

Gay-rights advocates suffered one clear setback — in the military. Regulations dating back to World War II had prohibited service by homosexuals, but they were often ignored. Pentagon officials began rewriting the regulations in the late 1970s, under President Jimmy Carter; the revamping was completed in the first year of President Ronald Reagan's administration in 1981.

The new regulations reiterated the description of homosexuality as "incompatible with military service" but expanded the definition to include anyone who "engages in, desires to engage in or intends to engage in homosexual acts."

As author Randy Shilts put it, "The military had, in effect, banned homosexual thoughts."¹⁶ The new regulations were more rigorously enforced: nearly 17,000 servicemembers were discharged for homosexual conduct during the 12 years of Reagan's and George Bush's presidencies.

"A Seat at the Table"

Despite continuing resistance, the movement made remarkable strides in the 1990s, legally and politically. Gay rights became a focus of national debate for the first time during the 1992 presidential election. The Clinton administration and the Democratic Party aligned themselves for the rest of the decade with many of the issues on the gay-rights agenda.

Still, there were setbacks: the "don't ask, don't tell" policy; Congress' failure to pass a gay civil-rights law; and the adoption of defense of marriage laws by Congress and a majority of states.

Clinton signaled his support for the cause by appearing at a 1992 Los Angeles fund-raiser organized by gay activists.¹⁷ The Clinton campaign netted \$100,000 — and the gay community showed it could flex its considerable financial muscle to further its aims. For his part, Clinton said gay Americans represented "a community of our nation's gifted people that we have been willing to squander." He pledged to undo the Pentagon's policy, crack down on anti-gay hate crimes and include an HIV-positive speaker at the Democratic National Convention.

In office, Clinton proved unable to deliver on his promises. Most dramatically, his effort to open military service to homosexuals fell short in the face of a strong backlash from military leaders, members of Congress from both parties and the public.¹⁸

Clinton was forced to back away from a post-election promise to lift the ban on homosexuals by executive order and then fashioned a short-term compromise — soon known as "don't ask, don't tell." Gay servicemembers derisively termed it

Continued on p. 316

Chronology

Before 1945
Homosexuals are politically unorganized, legally vulnerable.

1945-1970 *Initial stirrings of gay-rights movement.*

1951

Mattachine Society is founded in Los Angeles to provide support for male homosexuals. Four years later, Daughters of Bilitis is founded in San Francisco as first U.S. lesbian organization.

1961

Illinois becomes first state to remove penalty for consensual homosexual relations between adults.

June 1969

Police raid on the Stonewall Inn, a popular gay bar in New York City, becomes defining moment for modern gay-rights movement.

1970s *Gay rights becomes national issue, but gains are limited.*

1977

Miami-Dade County, Fla., adopts ordinance prohibiting discrimination against gay men and lesbians; ordinance overturned by referendum six months later.

1979

First national gay-rights march held in Washington.

1980s *Gay rights advances, but social conservatives stiffen opposition; AIDS becomes an epidemic.*

1981

Wisconsin becomes first state to bar discrimination against homosexuals in employment, housing and public accommodations.

1984

Berkeley, Calif., becomes first city to provide domestic-partner benefits for gays and lesbians.

1986

U.S. Supreme Court upholds state laws against consensual homosexual sodomy.

1990s *Gay-rights movement combines political clout and legal initiatives to make significant gains against continuing resistance.*

1992

Democratic presidential candidate Bill Clinton promises support for several gay-rights proposals; after his election, Clinton repeats vow to end military policy excluding gays.

1993

Congress forces Clinton to accept "don't ask, don't tell" policy on gays in military; Hawaii Supreme Court says state must justify law prohibiting same-sex marriages; third gay-rights march on Washington.

1994

Massachusetts becomes first state to outlaw discrimination against

gays in public schools.

1996

Colorado initiative prohibiting legal protections for homosexuals nullified by Supreme Court.

July 5, 1999

Pfc. Barry Winchell is beaten to death by a fellow soldier after being taunted for being gay; Defense Secretary William Cohen announces policy against harassment of gays a month later.

Aug. 4, 1999

New Jersey Supreme Court says Boy Scouts' exclusion of gays violates state anti-discrimination law; U.S. Supreme Court to hear case April 26, 2000.

Dec. 20, 1999

Vermont Supreme Court says state must allow same-sex couples to enjoy legal benefits accorded to heterosexuals; legislation to create "civil union" status moves toward final approval early in 2000.

2000s *New decade opens with gay-rights issues high on political, legal agendas.*

January 2000

Gay-rights measures backed by Democratic presidential candidate Al Gore, opposed by Republican George W. Bush.

April 30, 2000

Organizers hope to draw record crowd for Millennium March on Washington, but planning is marred by disorganization and disagreements.

How Americans Feel About Gay Rights

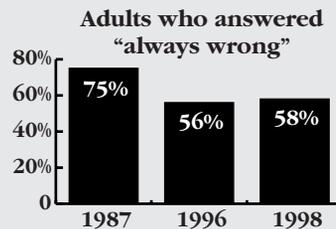
Public opinion polls indicate solid majority support for giving homosexuals “equal rights in terms of job opportunities.” Most Americans, however, believe that sexual relations between two adults of the same sex are “always wrong,” though the disapproval rate has fallen significantly in the last decade.

■ Do you think homosexuals should have equal rights in terms of job opportunities? In 1996, Yes — 84%

■ Do you think homosexuals should be accepted into the armed forces? In 1996, Yes — 66%

■ Do you think homosexuals should be hired as elementary school teachers? In 1996, Yes — 60%

■ Do you think sexual relations between two adults of the same sex is always wrong, almost always wrong, wrong only sometimes or not wrong at all?



Source: Alan Yang, “From Wrongs to Rights, 1973-1999: Public Opinion on Gay and Lesbian Americans Moves Toward Equality,” National Gay and Lesbian Task Force, 1999

Continued from p. 314

“don’t tell, don’t touch.”

Congress kept at the issue, however, and eventually approved a provision in the Defense Department authorization that codified the ban on homosexuals while leaving intact the administration’s decision not to ask recruits about their sexual orientation and not to initiate investigations except after receiving “credible information” of homosexual conduct. Clinton signed the bill.

Seven years later, the administration also has been unable to win support for a gay civil rights bill or special federal penalties for anti-gay hate crimes. The 1990 Hate Crime Statistics Act, signed by President George Bush, does include anti-gay offenses as one

category in an annual data compilation by the Justice Department.¹⁹

Gay-rights advocates continued to press their efforts both in Washington and before state and local legislative bodies. By the end of the decade, the number of gays was still increasing, two states had domestic-partnership schemes and the number of states with anti-sodomy statutes had dwindled to 19.²⁰

Opponents tried to thwart gay-rights advocates with initiatives in several states aimed at blocking state or local governments from enacting laws to prohibit discrimination on the basis of sexual orientation. Colorado voters approved such a measure in 1992, but voters in three other states rejected similar initiatives: Idaho and

Oregon in 1994 and Maine in 1995.

Then in 1996, the U.S. Supreme Court appeared to bar the tactic by ruling that the Colorado initiative violated the U.S. Constitution’s Equal Protection Clause. The law had no rational basis, Justice Anthony Kennedy wrote in *Romer v. Evans*. It was, instead, a “status-based enactment” born out of “animosity toward homosexuals.”²¹

The Hawaii Supreme Court’s ruling on same-sex marriages in 1993 provoked a similar but stronger backlash. Opponents lobbied Congress and state legislatures to pass laws aimed at barring recognition of same-sex marriages. Congress cleared the federal Defense of Marriage Act on Sept. 10, 1996, just two months before the presidential election.²²

The measure — which Clinton signed almost surreptitiously at 12:50 a.m. on Sept. 21 — said that states were not obligated to recognize same-sex marriages from other states and defined marriage for purposes of federal law as a union between people of opposite sexes. By decade’s end, 30 states had similar laws — including Alaska and Hawaii itself, where voters approved constitutional amendments to ward off recognition of homosexual marriages. ■

CURRENT SITUATION

Debating ‘Civil Unions’

The Vermont Supreme Court’s ruling in the same-sex marriage case touched off a wide-ranging debate from one end of the state to another.

Continued on p. 318

Can the Boy Scouts Exclude Gays?

James Dale became a Cub Scout at age 6 and graduated to Boy Scouts four years later. He went on to earn 30 merit badges and achieve Scouting's highest honors: Eagle Scout and the Order of the Arrow.

As a young man, Dale wanted to continue as a Scout leader. But the Boy Scouts council in Monmouth, N.J., summarily expelled him in 1990 when it learned from a newspaper story that Dale is gay.

Today, Dale is locked in a high-profile legal dispute with the Boy Scouts of America (BSA) that pits anti-discrimination principles against freedom of speech and association. The U.S. Supreme Court will hear arguments on April 26 in the Boy Scouts' effort to overturn a New Jersey Supreme Court ruling that Dale's expulsion violated the state's law against discrimination on the basis of sexual orientation in "public accommodations."

Dale's attorneys say the case, *Boy Scouts of America v. Dale*, is important not only for Dale but also for gay youths generally. "Gay youths need the same opportunity for socialization and fun and community service as their non-gay brothers and sisters do," says Evan Wolfson, senior attorney with the Lambda Legal Defense and Education Fund.

But BSA national spokesman Greg Shields says homosexuality is inconsistent with Scouting. "The Boy Scouts of America have long taught traditional family values based on the Scout oath and law," Shields says. "The Boy Scouts of America believe that an acknowledged homosexual would not be a role model for those values."

Dale, now 29, came out as a homosexual while attending Rutgers University in Newark, N.J. While co-president of the gay and lesbian student organization, he attended a seminar in July 1990 on psychological and health needs of homosexual teenagers. The local newspaper ran a story on the seminar along with Dale's picture and a caption identifying his role in the gay organization.

Days later, the Monmouth Boy Scouts council sent Dale a letter that revoked his membership. When Dale asked for a reason, BSA officials responded by saying the organization "specifically forbids membership to homosexuals." Two years later, Dale sued the Scouts under New Jersey's Law Against Discrimination.

The Boy Scouts have won five similar cases after courts decided that states' civil rights laws did not apply to private, membership organizations. A lower court in New

Jersey reached the same conclusion in Dale's case. But in August the New Jersey Supreme Court unanimously ruled that the BSA is a "public accommodation" for purposes of the state's civil rights law and that forcing the organization to accept homosexuals as leaders would not violate its First Amendment right of freedom of speech or association.

In two rulings in the 1980s, the U.S. Supreme Court did uphold the enforcement of state civil rights laws to require private organizations — the Jaycees and Rotary clubs — to admit women.¹ In a concurring opinion in the Jaycees case, however, Justice Sandra Day O'Connor mentioned the Boy Scouts as an example of an organization that might have a First Amendment right to select its members without running afoul of anti-discrimination laws.

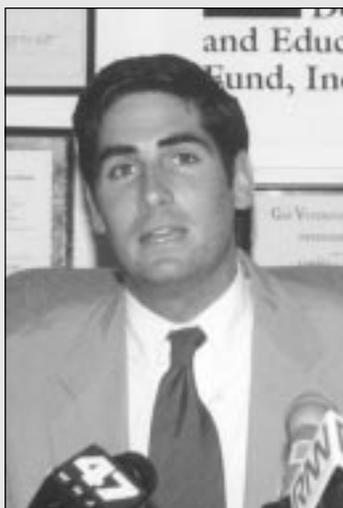
In his legal arguments, Wolfson relies heavily on those two decisions, stresses the Boy Scouts' broad membership policy and purposes and discounts O'Connor's passing reference to the Scouts. The Boy Scouts counters in its brief with a more recent Supreme Court decision that upheld the right of the organizers of Boston's St. Patrick's Day parade to exclude a gay group.²

The opposing briefs differ not only about legal precedent but even about the factual context of the Scouts' policy on homosexuality. In its brief, BSA contends that homosexual conduct is "not 'morally straight' under the Scout Oath, or 'clean' under the Scout Law."

But Wolfson says there is "literally nothing" about homosexuality in the Scout Handbook's explanation of "morally straight."

Boy Scout officials and lawyers voice confidence that the Supreme Court will back their position. "We're confident that the court will find in our favor, and that we'll be done with these 20 years of litigation," Shields says.

Wolfson hedges on making a prediction, but other gay-rights advocates concede they are worried. "Most of us are feeling not so certain, to say the least, that the Supreme Court is going to uphold the New Jersey Supreme Court's ruling," says Paula Ettelbrick, director of the Family Law Project of the National Gay and Lesbian Task Force.



Former Eagle Scout James Dale

Lambda Legal Defense and Education Fund/Bob Pileggi

¹ The cases are *Board of Directors of Rotary International v. Rotary Club of Duarte* (1987) and *Roberts v. United States Jaycees* (1984).

² The case is *Hurley v. Irish-American Gay, Lesbian & Bisexual Group of Boston, Inc.* (1995).

Continued from p. 316

Most Vermonters — lawmakers and citizens alike — appeared to oppose marriage for homosexual couples. But with little maneuvering room under the high court's ruling, the legislature inexorably moved toward approving a "civil union" bill giving gay and lesbian couples rights broader than homosexuals can enjoy in any other state.

The plaintiffs' lawyers — Robinson, Murray and Mary Bonauto of Boston-based Gay and Lesbian Advocates and Defenders (GLAD) — based their case on a provision of the Vermont Constitution known as the common-benefits clause. It provides that government is "instituted for the common benefit, protection and security of the people . . . and not for the particular emolument or advantage of any single person, family or set of persons."

They argued that a law allowing only heterosexual couples to enjoy all the legal benefits of marriage violated that provision. The state's lawyers offered one principal rationale for limiting marriage to heterosexuals: the government's interest in promoting the link between procreation and child-rearing.

In his 45-page opinion for the court, Chief Justice Jeffrey Amestoy pointed out that many heterosexual couples marry "for reasons unrelated to procreation." In addition, he noted that "a significant number of children" are now being raised by same-sex couples and that the state legislature had actually removed legal barriers for same-sex couples to adopt and raise children.

With the state's main argument rejected, Amestoy concluded: "We hold that the State is constitutionally required to extend to same-sex couples the common benefits and protections that flow from marriage under Vermont law."

Nationally, gay-rights advocates

enthused about the ruling. "This decision marks the start of a tremendous sea change that will surely improve life for lesbian and gay families," Lambda's Dohrn declared. On the opposite side, the Family Research Council noted that the ruling fell short of mandating "gay marriage." But it called the decision "dangerously wrong" because it would "force the people of Vermont to support what is essentially a sin registry."

Opinion was similarly divided in Vermont.²³ Gay-rights advocates sported buttons reading, "I support the freedom to marry." Opponents had their own buttons: "God's plan — one woman, one man." Catholic and evangelical groups fueled the opposition, while leaders of other denominations supported the idea of gay marriage. A statewide poll conducted a month after the court's ruling found 38 percent in favor of the decision and 52 percent opposed. A near majority — 49 percent — favored a constitutional amendment to overturn the decision, with 44 percent opposed.

In the legislature, the House took first crack at the issue. The Judiciary Committee sent to the floor a detailed bill establishing "civil union" status for homosexual couples with virtually all the benefits and responsibilities of marriage. The bill declared the state's "strong interest in promoting stable and lasting families, including families based upon a same-sex couple."

After lengthy debate, the House passed the measure on March 16 by a narrow margin: 76-69. Afterward, the *Burlington Free Press* noted that female lawmakers provided the margin of victory, voting 35-9 in favor of the bill; men opposed it, 60-41.

Supporters and opponents viewed the House vote as critical. The Senate "is a little tougher picture," says Take It to the People's President Cummings. The Senate Judiciary Committee de-

ecided to hold a full round of hearings, with witnesses on all sides and even a hearing on interactive statewide television on April 3.

"They began by looking at the House's civil union bill, but only as a starting point," says Chris Tebbetts, spokesman for the Freedom to Marry Task Force. Both groups reported spending around \$40,000 on lobbying through February, mostly on advertising and mailings.²⁴

'Disturbing' Harassment

Anti-gay harassment is pervasive and widely tolerated in the U.S. military. That is the conclusion not only from gay-rights groups but also from the Pentagon itself.

A survey of some 71,500 servicemembers conducted by the Defense Department's Office of Inspector General and released on March 24 found that 37 percent had witnessed or experienced serious forms of anti-gay harassment, and 80 percent had heard offensive speech or jokes or derogatory names or remarks about homosexuals during the past year. Most of the harassment was not reported up the chain of command, the survey found, and no action was taken in three-fourths of those cases where senior officers were informed.²⁵

"The report shows that military leaders must do more to make it clear that harassment based on sexual orientation violates military values," Defense Secretary William Cohen said. Pentagon spokesman Kenneth Bacon said the report showed a "disturbing" amount of harassment.

Gay-rights groups took satisfaction from the report. "This is the first time that the Pentagon has realized that it has a serious problem on its hands," said C. Dixon Osborne, co-director

of the Servicemembers Legal Defense Network. But they also called for stronger action.

“Nothing is going to change until the uniformed military leadership, from the Joint Chiefs of Staff on down, send clear and unambiguous signals that this type of harassment will not be tolerated,” said HRC Communications Director David Smith.

Opponents of military service by homosexuals questioned the survey’s findings, noting that the report itself acknowledged that individual respondents were not randomly selected. “You can’t paint the entire military with these results,” the Family Research Council’s Maginnis says. “That’s political spin.”

The survey’s results suggested the limitations of the military’s efforts to date to translate the “don’t ask, don’t tell” policy into actual practice. Most of the servicemembers surveyed — 57 percent — said they had received no training on the policy. About half — 54 percent — said they understood the policy, but only one-fourth of those correctly answered three questions designed to test their knowledge.

The military had already moved to make training in the policy universal. The Pentagon announced on Feb. 1 that every member of the armed forces would undergo training by the end of the year to prevent anti-gay harassment.²⁶ The hourlong training session is to include a slide presentation along with role-playing exercises and pamphlets. One of the slides reads, “Zero Tolerance for Harassment.”

Reporters who watched some of the early training sessions observed instances of puzzlement among servicemembers taking part. At Fort Campbell — where Winchell was killed — an officer asked whether a gay soldier should be reported for asking another soldier on a date. “No, it’s just associational behavior,” the training officer, Maj. James Garrett, answered.²⁷

At Fort Meade, Md., outside Washington, one of the soldiers attending a training session also worried about harassment of straight servicemembers, according to *The Washington Post*. “If I’m in the shower, and somebody comes up and starts groping me,” the *Post* quoted the soldier as saying, “my first instinct is not to go to the commander. My first instinct is, ‘You better get off of me.’”²⁸

The inspector general’s survey found that a bare majority of the servicemembers surveyed — 50.1 percent — thought the “don’t ask, don’t tell” policy had been either moderately or very effective in preventing or reducing harassment. In his statement, Cohen detailed the steps taken so far to deal with the harassment issue — including the universal-training requirement. But he also acknowledged that “there is still more to do.”

Toward that end, Cohen established a high-level working group with representatives from all four services to draft an “action plan . . . to address the problem of harassment based on perceived sexual orientation.” Cohen gave the group a July 31 deadline.

Playing Politics

A week after Al Gore narrowly beat Bill Bradley in New Hampshire’s Democratic presidential primary, the HRC Board of Directors met to consider making an endorsement in the race. Since both candidates had staked out pro-gay-rights positions, there was an argument to stay neutral. Nonetheless, with crucial primaries coming up in states with sizable gay voting blocs — California and New York — the board decided on Feb. 9 to back Gore.

“The vice president has toiled at

our side over the last seven years,” said President Elizabeth Birch. “We thought we better make a decision while it is valuable and relevant. Our candidate needs us.”²⁹

The competition between Gore and Bradley for gay votes and the HRC’s explicitly political calculation in supporting Gore indicated both the changing political climate on gay-rights issues and the gay and lesbian community’s increasing political sophistication.

“This is a community to be dealt with, and it can’t be taken for granted,” says Human Rights Campaign’s Stachelberg.

The climate is different in the Republican Party. Gov. Bush snubbed the gay Log Cabin Republicans by refusing to meet with its leaders. He backed the “don’t ask, don’t tell” policy on gays in the military and opposed civil rights legislation. And during the crucial South Carolina primary he appeared to back away from previous statements that he would have no problem with appointing homosexuals to administration positions. “An openly known homosexual is somebody who probably wouldn’t share my philosophy,” Bush said.³⁰

The Republicans’ control of Congress has helped bottle up gay-rights legislation in Congress. “It is terribly disappointing that we still can’t get a hate-crimes bill that includes sexual orientation, and we can’t get the Employment Non-Discrimination Act passed,” Stachelberg says. “Those two bills remain blocked by the leadership in Congress.” At the same time, lawmakers in both parties rushed to approve the Defense of Marriage Act in 1996 to try to ward off what they saw as the threat of same-sex marriage.

Gay-rights groups see the climate as more favorable at the state and local level. In an end-of-year review in December, the NGLTF said pro-gay-rights bills outnumbered “unfa-

avorable” bills during the 1999 state legislative season, and “favorable” bills progressed in several states farther than in the past, even if they were not enacted. “The center of gravity is slowly shifting,” said then Executive Director Kerry Lobel.

Still, the review pointed to only a handful of gay-rights measures actually enacted into law. Major victories came in California, where a new Democratic governor, Gray Davis, signed measures establishing domestic-partnership benefits for same-sex couples, prohibiting employment and housing discrimination on the basis of sexual orientation and protecting gay and lesbian students against discrimination. Other new gay-rights laws included an employment-discrimination act in Nevada and a hate-crimes measure in Missouri. In addition, New Hampshire repealed its ban on adoptions by gays and lesbians.³¹

Vermont’s civil union bill seems likely to top the gay-rights movement’s accomplishments for this year. In an offsetting defeat, however, Mississippi last month banned gay and lesbian adoptions, joining Florida as the only other state with a statutory ban.

For their part, anti-gay-rights groups blame what they call media bias and gay-rights “propaganda” for the support registered in public opinion polls for anti-discrimination legislation. The Family Research Council’s Knight also says the poll results can be misleading.

“Most people don’t want to see homosexuals singled out for discrimination, which isn’t happening in widespread fashion anyway,” Knight says. “But they don’t want to see sexual behavior granted special rights either.”

As for the presidential race, Knight praises Bush for “solid” positions opposing gay marriages and adoptions and gays in the military. He calls Gore’s views on gay-rights issues “radical” but worries that Bush

and other Republicans will not exploit the party’s differences with the Democrats. “They don’t seem to understand the issues themselves and are reluctant to engage it,” the Family Research Council’s Knight says. ■

OUTLOOK

Marching on Washington

For the past few weeks, patrons of Washington’s gay bars have been interrupted in their dancing and drinking by activists passing out cards promoting the “Millennium March on Washington.” The solicitations are part of a wide-ranging effort aimed at drawing hundreds of thousands of gay, lesbian, bisexual and transgendered people to Washington over the weekend of April 29-30 for a combination festival and political pep rally.

Organizers say the march — the fourth national event of its kind and the first since 1993 — is aimed in part at showcasing the gay community’s growing political clout. “This is the first march in an election year, with the major goal of having a major voter turnout,” says Dianne Hardy-Garcia, executive director for the march. “We have to show to the world how many people we are, what our voting bloc is and what we bring to the table.”

The march has been marred, however, by organizational missteps and disagreements within the gay community over political priorities.³² The principal sponsors of the march — HRC and the Metropolitan Community Church — announced plans for the event two years ago. They have been criticized for not getting more input in planning the event and fail-

ing to set clear goals. In February, one of the two original co-executive directors resigned, apparently in a dispute over the selection of a firm to produce the event.

Many gay activists have complained that the time and money being spent on the march — it’s expected to cost \$1.73 million and take in \$1.95 million — would be better used at the state and local level. “Our folks need to be at home doing serious political work, not having a *tchotchke* sale on the mall,” Rick Garcia, of Equality Illinois, told *The Washington Post*.

Hardy-Garcia, who is also executive director of the Lesbian and Gay Rights Lobby of Texas, dismisses the criticism. “I’ve spent my career fighting for lesbian and gay rights in Texas,” she says. “That’s really important to do. But there’s nothing like coming to your national capital and realizing you’re part of a larger movement.”

Some gay scholars as well as gay-rights opponents are predicting that the march may not surpass the estimated 300,000 people who attended the 1993 event.

“It will be smaller than the ‘87 and ‘93 marches because there is no widely perceived need for a march on Washington right now,” says John D’Emilio, a professor at the University of Illinois in Chicago and author of a history of the early gay-rights movement. “Most of the areas of advocacy that have a prospect of success and most of the advocacy energy have been focused on state and local issues, not on Washington.”

Whatever the turnout, gay activists are hoping to make their impact felt in the November elections. “We’re in a position now to show that we’re a powerful voting bloc,” says Hardy-Garcia. “We’re 5 percent of the vote, on par with the Jewish and Latino vote. We’ve seen politicians respond

Continued on p. 322

At Issue:

Should high schools permit “gay-straight alliance” clubs?

JIM ANDERSON

Communications director, Gay, Lesbian and Straight Education Network

WRITTEN FOR THE CQ RESEARCHER

Considerable media attention has been paid over the past few months, to gay-straight alliance (GSA) controversies in Utah, Louisiana and Orange County, Calif. In each instance, school boards either considered or took action to prevent students from exercising their federally protected right under the Equal Access Act.

While these battles and controversies have been intriguing, it is, perhaps, more interesting to consider the stories that have not made the news.

Little attention has been paid to the approximately 700 gay-straight alliances that are currently meeting in high schools from coast-to-coast. These school communities accepted or embraced the students and their efforts, and not as a result of judicial mandate. Instead, they recognized their professional, if not moral, responsibility to do so.

Should other high schools permit the creation of gay-straight alliances? To answer the question, we need to define gay-straight alliances and to discuss why students are forming them in such numbers. A gay-straight alliance is formed by lesbian, gay, bisexual and transgender (LGBT) students and their straight classmates. These students join together to support one another and to address concerns about the misinformation and ignorance that too often result in anti-gay harassment or violence at school.

Their concerns are well-founded. Studies by the federal Centers for Disease Control and Prevention (CDC) show that lesbian, gay and bisexual students are more than four times as likely as their heterosexual classmates to be threatened with or injured by a weapon while at school.

The Gay, Lesbian and Straight Education Network found similarly disturbing trends. In a recent national survey, we found that 61 percent of LGBT students experience verbal harassment, 27 percent physical harassment and 14 percent outright physical assault while at school.

This harassment and isolation may negatively affect students' self-esteem and school performance. Such experiences may explain why national mainstream organizations such as the American Counseling Association and the National Association of Social Workers have recently endorsed gay-straight alliances.

Every student is entitled to a supportive, safe and affirming learning environment. With this goal in mind, we urge schools not only to permit gay-straight alliances but also to encourage and foster their existence.

PETER LABARBERA

Senior analyst, Family Research Council

WRITTEN FOR THE CQ RESEARCHER

School districts should not allow the formation of gay-straight alliances on their campuses. These groups, where they already exist, have become de facto homosexuality booster clubs — causing unnecessary divisions and distractions and subjecting the entire student body to one-sided propaganda. Moreover, they are part of a movement that promotes radical identities and dangerous sexual practices to vulnerable, confused teens.

The gay-straight alliances are part of an ingenious strategy by pro-homosexuality and transsexuality groups like the Gay, Lesbian and Straight Education Network (GLSEN) to inject their unhealthy sexual and gender ideologies into the classroom. Students rally around the “rights” of gay, bi or even trans (transgender) classmates who, it is true, are ostracized and sometimes mistreated by their peers.

But while GLSEN and other groups have artfully “spun” the issue of youth homosexuality into one of “discrimination,” it is really about behavior and parents' rights to guide their children's moral decisions.

In Massachusetts, taxpayers subsidize the formation of gay-straight alliances — there are now 185 — through state grants for GSA projects.

Across the country, educators are wasting valuable school time by allowing GSAs to promote extreme notions to the entire student body. Students rarely get to hear the other side of the debate, and they fear expressing their opposition to homosexuality because of the schools' politically correct embrace of homosexuality.

The National Education Association, the American Civil Liberties Union, GLSEN and their allies promote GSAs in the name of school “safety.” But schools shouldn't promote homosexual identities to troubled kids when studies show that homosexual males have drastically shorter life spans. This is due to the risky sexual behavior that flourishes in the promiscuous “gay” world. At a March conference sponsored by GLSEN's Boston affiliate, speakers from the state's Education Department approvingly discussed “queer sex” acts to an audience made up mostly of students ages 14-21.

Parents must resist an agenda that uses schools' authority to confirm impressionable youth in harmful lifestyles. As one former homosexual has noted, “From every medical and health aspect — up to and including the probability of becoming infected with AIDS — it is tragic, even criminal, to lead a child into homosexuality because he or she showed some degree of confusion in adolescence.”

Gay-Straight Club Divides California Community

Anthony Colin wanted to make his school in Orange, Calif., a better place for homosexual teenagers like himself. His efforts in founding a so-called gay-straight alliance club at El Modena High School have brought him national publicity and a local human rights award, as well as daily name-calling in school and a draining federal court battle with the local school board.

"I knew I was going to be facing a lot of opposition, but I didn't know just how far it would go," said Anthony, a 16-year-old sophomore.¹

The controversy over the club — one of some 700 gay-straight alliances at high schools around the country — has divided the 2,000-student school and the community. Students opposed to the club appeared at an early school board meeting carrying signs that read, "Grades, Not AIDS."

Nationally, gay-rights groups and social conservatives sharply disagree over such clubs. Supporters say they are needed to give homosexual high school students a safe place to talk about issues affecting their lives and to promote tolerance among gay and straight students alike.

"Gay-straight alliances help one of most vulnerable populations feel a little safer, a little more accepted," says Kevin Jennings, executive director of the New York-based Gay, Lesbian and Straight Education Network (GLSEN).

"Gay youth are typically very unsupported in schools, unsupported in other aspects of their life, too," says Barbara Rienzo, a professor of health sciences at the University of Florida in Gainesville and co-author of a book on local gay-rights disputes. "Schools are one of the places where we could do a lot of things to intervene and help make schools a safe and healthy place for all youth."

But Robert Knight, director of cultural studies for the conservative Family Research Council, says the clubs promote homosexuality.

"Gay-straight school clubs are a method by which homosexuality is introduced into schools," Knight says. "This is dangerous because some kids are undoubtedly sexually confused and have intense feelings toward same-sex classmates, which is normal. They can be seriously damaged by taking their healthy emotional drives and detouring into homosexuality because they're told it's cool and that they have no alternative."

Anthony was moved to start the club by the killing of Matthew Shepard, the gay University of Wyoming student who was beaten, tied to a fence and left to die in October 1998. Anthony and high school senior Shannon MacMillan applied for recognition of the club to the school's principal, Nancy Murray, saying its mission was "to raise public awareness and promote tolerance by providing a safe

Continued from p. 320

to that."

The gay-rights movement has no assurance of tangible progress, however, even if the gay vote helps elect supportive candidates. President Clinton has gotten strong support from gay political groups but has been unable to get Congress to approve lifting the ban on gays in the military, barring discrimination against gays or passing a gay-hate-crimes measure.

If Gore is elected in November, he will face similar difficulties with those measures — with the Senate expected to remain in Republican control and the House likely to be narrowly divided whichever party has a majority. A Bush victory would leave gay groups worse off than today, with a president on record in opposition to most of their major legislative-agenda items.

Still, supporters and opponents acknowledge gays' growing strength.

"The gay-rights movement has never been stronger, more influential, more diverse, more organized or better prepared for anything than it is today," says Eric Marcus, a New York writer and author of a post-World War II history of the movement.

From an opposing viewpoint, Knight credits the movement with "taking over" mainstream media and other organizations. "They have been successful at using what most Americans regarded as mainstream organizations to push a radical agenda," he says.

From its start, however, gay rights has been both a personal and a political struggle — a process of individual self-acceptance as well as collective mobilization. The gay community's growing visibility makes

that process less difficult than in previous generations, but the process is no less important.

"These marches are like rites of passage," Hardy-Garcia says. "There's nothing like being somebody from Lubbock, Texas, and being on the Mall with hundreds of thousands of people and realizing you're not alone."

"The direction has been positive for a long time," Marcus says. "And there's no reason at this time to believe that we won't continue to make progress as long as gay and lesbian people come out and as long as those who love us support us in ever greater numbers." ■

Notes

¹ Account drawn from *Burlington Free Press*, March 23, 2000. For extensive archived cov-

forum for discussion of issues related to sexual orientation and homophobia.”

Contrary to normal policy, however, school administrators had instructed principals in 1998 to forward applications for gay-student clubs to the school board for decision. The seven-member Orange Unified School District school board held an open forum on the issue in November and then voted unanimously to deny the application.

Board member Kathy Ward, author of the resolution to reject the application, said the club’s mission intruded on the school’s sex-education curriculum. “Sex-based discussions have no place in a school club,” Ward said. Other board members were harsher. The application, William Lewis said, “asks us to legitimize sin.”

Colin and club co-president Heather Zetin responded by suing the School Board under the Equal Access Act. The 1984 federal law requires schools to be evenhanded in allowing use of school facilities by student groups.

“When a school allows one non-curricular club to meet at school during non-instructional times, they have to allow all groups that want to meet,” says Myron Dean Quon, a lawyer with Lambda Legal Defense and Education Fund in Los Angeles, who is representing the club.

In February, U.S. District Judge David Carter agreed that the school board’s action probably violated the law

and issued a preliminary injunction allowing the club to organize and meet in school.

“Defendants cannot censor the students’ speech to avoid discussions on campus that cause them discomfort or represent an unpopular viewpoint,” Carter wrote in his 23-page ruling. The injunction remains in force until a full trial or other proceedings, expected this fall.

The club has met several times in the two months since, with as many as 50-60 members, according to Quon. But opposition persists.

“Parents say that there are things they don’t want their children exposed to in high school,” school board member Terri Sargeant says.²

Despite the controversy, the Orange County Human Relations Commission honored Anthony last month with one of its annual awards. He said the award validated his efforts. “It’s going to let people know that this club is not bad [in the view of] the Human Relations Commission, that these people who say what is good and bad for us say this is good,” he said.

¹ Quoted in *The Orange County Register*, March 26, 2000, p. B1. For background, see *The New York Times*, Feb. 10, 2000, p. A20; *Time*, Feb. 21, 2000, p. 52.

² Quoted in *The Orange County Register*, Feb. 11, 2000, p. A19.

erage of the same-sex marriage issue in Vermont since December 1999, see the newspaper’s Web site: www.burlingtonfreepress.com.

² For background, see Richard L. Worsnop, “Gay Rights,” *The CQ Researcher*, March 5, 1993, pp. 193-216, and Richard L. Worsnop, “Domestic Partners,” *The CQ Researcher*, Sept. 4, 1992, pp. 761-784.

³ For the full text of the opinion, see *ibid.* The decision can also be found on the Web site of the National Gay and Lesbian Task Force: www.nglft.org. The text of the House-passed bill as well as other documents and background information can be found on the Vermont legislature’s Web site: www.leg.state.vt.us.

⁴ For background, see Craig Donegan, “New Military Culture,” *The CQ Researcher*, April 26, 1996, pp. 361-384.

⁵ See Alan Yang, “From Wrongs to Rights: Public Opinion on Gay and Lesbian Americans Moves Toward Equality,” National Gay and Lesbian Task Force, 1999, p. 14. In the most recent poll cited, 29 percent of those

surveyed in 1998 said marriages between homosexuals should be “recognized as legal by the law.”

⁶ William N. Eskridge Jr., *Gaylaw: Challenging the Apartheid of the Closet* (1999).

⁷ For opposing views, see Thomas B. Stoddard, “Why Gay People Should Seek the Right to Marry,” *OUT/LOOK, National Gay and Lesbian Quarterly*, No. 6 (fall 1989), and Paula L. Ettelbrick, “Since When Is Marriage a Path to Liberation?,” *ibid.*, reprinted in Suzanne Sherman (ed.), *Lesbian and Gay Marriage: Private Commitments, Public Ceremonies* (1992), pp. 13-26.

⁸ For background, see Sarah Glazer, “Crackdown on Sexual Harassment,” *The CQ Researcher*, July 19, 1996, pp. 625-648.

⁹ Background drawn from Eskridge, *op. cit.*

¹⁰ *Ibid.*, p. 43.

¹¹ See Barry D. Adam, *The Rise of a Gay and Lesbian Movement* (rev. ed.) (1995), pp. 67-68. For background on the post-World War II decades, see John D’Emilio, *Sexual Politics, Sexual Communities: The Making of a Homosexual Minority in the United States,*

1940-1970 (1983) and Dudley Clendinen and Adam Nagourney, *Out for Good: The Struggle to Build a Gay-Rights Movement in America* (1999).

¹² See Paul Varnell, “Stonewall: Get a Grip,” *The Windy City Times*, June 10, 1999. The article appears on the Independent Gay Forum’s Web site: www.indegayforum.org.

¹³ Account drawn from Eric Marcus, “Stonewall Revisited” (www.indegayforum.org). The article was written for the defunct gay magazine *Ten Percent* to mark the 25th anniversary of Stonewall in 1994.

¹⁴ Cited in Clendinen and Nagourney, *op. cit.*, p. 30.

¹⁵ Background and data drawn from William B. Rubenstein, *Lesbians, Gay Men and the Law* (1st ed.) (1993).

¹⁶ Randy Shilts, *Conduct Unbecoming: Gays and Lesbians in the U.S. Military* (1993), p. 380.

¹⁷ Account drawn from Clendinen and Nagourney, *op. cit.*, pp. 566-573. The authors note that Clinton’s appearance was covered the next day in both *The New York*

Times and, on the front page, in *The Washington Post*.

¹⁸ For background, see Kenneth Jost, "Hate Crimes," *The CQ Researcher*, Jan. 8, 1993, pp. 1-24.

¹⁹ See *1993 Congressional Quarterly Almanac*, pp. 454-462.

²⁰ See Wayne van der Meide, *Legislating Equality: A Review of Laws Affecting Gay, Lesbian, Bisexual, and Transgendered People in the United States*, Policy Institute of the National Gay and Lesbian Task Force (1999) (www.nglhf.org).

²¹ See Kenneth Jost, *The Supreme Court Yearbook, 1995-1996* (1996), pp. 34-38.

²² See *1996 Congressional Quarterly Almanac*, pp. 526-529.

²³ Some background drawn from *The New York Times*, Feb. 3, 2000, p. A1. The two major opposing advocacy groups in Vermont have Web sites: www.vtfreetomarry.org; www.takeittothepeople.org.

²⁴ See *Burlington Free Press*, March 27, 2000.

²⁵ See Office of the Inspector General, Department of Defense, "Military Environment with Respect to the Homosexual Conduct Policy," Report No. D-2000-101, March 16, 2000 (www.dodig.osd.mil). Reaction drawn from *The New York Times*, March 25, 2000, p. A1; *The Washington Post*, March 25, 2000, p. A1.

²⁶ See *The New York Times*, Feb. 2, 2000, p. A15.

²⁷ Reported in *The New York Times*, Feb. 14, 2000, p. A1.

²⁸ *The Washington Post*, March 26, 2000, p. C3.

²⁹ The Associated Press, Feb. 10, 2000.

³⁰ Quoted in *The New York Times*, March 19, 2000, p. A24.

³¹ Christina L. Lyons, "Adoption Controversies," *The CQ Researcher*, Sept. 10, 1999, p. 782.

³² Background drawn from *The Washington Post*, March 29, 2000, p. B1, and the *Washington Blade* (www.washingtonblade.com).

FOR MORE INFORMATION

American Family Association, P.O. Box 3933, Tupelo, Miss. 38803; (662) 844-7370; www.afa.net. Founded by the Rev. Donald Wildmon in 1977, it opposes same-sex marriage and "the movement to normalize homosexual behavior."

Family Research Council, 801 G St., N.W., Washington, D.C. 20001; (202) 393-2100; www.frc.org. The council opposes legal recognition of same-sex relationships, legislation to prohibit discrimination on the basis of sexual orientation and military service by homosexuals.

Gay, Lesbian and Straight Education Network, 121 W. 27th St., Suite 804, New York, N.Y. 10001; (212) 727-0135; www.glsen.org. The organization promotes non-discrimination policies and helps support high school-based "gay-straight alliance" clubs.

Human Rights Campaign, 919 18th St., N.W., Suite 800, Washington, D.C. 20006; (202) 628-4160; www.hrc.org. The organization is a political campaign and lobbying organization working for lesbian and gay equal rights.

Independent Gay Forum, www.indegayforum.org. The forum comprises a group of generally conservative-leaning gay writers, academics, attorneys and activists described as in favor of equality for homosexuals but "dissatisfied" with the current discussion of gay-related issues.

Lambda Legal Defense and Education Fund, Inc., 120 Wall St., Suite 1500, New York, NY 10005-3904; (212) 809-8585; www.lambdalegal.org. The legal center handles a wide array of gay-rights litigation, including employment discrimination, parenting issues, HIV- and AIDS-related discrimination, military and immigration.

National Center for Lesbian Rights, 870 Market St., Suite 570, San Francisco, Calif. 94102; (415) 392-6257; www.nclrights.org. The legal center handles various lesbian-rights issues, with special emphasis on child custody and same-sex adoption issues.

National Gay and Lesbian Task Force, 1700 Kalorama Rd., N.W., Washington, D.C. 20009; (202) 332-6483; www.nglhf.org. The task force, founded in 1973, works for civil rights for gay, lesbian, bisexual and transgendered people.

Servicemembers Legal Defense Network, P.O. Box 65301, Washington, D.C. 20035-5301; (202) 328-3244; www.sldn.org. The organization assists U.S. servicemembers affected by the military's policies on homosexuality.

Bibliography

Selected Sources Used

Books

—, *The Case for Same-Sex Marriage: From Sexual Liberty to Civilized Commitment*, Free Press, 1996.

Eskridge expanded his unsuccessful representation of a Washington, D.C., gay couple's effort to legally marry into a comprehensive argument for permitting same-sex marriage based on history, law and morality. The book includes detailed source notes, an appendix of court cases, and a 19-page bibliography.

Adam, Barry D., *The Rise of a Gay and Lesbian Movement* (rev. ed.), Twayne Publishers, 1995.

Adam, a professor of sociology at the University of Windsor, Ontario, relates the rise of gay and lesbian movements in the United States and around the world. The book includes chapter notes, a list of works cited and a three-page bibliography.

Button, James W., Barbara A. Rienzo and Kenneth D. Wald, *Private Lives, Public Conflicts: Battles over Gay Rights in American Communities*, CQ Press, 1997.

Three University of Florida professors examine local conflicts over gay-rights laws and the impact of those struggles on local schools.

Clendinen, Dudley, and Adam Nagourney, *Out for Good: The Struggle to Build a Gay Rights Movement in America*, Simon & Schuster, 1999.

The authors sympathetically trace the rise of the gay-rights movement from the Stonewall Inn riots in 1969 through the late 1980s. The book includes a three-page bibliography. Clendinen is an editorial writer and Nagourney a political reporter for *The New York Times*.

D'Emilio, John, *Sexual Politics, Sexual Communities: The Making of a Homosexual Minority in the United States, 1940-1970* (2d ed.), University of Chicago Press, 1998.

D'Emilio, a professor of gender and women's studies at the University of Illinois in Chicago, traces the early history of the gay-rights movement from the 1940s to the formation and increasing assertiveness of gay-rights groups in the 1950s and '60s. The book was originally published in 1983; the 1998 edition includes a new preface and afterword.

Eskridge, William N. Jr., *Gaylaw: Challenging the Apartheid of the Closet*, Harvard University Press, 1999.

Eskridge, a law professor at Yale, traces the history of anti-gay legislation and enforcement in the United States and examines the advance of gay rights along with the continuation of anti-gay inequities in the law. The book includes several appendices and detailed notes.

Magnuson, Are *Gay Rights Right?: Making Sense of the Controversy*, Multnomah Press, 1990.

The Minneapolis trial lawyer mounts a sharp attack on what he calls the homosexual-rights movement on grounds of religion, morality, law, and public health.

Marcus, Eric, *Making History: The Struggle for Gay and Lesbian Equal Rights, 1945-1990, An Oral History*, HarperCollins, 1992.

Author Marcus presents first-person accounts by some 50 people who figured in the history of the gay-rights movement since World War II.

Rubenstein, William B., *Cases and Materials on Sexual Orientation and the Law* (2d ed.), West Publishing, 1997.

This law school casebook includes court decisions, statutory provisions and other materials on the full range of gay-rights issues. Rubenstein is an acting professor at UCLA School of Law. The first edition of the casebook was published as *Lesbians, Gay Men and the Law*.

Shilts, Randy, *Conduct Unbecoming: Gays and Lesbians in the U.S. Military*, St. Martin's Press, 1993.

Shilts, a *San Francisco Chronicle* reporter until his death from AIDS in 1994, recounts the largely unacknowledged history of homosexuals in the U.S. military in order to mount a strongly argued attack on the then-existing ban on gay or lesbian servicemembers. The current "don't ask, don't tell" policy is not covered. The book includes detailed source notes and a four-page bibliography.

Articles

Leland, John, "Shades of Gay," *Newsweek*, March 20, 2000.

The cover story in this package of articles on gay-related issues depicts increased tolerance for homosexuals in schools, churches, offices, family life, and politics and government. The story notes a new Newsweek poll that for the first time found that less than a majority of those surveyed — 46 percent — believe homosexuality is a sin.

Reports and Studies

Yang, Alan, "From Wrongs to Rights, 1973-1999: Public Opinion on Gay and Lesbian Americans Moves Toward Equality," *National Gay and Lesbian Task Force*, 1999.

The report, based on opinion polls over the past decade or longer, finds increasing support for gay rights on a range of issues although most Americans continue to oppose same-sex marriage and believe homosexual relations wrong. Yang is a Columbia University researcher.

The Next Step

Gays and Marriage

Goldberg, Carey, “Forced Into Action on Gay Marriage, Vermont Finds Itself Deeply Split,” *The New York Times*, Feb. 3, 2000, p. 16.

Six weeks after the Vermont Supreme Court ruled that gay couples must be granted the same rights and benefits as heterosexual spouses, Vermont is indeed a state divided, even polarized, as it takes its new position at the center of the country’s long-running debate over gay marriage. It is grappling hard with the court ruling in its lunch-counter talk and in its legislature, where committee members are hoping to come up with at least the beginnings of a bill on same-sex couples this month.

Herscher, Elaine, “Most Gays Embrace Right to Marry; But Others Ask, ‘Why?’” *San Francisco Chronicle*, Feb. 22, 2000, p. A13.

For some gay people, the freedom to marry means acceptance and access to many of society’s most tangible benefits. For others, marriage is a chimera that threatens to enslave gays and bleach the color from their culture. Right now, Californians are debating whether same-sex unions threaten the sanctity of heterosexual marriage.

Herscher, Elaine, “Vermont Supreme Court Rules in Favor of Gay Couples’ Rights,” *San Francisco Chronicle*, Dec. 21, 1999, p. A1.

Gay and lesbian couples in Vermont have been denied their constitutional rights and must be granted the same benefits and protections as people in heterosexual marriages, the state’s Supreme Court ruled. Although the court stopped short of legalizing gay marriage, it instructed the state legislature to come up with a way to extend equal protections to same-sex couples. The unanimous decision marks the first time a high court has ruled that such couples are routinely denied constitutionally guaranteed protections.

Rosin, Hanna, and Paula Ferdinand, “Gays Achieve Breakthrough in Vermont; Legislation Recognizes Same-Sex Civil Unions,” *The Washington Post*, March 17, 2000, p. A1.

In the first significant breakthrough for advocates of gay marriage, the Vermont House approved historic legislation allowing gay couples to form “civil unions” that carry many of the benefits and responsibilities of traditional marriages. The bill stops just short of legalizing gay marriage, instead setting up a network of state benefits for gay couples, covering everything from hospital visits to inheritance rights to state taxes.

Gays and the Military

Chiang, Harriet, “Supreme Court Rejects ‘Don’t Ask’ Challenge; San Francisco Panel Had Upheld Policy,”

San Francisco Chronicle, Jan. 12, 1999, p. A2.

The U.S. Supreme Court continued to keep its distance from the military’s “don’t ask, don’t tell” policy, refusing to hear challenges brought by two former servicemen in California and Washington state. The high court left intact a decision by a federal appeals court in San Francisco that the policy on homosexuals in the military does not violate the constitutional rights of former Lt. Andrew Holmes of the California Army National Guard and former Navy Lt. Richard Watson, who served in Bremerton, Wash. It marked the fifth time since 1996 that the high court has refused to take up an appeal brought by a member of the military ousted because of the policy.

Eilperin, Juliet, “Parents of Slain GI Consider Suing Army,” *The Washington Post*, Jan. 10, 2000, p. A2.

The parents of Barry Winchell are considering suing the Army for failing to protect their son from anti-gay harassment. In an interview, Pat and Wally Kutteles said military officials at Fort Campbell, Ky., did not take sufficient precautions to prevent Winchell’s July 5 beating. Another soldier killed Pfc. Winchell, who was gay, as he was sleeping.

Harris, John F., “Gore Clarifies Position on Gays; No ‘Litmus Test’ for Joint Chiefs,” *The Washington Post*, Jan. 8, 2000, p. A1.

Vice President Gore moved to quell a rising political controversy by stating that he would not insist that senior military commanders personally agree with him about allowing gays to serve openly in the armed forces, but would require only that his appointees faithfully carry out his policy. Pulling back from remarks he made at a Democratic debate in New Hampshire — when he said he would apply a “litmus test” for the Joint Chiefs of Staff on gays serving openly in the military — Gore told an impromptu news conference in West Des Moines, Iowa, that his meaning had been misunderstood.

Reid, T.R., “Britain Ends Its Curbs on Gays in Military,” *The Washington Post*, Jan. 13, 2000, p. A13.

Britain eliminated all restrictions on gays in its military forces, saying that sexual preference will be a “non-issue” in recruitment, assignment, promotion and disciplinary decisions. Under the military’s new code of conduct, “sexual orientation is regarded as a private matter for the individual,” the Defense Ministry said. Neither recruits nor active service personnel will be asked to disclose their sexual preference, and “if people declare themselves to be homosexuals . . . no special arrangements will be made.”

Stone, Andrea, “Candidates Tackling ‘Don’t Ask, Don’t Tell, Don’t Purse’ Policy,” *USA Today*, Dec. 15, 1999, p. A16.

Vice President Gore and former Sen. Bill Bradley both

say that if elected president they would end the Pentagon's "don't ask, don't tell, don't pursue" policy and push to allow gays to serve openly in the military. They will have to push hard. Six years after President Clinton backed down from his vow to end discrimination against homosexual troops and agreed to a compromise with Congress that has managed to please no one, studies show anti-gay attitudes remain pervasive in the armed forces.

Stone, Andrea, "Gay Troops Kept in Uniform Despite 'Telling,' Report Says," *USA Today*, March 9, 2000, p. A4.

A small but growing number of military commanders are ignoring the Pentagon's "don't ask, don't tell" policy on homosexuals and quietly refusing to discharge openly gay troops, a report by the Servicemembers Legal Defense Network says. The advocacy group says it knows of 26 people who in the last two years acknowledged they were gay in order to escape harassment but were allowed to remain in the military. This is despite the 6-year-old policy that says those who "tell" must be discharged.

Stone, Andrea, "More Gays Forced to Leave Service," *USA Today*, Jan. 25, 1999, p. A5.

Five years after the military instituted its "don't ask, don't tell, don't pursue" policy on gays in the military, more people are being discharged for homosexual conduct than before the change took effect. According to statistics released by the Pentagon, 1,145 service members were discharged for homosexual conduct in 1998, up from 997 the previous year. In 1993, before the policy was changed, 682 gays were discharged.

Suro, Robert, "Harassment of Gay GIs Tolerated; Study Finds Military Personnel See Widespread Hostility," *The Washington Post*, March 25, 2000, p. A1.

Harassment of gay men and lesbians is commonplace and widely tolerated in the U.S. military, the Pentagon inspector general reported after the most extensive inquiry ever conducted into attitudes toward homosexuality in the armed forces. In a worldwide survey of 71,500 service personnel, 80 percent of the respondents said they had heard offensive comments about gays in the past year. Thirty-seven percent reported witnessing harassment, defined as insults, hostile gestures, threats, graffiti, vandalism, physical assaults, career discrimination or unfair punishment.

Job Discrimination

"Civil Rights Act Should Include Gays, Bradley Says; Democratic Presidential Candidate Also Backs Repeal of 'Don't Ask, Don't Tell' Policy on Military Service, Assails California's Anti-Gay Marriage Initiative," *Los Angeles Times*, Sept. 17, 1999, p. A16.

Gays should be protected by the landmark 1964 Civil

Rights Act and allowed to serve openly in the military, Bill Bradley said in a magazine interview. On the question of a California anti-gay-marriage initiative, Bradley also aligned himself more closely — and more readily — with the gay community's legislative agenda than has Vice President Al Gore.

"'Fear of Other' Haunts U.S., Clinton Says," *The Washington Post*, Oct. 3, 1999, p. A7.

Citing recent shootings in California and the Midwest, President Clinton says it is time Americans deal with "the fear of the other" that motivates such acts of hatred. The president was taking his message of tolerance before gay and lesbian supporters at a Los Angeles dinner hosted by the group Access Now for Gay and Lesbian Equality. He repeated his support for legislation barring job discrimination against gays and hate crimes.

Biskupic, Joan, "For Gays, Tolerance Translates To Rights; Legal Gains Reflect Shift in Attitudes," *The Washington Post*, Nov. 5, 1999, p. A1.

Last June, a federal judge in New York upheld a \$380,000 award for a gay police officer harassed by his fellow cops. In August, the New Jersey Supreme Court handed down a milestone ruling forbidding the Boy Scouts from discriminating based on sexual orientation. In recent years, four states have begun allowing gay couples to adopt children jointly, and a half-dozen have overturned sodomy laws that targeted homosexual acts. Meanwhile, scores of states, cities and private employers have extended health insurance and other spousal benefits to "domestic partners." From workplace discrimination to child custody, a clear and distinct pattern is emerging as courts, spurred by cultural and political changes across the country, apply the principles of equality to sexual orientation.

Gledhill, Lynda, "Assembly Panel OKs Bill Protecting Gay, Lesbian Students," *San Francisco Chronicle*, April 8, 1999, p. A15.

A bill that would extend protection against discrimination because of sexual orientation to more than 5 million students in California's public schools passed a key Assembly committee vote. The bill, sponsored by Assemblywoman Sheila Kuehl, D-Santa Monica, would extend protection against discrimination in public schools and community colleges to gays and lesbians.

Back Issues

**Great Research on Current Issues Starts Right Here.
Recent topics covered by *The CQ Researcher* are listed below.**

Now available on the Web

For information, call (800) 432-2250 ext. 279 or (202) 887-6279.

JUNE 1999

Drug-Resistant Bacteria
Saving the Rain Forests
Boys' Emotional Needs
Patriotism in America

JULY 1999

Refugee Crisis
Childhood Depression
New Challenges in Space
Defense Priorities

AUGUST 1999

Regulating Pesticides
Hospitals' Financial Woes
Medical Marijuana
Traffic Congestion

SEPTEMBER 1999

Drugmakers Under Siege
Adoption Controversies
Prison-Building Boom
Airline Industry Problems

OCTOBER 1999

Endangered Species Act
Democracy in Eastern Europe
The New Millennium
Rethinking Ritalin
Public Broadcasting

NOVEMBER 1999

Saving Open Spaces
Closing In on Tobacco
The Consumer Culture
Panama Canal

DECEMBER 1999

Reforming School Funding
Embryo Research
Asthma Epidemic

JANUARY 2000

Utility Deregulation
Auto Industry's Future
The Digital Divide

FEBRUARY 2000

Employee Benefits
High-Impact Litigation
Legacy of the Vietnam War
Medical Mistakes

MARCH 2000

Energy and the Environment
Zero Tolerance
Policing the Police
Islamic Fundamentalism
Campaign Finance Reform

APRIL 2000

Child Poverty

Future Topics

► *Community Colleges*

► *Future of Zoos*

► *Human Genome Research*

Go On-line With *The CQ Researcher*!

The award-winning *CQ Researcher* gives Web subscribers:

- **Quick Access to New Reports** — View them on-line a week before they arrive in the mail.
- **Easier Printing** — Print full reports with a single click or select sections with our new .pdf files.
- **Handy Search Capabilities** — Access our archives back to 1991.

Like what you see? Add the on-line version of *The Researcher* to your regular print subscription for a small additional fee and find out why *Booklist/RBB* calls *The Researcher* "an indispensable source for information on contemporary affairs."

Check it out FREE at <http://library.cq.com> OR call (800) 638-1710, Ext. 501, for more information.