



# Connecticut

Overview of Legal Issues  
For Gay Men, Lesbians, Bisexuals,  
and Transgender People

September 2018

This document is intended to provide general information only and cannot provide guidance or legal advice as to one's specific situation. Moreover, the law is constantly changing and this publication is based upon the information that is known to us as of this printing. For guidance on your particular situation, you must consult a lawyer. You should not act independently on this information. The provision of this information is not meant to create an attorney-client relationship. Check our website, [www.glad.org](http://www.glad.org), for more information.

If you have questions about this publication, other legal issues or need lawyer referrals, contact **GLAD Answers** at [www.GLADAnswers.org](http://www.GLADAnswers.org) or by phone weekdays between 1:30 and 4:30 pm at (800) 455-GLAD (4523).

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# **ANTI-DISCRIMINATION LAW**

## ***Does Connecticut have an anti-discrimination law protecting LGBT individuals from discrimination?***

Yes. Since 1991, Connecticut has prohibited discrimination based on sexual orientation in public and private employment, housing, public accommodations, and credit.<sup>1</sup> In July 2011, these laws were extended to protect transgender people when Governor Malloy signed Public Act 11-55, *An Act Concerning Discrimination*, into law. The act, which went into effect on October 1, 2011, added “gender identity or expression” to Connecticut’s list of protected classes.

## ***Do the laws also protect people perceived to be LGBT?***

Yes. Connecticut non-discrimination law defines “sexual orientation” as either “having a preference for heterosexuality, homosexuality or bisexuality, having a history of such preference or *being identified with* such preference...”<sup>2</sup> This language includes discrimination based on perception. For example, if a person is fired because they are perceived to be gay, they may invoke the protection of the anti-discrimination law regardless of their actual orientation.

Similarly, the law defines "gender identity or expression" as:

[A] person's gender-related identity, appearance or behavior, *whether or not* that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth...<sup>3</sup>

This language provides protection for someone who is perceived as transgender.

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<sup>1</sup> Conn. Gen. Stat. sec. 46a-81c to 46a-81q.

<sup>2</sup> Conn. Gen. Stat. sec. 46a-81a (emphasis added).

<sup>3</sup> Conn. Gen. Stat. sec. 46a-51(21) (emphasis added).

## ***Do the laws protect people associated with LGBT individuals?***

Not specifically. But in some situations, if a person is discriminated against because of their association with LGBT individuals or causes, it may be possible to show that the discrimination was because their employer or landlord believed that the person themselves was LGBT. This would count as discrimination based on perception, which is prohibited.

## **■ Employment**

### ***What do the employment provisions say? Who do they apply to?***

The non-discrimination law applies to public and private employees. It forbids employers from refusing to hire a person, discharging them, or discriminating against them “in compensation, or in terms, conditions or privileges of employment” because of sexual orientation<sup>4</sup> or gender identity or expression.<sup>5</sup> This covers most significant job actions, such as hiring, firing, failure to promote, demotion, excessive discipline, harassment, and different treatment of the employee and similarly situated co-workers.

In addition, employment agencies may not discriminate based on sexual orientation,<sup>6</sup> gender identity, or gender expression,<sup>7</sup> either by refusing to properly classify or refer their customers for employment or in general. Labor organizations (e.g. unions) similarly may not discriminate.<sup>8</sup> The law also forbids all of these entities from advertising in such a way as to restrict employment because of sexual orientation,<sup>9</sup> gender identity, or gender expression.<sup>10</sup>

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<sup>4</sup> Conn. Gen. Stat. sec. 46a-81c(1).

<sup>5</sup> Conn. Gen. Stat. sec. 46a-60(a)(1).

<sup>6</sup> Conn. Gen. Stat. sec. 46a-81c(2).

<sup>7</sup> Conn. Gen. Stat. sec.c. 46a-60(a)(2).

<sup>8</sup> Conn. Gen. Stat. sec. 46a-81c(3); Conn. Gen. Stat. sec. 46a-60(a)(3).

<sup>9</sup> Conn. Gen. Stat. sec. 46a-81c(4).

<sup>10</sup> Conn. Gen. Stat. sec. 46a-60(a)(6).

Finally, the State of Connecticut and its agencies are forbidden from discriminating based on sexual orientation<sup>11</sup> and gender identity or expression,<sup>12</sup> both in their own employment practices as well as in their provision of services. The law also imposes an affirmative obligation on state agencies to adopt rules to enforce the non-discrimination provisions and to establish training programs. Contractors and subcontractors who provide services to the state must certify in writing that they will not discriminate when fulfilling the contract terms.

Effective June 7, 2016, Connecticut added sexual orientation and gender identity or expression, as well as religion, sex and national origin, as protected categories under its law banning discrimination in membership, unit formation, promotion or accommodations in “the armed forces of the state.”<sup>13</sup>

### ***Does the law apply to every employer in Connecticut?***

No. As broad as the law is, there are several exemptions to its application.

- Employers with fewer than 3 employees are not subject to the law.<sup>14</sup>
- Certain religious employers are also exempt. See the section below on *Religious Exemption*.
- Any employer, agency, or labor organization may defend against a discrimination claim by arguing that it is a “bona fide occupational qualification” of the particular job to have a non-LGBT employee fill it.<sup>15</sup> Luckily, although this defense is technically allowed by law, it is strictly applied and rarely successful.<sup>16</sup>

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<sup>11</sup> See generally Conn. Gen. Stat. secs. 46a-81g to 46a-81o.

<sup>12</sup> See generally Conn. Gen. Stat. secs 46a-70 & 46a-71.

<sup>13</sup> Conn. Gen. Stat. sec. 27-59.

<sup>14</sup> Conn. Gen. Stat. sec. 46a-51(10).

<sup>15</sup> Conn. Gen. Stat. secs. 46a-81c; 46a-60 generally.

<sup>16</sup> See, e.g. *The Evening Sentinel et al. v. National Organization for Women*, 168 Conn. 26, 36 (1975) (“A BFOQ exists only if no member of the class excluded is physically capable of performing the tasks required by the job”);

- The ROTC (Reserve Officer Training Corps) program, which is established under federal law to provide officers to the U.S. military, may continue to discriminate in its “conduct and administration” at colleges and universities.<sup>17</sup>

### ***Does Connecticut law forbid sexual harassment on the job?***

Yes. Connecticut law defines sexual harassment as follows:

Unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when (a) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment, (b) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (c) such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive work environment.<sup>18</sup>

### ***Can I file a complaint of sexual harassment if I’m LGBT?***

Yes. It is just as unlawful to sexually harass an LGBT individual as it is to harass anyone else. Some harassment is specifically anti-LGBT, and may be more fairly characterized as harassment on the basis of sexual orientation or gender identity. Other harassment is sexual in nature and more appropriately categorized as “sexual harassment.” Both types of harassment can happen to the same person, and both are forbidden.

Both the United States Supreme Court and several state courts have found same-sex sexual harassment to violate sexual harassment laws.<sup>19</sup>

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*Conn. Institute for the Blind v. CHRO*, 176 Conn. 88 (1978) (“The standard for a BFOQ purposely imposes a heavy burden on an employer whose refusal to hire is prima facie discriminatory”).

<sup>17</sup> Conn. Gen. Stat. sec. 46a-81q. It is worth noting that LGBT individuals are no longer excluded from the military and ROTC programs; however, the Trump administration has attempted to re-impose a categorical ban on transgender troops and that attempt has been the subject of litigation across the country.

<sup>18</sup> Conn. Gen. Stat. sec. 46a-60(a)(8).

<sup>19</sup> Compare *Oncale v. Sundowner Offshore Services*, 523 U.S. 75, 118 S.Ct. 998 (1998) (man can sue for sexual harassment by other men under federal sexual harassment laws); *Melnychenko v. 84 Lumber Co.*, 424 Mass. 285, 676 N.E.2d 45 (1997) (same-sex sexual harassment forbidden under state law).

## ■ Public Accommodations

### *What is a “place of public accommodation”?*

A place of public accommodation is “any establishment which caters or offers its services or facilities or goods to the general public.”<sup>20</sup> This definition is intentionally broad and includes hotels, restaurants, retail stores, rest areas, and hospitals. The Connecticut Commission on Human Rights and Opportunities (CHRO) views public schools and public colleges as public accommodations.

### *What does the law say about discrimination in places of public accommodation?*

Such places may not deny full and equal accommodations or discriminate in any way because of a person’s sexual orientation,<sup>21</sup> gender identity, or gender expression.<sup>22</sup>

A specific law also forbids discrimination at golf clubs on the basis of race, religion, color, national origin, ancestry, sex, gender identity or expression, marital status or sexual orientation.<sup>23</sup> If you are denied membership or access to a golf club on the basis of any of the above, you may file a complaint in Superior Court to restrain further violations and recover damages of at least \$250, plus costs and attorney’s fees.<sup>24</sup>

## ■ Housing

### *What is prohibited by the housing anti-discrimination law in Connecticut?*

The housing laws are intended to prohibit discrimination in transactions related to public and private residential housing, including

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<sup>20</sup> Conn. Gen. Stat. sec. 46a-63(1).

<sup>21</sup> Conn. Gen. Stat. sec. 46a-81d.

<sup>22</sup> Conn. Gen. Stat. sec. 46a-64(a) (1) & (2).

<sup>23</sup> Conn. Gen. Stat. sec. 52-571d (b) & (c).

<sup>24</sup> Conn. Gen. Stat. sec. 52-571d (g).

listing, buying, selling, renting, and financing, whether for profit or not.<sup>25</sup> Other practices are forbidden, too, including discriminatory advertising, misrepresenting the availability of a dwelling, denying access to a multiple listing service, or altering the terms of a transaction because of sexual orientation, gender identity, or gender expression.<sup>26</sup>

***Are any landlords exempt from the housing anti-discrimination law?***

Yes. The law does not apply to an owner-occupied building that is either a single-family dwelling with rooms to rent or a two-family dwelling that has two independent units.<sup>27</sup> In addition, owner-occupied buildings with four units or less are not subject to the sexual orientation portion of the law.<sup>28</sup>

■ **Credit**

***What protections exist under Connecticut anti-discrimination law with regard to credit?***

Any person who “regularly extends or arranges for the extension of credit” for which interest or finance charges are imposed—e.g. a bank, credit union, or other financial institution—may not discriminate on the basis of sexual orientation<sup>29</sup> or gender identity or expression<sup>30</sup> in any credit transaction.

**Example:** GLAD brought and settled a claim against a credit union which refused to allow an effeminate looking man to apply for a loan until he came back looking more masculine. A federal court ruled that this stated a claim of sex discrimination.<sup>31</sup>

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<sup>25</sup> Conn. Gen. Stat. sec. 46a-64c(a)(1) & (2).

<sup>26</sup> See generally, Conn. Gen. Stat. sec. 46a-64c.

<sup>27</sup> Conn. Gen. Stat. sec. 46a-64c (b)(1)(B).

<sup>28</sup> Conn. Gen. Stat. sec. 46a-81e(b).

<sup>29</sup> Conn. Gen. Stat. sec. 46a-81f.

<sup>30</sup> Conn. Gen. Stat. sec. 46a-66(a).

<sup>31</sup> *Rosa v. Park West Bank*, 214 F.3d 213 (1st Cir. 2000).

## ■ Religious Exemption

Depending on the situation, religious corporations, associations, and educational institutions are sometimes exempt from Connecticut's prohibitions against sexual orientation and gender identity or expression discrimination. These institutions are permitted to discriminate with respect to "the employment of individuals to perform work connected with the carrying on" of their activities or "with respect to matters of discipline, faith, internal organization or ecclesiastical rule, custom, or law."<sup>32</sup> Although the exemption is broad, it is not a *carte blanche* for an employer to use its religious beliefs as justification for discriminating against an LGBT person.<sup>33</sup>

## ■ Pursuing a Complaint

### *How do I file a complaint of discrimination?*

If you wish to file a complaint, you should contact an intake officer at one of the regional offices of the Connecticut Commission on Human Rights and Opportunities (CHRO). The intake officer will discuss your concerns, explain the complaint process, and advise you about what help CHRO may be able to provide to you. If CHRO has jurisdiction, you will be given an appointment to come to a regional office to file a complaint. The contact information for CHRO's administrative headquarters and four regional offices is below:

- ADMINISTRATIVE HEADQUARTERS  
25 Sigourney Street  
Hartford, CT 06106

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<sup>32</sup> For sexual orientation, *see* Conn. Gen. Stat. 46a-81p and for gender identity or expression, *see* Conn. Gen. Stat. 46a-81aa.

<sup>33</sup> *See, e.g., Hartwig v. Albertus Mangus*, 93 F.Supp.2d 200, 211, 217 (2000) (gay man who alleged breach of contract because of his sexual orientation could have his claims of breach of contract, defamation and intentional infliction of emotional distress heard without violating free exercise or establishment clause principles). Note that the statutes pertaining to discrimination based on characteristics other than sexual orientation contain no express religious exemption. *See CHRO v. Archdiocesan School Office*, 202 Conn. 601 (1987) (lower court erred in dismissing case against Catholic School on basis of wholesale religious exemption; issues were not ripe for adjudication).

PHONE: (860) 541-3400 or (800) 477-5737

FAX: (860) 246-5068

- **CAPITOL REGION OFFICE**  
450 Columbus Boulevard  
Hartford, CT 06103-1835  
PHONE: (860) 566-7710  
FAX: (860) 566-1997
  
- **EASTERN REGION OFFICE**  
100 Broadway  
Norwich, CT 06360  
PHONE: (860) 886-5703  
FAX: (860) 886-2550
  
- **WEST CENTRAL REGION OFFICE**  
Rowland State Government Center  
55 West Main Street, Suite 210  
Waterbury, CT 06702-2004  
PHONE: (203) 805-6530  
FAX: (203) 805-6559
  
- **SOUTHWEST REGION OFFICE**  
350 Fairfield Avenue, 6th Floor  
Bridgeport, CT 06604  
PHONE: (203) 579-6246  
FAX: (203) 579-6950

For housing complaints, contact the Housing Discrimination Unit at (800) 477-5737 ext. 3403 or (860) 541- 3403.

The complaint must be in writing and under oath, and it must state the name and address of the individual making the complaint (“the complainant”) as well as the entity he or she is complaining against (“the respondent”). The complaint must set out the particulars of the alleged

unlawful acts and (preferably) the times they occurred.<sup>34</sup> There is no charge to file a complaint.

If you are a state employee, you may file your case directly in court. State employees can skip over the CHRO process entirely.

***Do I need a lawyer?***

No. The process is designed to allow people to represent themselves. However, GLAD strongly encourages people to find lawyers to represent them throughout the process. There are many legal rules governing the CHRO process, and employers and other defendants are likely to have legal representation.

***What are the deadlines for filing a complaint of discrimination?***

A complaint must generally be filed with the CHRO within 180 days of the last discriminatory act or acts.<sup>35</sup> There are very few exceptions for lateness, and GLAD encourages people to move promptly in filing claims.

***Can I file more than one type of discrimination complaint at once, for example, if I believe I was fired both because I am a lesbian and Latina?***

Yes. Connecticut's employment non-discrimination laws forbid discriminating against someone because of sexual orientation or gender identity or expression as well as race, color, religious creed, age, sex, marital status, national origin, ancestry, and present or past history of mental, intellectual, learning, or physical disability.<sup>36</sup> In housing and public accommodations, the criteria are expanded to include "lawful source of income."<sup>37</sup> Housing also adds "familial status" to the list.<sup>38</sup>

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<sup>34</sup> Conn. Gen. Stat. sec. 46a-82.

<sup>35</sup> Conn. Gen. Stat. sec. 46a-82(e).

<sup>36</sup> Conn. Gen. Stat. sec. 46a-60.

<sup>37</sup> Conn. Gen. Stat. secs. 46a-64c; 46a-64.

<sup>38</sup> Conn. Gen. Stat. sec. 46a-64c.

## ***What happens after a complaint is filed with the CHRO?***

When you file a complaint with the CHRO, you will be given a packet of information explaining the CHRO procedures and deadlines. Please review these and follow the deadlines.

The complaint will be served on your respondent, who must answer the complaint under oath within 30 days (10 days for a housing case). If you wish to respond or comment on your respondent's answer, you have 15 days to do so.

Within 60 days of receiving the respondent's answer, the CHRO will review the complaint and determine if any further investigation is necessary. This is called a merit assessment review (MAR). It is based *solely* on your original complaint, the answer, and any additional comments you make regarding the answer. Since many cases are dismissed at this stage of the proceedings, GLAD recommends that you reply to the respondent's answer.

If the case is dismissed, you will be given 15 days to request the right to move your complaint from CHRO into the courts. If you do not request to remove your complaint, the CHRO will review your case and decide whether to uphold the dismissal or reinstate your complaint.

If the case is *not* dismissed, an investigator will be assigned and a mandatory mediation conference will be held within 60 days. If negotiations fail to produce a settlement agreeable to all parties, either party or the CHRO can request early legal intervention. The CHRO has 90 days to decide whether to grant this request. If granted, a Hearing Officer will be appointed to decide the merits of the case in a trial-type hearing.

If there is no request for early legal intervention, then the investigator will continue to collect evidence and will make a determination of "reasonable cause" or "no reasonable cause." If a finding of "reasonable cause" is made, you can request either to have the case heard at the

CHRO or to move it to Superior Court. If a finding of “no reasonable cause” is made, you have 15 days to request reconsideration.

Note that in housing discrimination cases, the CHRO must complete its investigation within 100 days of filing and the final disposition within one year, unless it is impracticable to do so.<sup>39</sup>

***What are the legal remedies the CHRO may award for discrimination if an individual wins their case there?***

**Employment:** hiring, reinstatement, or upgrading; back pay; restoration in a labor organization; cease and desist orders; and other relief that would fulfill the purposes of the anti-discrimination laws (e.g. training programs, posting of notices, etc.).<sup>40</sup>

**Housing:** damages—i.e., expenses actually incurred because of unlawful action related to moving, storage, or obtaining alternate housing; cease and desist orders; reasonable attorney’s fees and costs; and other relief that would fulfill the purposes of the anti-discrimination laws.<sup>41</sup> The CHRO may also order civil fines to be paid to the state.<sup>42</sup>

**Public Accommodations:** cease and desist orders and other relief that would fulfill the purposes of the anti-discrimination laws. The CHRO may also order civil fines to be paid to the state.<sup>43</sup>

**Credit:** cease and desist orders and other relief that would fulfill the purposes of the anti-discrimination laws (e.g. allowing person to apply for credit on non-discriminatory terms).<sup>44</sup>

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<sup>39</sup> For sexual orientation Conn. Gen. Stat. sec 46a-81(e) and for gender identity or expression Conn. Gen. Stat. sec. 46a-64c(f).

<sup>40</sup> Conn. Gen. Stat. sec. 46a-86 (a - c).

<sup>41</sup> Conn. Gen. Stat. sec. 46a-86 (a, c).

<sup>42</sup> Conn. Gen. Stat. sec. 46a-81e(f).

<sup>43</sup> Conn. Gen. Stat. sec. 46a-86 (a); sec. 46a-64 (c).

<sup>44</sup> Conn. Gen. Stat. sec. 46a-86 (a); sec. 46a-98 (outlining additional damages available for cases filed in Superior Court within one year of discriminatory act).

Note that when cases are filed in court, emotional distress damages and attorneys' fees are also available to a successful complainant. These are not available from the CHRO.<sup>45</sup>

***Should I take my case away from the CHRO and file in court? How do I do so?***

This is a decision you should make with your lawyer. Greater damages are available to you in state court than at the CHRO, including emotional distress damages and attorney's fees.

To sue an entity in state court as opposed to the CHRO, you must follow several steps and meet various deadlines.<sup>46</sup>

- Your complaint must have been filed on time at the CHRO (i.e., within 180 days of the last act of discrimination);
- Your complaint must have been pending with the CHRO more than 180 days (although if you *and* your employer agree to request the case's removal to court, you may do so before the 180 days elapse) or the merit assessment review must have been completed;
- You must request a release of your complaint from the CHRO for the purpose of filing a court action, which the CHRO must grant except when the case is scheduled for public hearing, or they believe the complaint can be resolved within 30 days;
- You must file your court action within 2 years of the date of filing your complaint with the CHRO; and
- You must file your court action within 90 days after you receive a release from the CHRO to file your case in court.

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<sup>45</sup> See *Bridgeport Hospital v. CHRO*, 232 Conn. 91 (1995); *Delvecchio v. Griggs & Browne Co., Inc.*, 2000 Conn. Super. LEXIS 1149 (April 17, 2000) ("The CHRO is without authority to award a prevailing party attorneys' fees, punitive or compensatory damages or damages for emotional distress.").

<sup>46</sup> Conn. Gen. Stat. sec. 46a-101 to 46a-102.

## *Can I also file a discrimination complaint with a federal agency?*

Yes, in many cases. Since federal law and state law contain overlapping provisions, someone bringing a discrimination claim may sometimes pursue protections under both. For example, the federal employment non-discrimination law, called Title VII, applies to employers with at least 15 employees and forbids employment discrimination based on race, sex, age, religion, and disability (which includes HIV status).

While Title VII does not expressly forbid discrimination based on sexual orientation or gender identity, a growing number of courts and government agencies have taken the position that its proscription against sex discrimination encompasses both.

For example, in 2018, in the case of *Franchina v. City of Providence*<sup>47</sup>, the U.S. First Circuit Court of Appeals ruled that a lesbian who experienced extensive unchecked harassment from her co-workers at the Providence Fire Department was protected by Title VII. The court ruled that the plaintiff could bring sex-plus claims under Title VII where, in addition to the sex-based charge, the ‘plus’ factor was the plaintiff’s status as a gay or lesbian individual. GLAD submitted an amicus brief<sup>48</sup> in this case.<sup>49</sup>

And, the U.S. Sixth Circuit Court of Appeals recent decision in *EEOC v. RG and GR Harris Funeral Homes, Inc.*<sup>50</sup> allowed the plaintiff to bring claims of discrimination based solely on gender identity. The plaintiff in the case, a funeral home director who was born male, was terminated after informing her employer that she suffered from gender dysphoria and would begin transitioning by dressing and presenting as a woman. The employer admitted that he fired the plaintiff because of her gender identity, but argued that Title VII should not be enforced against the funeral home because it would constitute a substantial burden upon

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<sup>47</sup> See <https://www.glad.org/wp-content/uploads/2018/01/2018-01-25-Franchina-Opinion.pdf>.

<sup>48</sup> See <https://www.glad.org/wp-content/uploads/2018/01/2017-08-25-Franchina-Amicus-Brief.pdf>.

<sup>49</sup> See also *Zarda v. Altitude Express, Inc.*, 883 F.3d 100 (2d Cir. 2018) (sexual orientation discrimination is sex discrimination under Title VII); *Hively v. Ivy Tech Community College*, 853 F.3d 339 (7th Cir. 2017) (same).

<sup>50</sup> See <http://www.opn.ca6.uscourts.gov/opinions.pdf/18a0045p-06.pdf>.

the employer's sincerely held religious beliefs, in violation of the Religious Freedom Restoration Act (RFRA). The court rejected this argument, reasoning that the employer's religious exercise would not be substantially burdened by continuing to employ the plaintiff without discriminating against her on the basis of her gender identity.

In two separate decisions in 2012 and 2016, the EEOC itself concluded that sexual orientation discrimination, gender identity discrimination, and sex discrimination are one and the same, since the first two are based on preferences, assumptions, expectations, stereotypes, and norms associated with masculinity and femininity.<sup>51</sup>

Unfortunately, the Department of Justice (DOJ) under the Trump administration is attempting to roll back this progress. Attorney General Sessions issued a memorandum<sup>52</sup> in which he stated that the position of the DOJ is that "gender identity" discrimination is not protected under Title VII. Also, the DOJ filed an amicus brief<sup>53</sup> with the U.S. Second Circuit Court of Appeals arguing that "sexual orientation" is not protected by Title VII.

LGBT people who are discriminated against in housing may also be able to file a complaint with the federal Department of Housing and Urban Development (HUD) in addition to NHCHR. For more information go to:

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp/LGBT\\_Housing\\_Discrimination](http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/LGBT_Housing_Discrimination).

However, given the position of the DOJ and the Trump administration in general, it is possible that this position of HUD may be reversed at some point.

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<sup>51</sup> See *Macy v. Holder*, EEOC Appeal No. 0120120821 (Apr. 20, 2012); *Baldwin v. Foxx*, EEOC Appeal No. 0120133080 (July 15, 2015).

<sup>52</sup> See <https://assets.documentcloud.org/documents/4067383/Attachment-2.pdf>.

<sup>53</sup> See <https://assets.documentcloud.org/documents/3901661/Brief-Amicus-Brief-Doj.pdf>.

## *Should I file a complaint with a federal agency?*

GLAD recommends that, where there may be overlapping state and federal jurisdiction, you explore filing with CHRO first but keep in mind the possibility of pursuing a federal claim as well. Federal complaints must be filed within 180 days of the discriminatory act with the Equal Employment Opportunity Commission (EEOC). However, if you initially institute your complaint with CHRO and indicate that you wish to have the complaint cross-filed with the EEOC, the time limit is then extended to the earlier of 300 days or 30 days after CHRO has terminated the case.<sup>54</sup> (People who work for federal agencies are beyond the scope of this publication.)

If you have a sexual orientation or gender identity complaint, you should check off “sex” as well as “sexual orientation” or “gender identity” as the bases for your claim and request that CHRO cross-file your complaint with the EEOC.

## *Are there other options for filing a complaint for discrimination?*

Possibly yes, depending on the facts of your particular situation.

**1. Union:** If you are a member of a union, your contract (collective bargaining agreement) may provide additional rights to you in the event of discipline, discharge, or other job-related actions. If you obtain relief under your contract, you may even decide not to pursue other remedies. Get and read a copy of your contract and contact a union steward about filing a complaint. Deadlines in contracts are strict. Bear in mind that if your union refuses to assist you with a complaint, you may have a discrimination action against the union for their failure to work with you, or for a failure of their duty of fair representation.

**2. State or Federal Court:** After filing with the CHRO, EEOC, or both, you may decide to remove your discrimination case from

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<sup>54</sup> United States Code 42 sec. 2000e-5(e)(1).

those agencies and file in court. There are rules about when and how this must be done as discussed above.

In addition, you may wish to bring a court case to address other claims that are not appropriately handled by discrimination agencies. For example, if you are fired in violation of a contract, fired without the progressive discipline promised in a handbook, or fired for doing something your employer doesn't like but which the law requires, these matters are beyond the scope of what the agencies can investigate, and the matter should be pursued in court. Similarly, if your claim involves a violation of constitutional rights—for instance, if you are a teacher or governmental employee who believes his or her free speech or equal protection rights were violated—then those matters must also be heard in court.

***What can I do if my employer fires me or my landlord threatens me for filing a complaint of discrimination?***

It is illegal for your employer or landlord to retaliate or punish you because you filed a complaint. If they do so, you can file an additional complaint against them for retaliation. “Retaliation” protections cover those who have filed complaints, testified or assisted in the complaint process, or opposed any discriminatory employment practice.<sup>55</sup>

***What can I do to prepare myself before filing a complaint of discrimination?***

Contact GLAD Answers at [www.GLADAnswers.org](http://www.GLADAnswers.org) or by phone at 800-455-4523 (GLAD) any weekday between 1:30 and 4:30 p.m. to discuss options.

As a general matter, people who are still working with, or residing under, discriminatory conditions have to evaluate how filing a case will affect their job or housing, and if they are willing to assume those possible consequences. Even if you have been fired or evicted, you may decide it is not worth it to pursue a discrimination claim. This is an

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<sup>55</sup> Conn. Gen. Stat. secs. 46a-60 (4); 46a-64c(a)(9).

individual choice that should be made after gathering enough information to make an informed decision.

Some people prefer to meet with an attorney to evaluate the strength of their claims. It is always helpful to bring the attorney an outline of what happened on the job that you are complaining about, organized by date and with an explanation of who the various players are (and how to get in touch with them). Try to have on hand copies of your employee handbooks or personnel manuals, as well as any contracts, job evaluations, memos, discharge letters and the like. If you are concerned about a housing matter, bring a copy of your lease, along with any notices and letters you have received from your landlord.

# **FAMILY LAW**

## ■ Marriage

### *Can same-sex couples marry in Connecticut?*

Yes. On October 10, 2008, Connecticut's Supreme Court ruled that same-sex couples are entitled to full marriage equality under the Connecticut Constitution. This decision was the result of a lawsuit, *Kerrigan & Mock v. Connecticut Dept. of Public Health*,<sup>56</sup> which GLAD filed on August 25, 2004 in New Haven Superior Court on behalf of eight gay and lesbian Connecticut couples who were denied marriage licenses.

Seven years later, in *Obergefell v. Hodges*,<sup>57</sup> the U.S. Supreme Court made marriage equality a reality nationwide when it held that the U.S. Constitution guarantees same-sex couples the right to marry. GLAD's own Mary Bonauto represented the plaintiffs at oral arguments. Post-*Obergefell*, all 50 states are required to issue marriage licenses to same-sex couples; and all states must respect the marriages of same-sex couples performed in other jurisdictions.

For information about how to get married in Connecticut see: <https://portal.ct.gov/DPH/Health-Information-Systems--Reporting/Vitalrecs/State-Vital-Records-Office---Marriage-License-and-Certificate#What>.

### *Will the federal government respect my marriage?*

Yes. Thanks to the demise of the Defense of Marriage Act (DOMA) in *Windsor v. United States*<sup>58</sup>, the federal government will recognize and respect the legal marriages of same-sex couples.

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<sup>56</sup> 289 Conn. 135 (2008).

<sup>57</sup> 135 S.Ct. 2584 (2015).

<sup>58</sup> 133. S.Ct. 2675 (2013).

Unfortunately, one issue that has yet to be definitively resolved by *Windsor* and *Obergefell* concerns spousal benefits and self-insured health plans. While Connecticut state law prohibits discrimination based on sexual orientation, self-insured health plans are governed by federal law. Title VII, the federal anti-discrimination statute, only prohibits discrimination based on race, color, religion, sex, or national origin—sexual orientation is not explicitly included.

As was discussed above in the section on “Pursuing a Complaint,” there have been some rulings by federal courts that “sexual orientation” discrimination is a form of “sex” discrimination and thus covered by Title VII, and the EEOC has also taken this position.<sup>59</sup>

Also, both Section 1557<sup>60</sup> of the Affordable Care Act and implementing regulations of the Obama administration, 45 CFR 147.104(e),<sup>61</sup> were supposed to prohibit discrimination against LGBT people in most public and private health care plans, so that everyone would have access to health care. Unfortunately, these protections are under attack by some states and by the Trump administration.

If your employer is discriminating against you in spousal healthcare benefits on the basis of sexual orientation, contact GLAD Answers.

### ***What happens if we need to end our marriage?***

After *Obergefell v. Hodges*, same-sex spouses everywhere should be able to dissolve their marriages on the same terms as different-sex spouses. Connecticut applies its divorce statutes to same-sex couples.<sup>62</sup>

However, spouses should note that when Connecticut courts divide marital property<sup>63</sup> and award alimony,<sup>64</sup> one of the factors a judge considers is the length of the marriage. The Connecticut Supreme Court has specifically held that a judge cannot take a period of premarital

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<sup>59</sup> See [https://www.eeoc.gov/eeoc/newsroom/wysk/enforcement\\_protections\\_lgbt\\_workers.cfm](https://www.eeoc.gov/eeoc/newsroom/wysk/enforcement_protections_lgbt_workers.cfm).

<sup>60</sup> See <https://www.hhs.gov/civil-rights/for-individuals/section-1557/index.html>.

<sup>61</sup> See <https://www.ecfr.gov/cgi-bin/retrieveECFR?n=45y1.0.1.2.62.0.27.4>.

<sup>62</sup> See e.g., *Barse v. Pasternak*, 2015 Conn. Super. LEXIS 142 at \*24 (2015) (referring to lesbian couple’s divorce).

<sup>63</sup> Conn. Gen. Stat. 46b-81(c).

<sup>64</sup> Conn. Gen. Stat. 46b-82(a).

cohabitation into account.<sup>65</sup> Unfortunately for spouses whose partnership pre-dates marriage equality, the length of the marriage may not accurately reflect the true length of the relationship, resulting in an unbalanced division of assets.

If you are going through divorce proceedings in Connecticut and believe your division of assets may be unfairly affected by the length of your marriage, contact GLAD Answers.

## ■ Civil Unions

### *Does Connecticut still allow civil unions?*

Not anymore. Connecticut completed its transition from civil unions to full marriage equality for same-sex couples in 2010.

If you have a civil union (or registered domestic partnership) from another state, Public Act 09-13 clarifies that Connecticut will grant you the same rights and benefits, and hold you to the same responsibilities, as a married couple in Connecticut.

## ■ Legal Protections for Same-Sex Couples

### *Without getting married, what steps can a couple take to legally safeguard their relationship in Connecticut?*

There are various legal documents that can protect a couple's relationship, regardless of whether the couple has no formal legal relationship or is already in a marriage or civil union.

**1. Relationship Agreement or Contract:** A couple has the option of drafting a written cohabitation agreement, outlining their respective rights with regards to property, finances, and other aspects of their relationship. In 1987, the Connecticut Supreme

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<sup>65</sup> *Loughlin v. Loughlin*, 280 Conn. 632, 645 (2006) (“consideration of a period of cohabitation that precedes a marriage as part of the statutory factor of “length of the marriage” in a dissolution action is improper”).

Court ruled that a cohabitation agreement between an unmarried heterosexual couple was an express contract which could be enforced according to the ordinary rules of contract when the couple separated.<sup>66</sup> There is every reason to believe that the same result will apply to the contract of a same-sex couple. While the court held that contracts could be oral or in writing, this ruling provides great incentive for couples to sort out their affairs *in writing* before a separation.

**2. Document Designating a Non-Legally Related Adult to Have Certain Rights and Responsibilities:** Connecticut law allows any adult to grant another adult the ability to make certain decisions on their behalf.<sup>67</sup> Although the protections this law provides fall far short of those associated with marriage, they may provide some peace of mind for couples under a narrow set of circumstances.

To grant your partner (or anyone else) this decision-making power, you must sign, date, and acknowledge a designation document before a notary public and two witnesses. You can revoke the document at any time by destroying it or by executing a new document.<sup>68</sup> The designation document must be honored in the following circumstances:

- In The Workplace: If you experience an emergency and you or someone else calls your partner at work to inform them, their employer must notify them of the phone call.<sup>69</sup>
- In Court And Administrative Proceedings Involving Crime Victims: If you are the victim of a homicide, your partner is granted employment protection for missing work in order to attend court proceedings.<sup>70</sup> Your partner is also entitled to request and receive advance notice of the terms of plea agreements with the perpetrator, to make a statement in

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<sup>66</sup> *Boland v. Catalano*, 202 Conn. 333, 340-41 (1987).

<sup>67</sup> Conn. Gen. Stat., sec. 1-56r(a).

<sup>68</sup> Conn. Gen. Stat., sec. 1-56r(b).

<sup>69</sup> Conn. Gen. Stat. sec. 31-51jj.

<sup>70</sup> Conn. Gen. Stat. sec. 54-85(d).

court prior to the sentencing of the perpetrator, and to make a statement at parole hearings of the perpetrator. If your partner is wholly or partly dependent on your income, they may seek compensation from the Office of Victim Services.<sup>71</sup>

- In Automobile Ownership: If you own a car, your partner assumes ownership upon your death.<sup>72</sup>
- In Health Care Settings: If it comes time to make end of life decisions and your wishes are not written in a living will, your partner will be among those the doctor will consult regarding the removal of life support.<sup>73</sup> Before removing life support, the doctor must make reasonable efforts to notify your partner.<sup>74</sup> In addition, your partner has priority over all of your other representatives or family members when it comes to making anatomical gifts on your behalf, with the exception of a surviving spouse.<sup>75</sup>
- In Psychiatric Hospitals: Your partner is among the list of people who may consent to medical or surgical procedures for you, if you have been involuntarily admitted and are unable to consent yourself.<sup>76</sup>
- In Nursing Homes: Finally, the act entitles your partner to (1) receive advance notice of involuntary, non-emergency room transfer, including Medicaid patients' transfer into non-private rooms; (2) participate in any consultations prior to any contested transfer; (3) have private visits with you; and (4) organize and participate in patient social events or community activities.<sup>77</sup>

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<sup>71</sup> Conn. Gen. Stat. sec. 54-201.

<sup>72</sup> Conn. Gen. Stat. sec. 14-16.

<sup>73</sup> Conn. Gen. Stat. sec. 19a-571(a).

<sup>74</sup> Conn. Gen. Stat. sec. 19a-580.

<sup>75</sup> Conn. Gen. Stat. sec. 19a-289h(a).

<sup>76</sup> Conn. Gen. Stat. sec. 17a-543(b).

<sup>77</sup> Conn. Gen. Stat. sec. 19a-550.

Other documents, discussed below, allow your partner to share financial, medical, and end of life decisions. The rights and responsibilities granted to your partner by the designation document discussed above overlap with some of those set forth in the documents discussed below. It is unclear how the law will handle these potential conflicts, and therefore any preference for who should carry out specific obligations should be clearly noted in all relevant documents.

**3. Power of Attorney:** A couple can choose to grant each other the durable power of attorney, allowing one partner to make financial decisions on the other's behalf in the event of incapacity or disability.<sup>78</sup>

The law provides a “short form” which allows you to check off the kinds of transactions you wish your partner (your “attorney-in-fact”) to perform. These include: (a) real estate matters; (b) chattel and goods transactions; (c) bond, share and commodity transactions; (d) banking transactions; (e) business operating transactions; (f) insurance transactions; (g) estate transactions; (h) claims and litigation; (i) personal relationships and affairs; (j) benefits from military service; (k) records, reports and statements; and (l) all other matters designated by you, with the exception of health care decisions.<sup>79</sup> Those can be delegated to a “health care representative,” a process described below.<sup>80</sup>

The power of attorney can either become effective immediately or in the event of your incapacity, and it can have a short termination date, long termination date, or no termination date at all. It should be witnessed by two disinterested individuals and notarized. The notary may also serve as a witness. The power of attorney form must stay in your partner's possession.

**4. Health Care Representative:** A couple can also choose to appoint each other as health care representatives, allowing them to make medical decisions on one another's behalf in the event of an

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<sup>78</sup> Conn. Gen. Stat. sec. 1-350a.

<sup>79</sup> Conn. Gen. Stat. sec. 1-352.

<sup>80</sup> See Conn. Gen. Stat. sec. 1-43(a).

emergency. You may state your preference about withdrawal of life support, types of medical care, anatomical gifts, or any other limits on your health care representative's authority in the same document.<sup>81</sup> The document must be executed and witnessed by two adults,<sup>82</sup> and must be revoked the same way.<sup>83</sup> If you have no health care representative, medical care providers will look to next-of-kin or any adult listed in your designation document (discussed above) to make medical decisions for you.<sup>84</sup>

**5. Appointment of Conservator:** You may also choose to appoint you partner as your conservator.<sup>85</sup> A conservator manages your financial and/or daily affairs when you are no longer capable of managing them yourself, either because of old age or mental or physical incapacity. Note that all conservator nominations are subject to the scrutiny of the probate court at the time you are deemed incapable or incompetent.

**6. Will:** Without a will, a deceased unmarried person's property passes to: (1) their children; (2) their family, or; (3) if next of kin cannot be located, to the state. If you wish to provide for others, such as your partner, a will is essential. Even if you have few possessions, you can name in the will the person who will administer your estate.<sup>86</sup>

In addition, if you have children, you can nominate their future guardian and "trustee for asset management" in the will. This nomination will be evaluated by the Probate Court.

**7. Funeral Planning Documents:** Upon death, a person's body is given to their spouse or their next of kin.<sup>87</sup> This can mean that a person's own partner has no right to remove the body, write an obituary, or make plans for a final resting place. To avoid this problem, you can create a document (witnessed and notarized) that

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<sup>81</sup> Conn. Gen. Stat. secs. 19a-576.

<sup>82</sup> Conn. Gen. Stat. sec. 19a-576(a).

<sup>83</sup> Conn. Gen. Stat. sec. 191-575a.

<sup>84</sup> Conn. Gen. Stat. sec. 19a-571.

<sup>85</sup> Conn. Gen. Stat. sec. 45a-645.

<sup>86</sup> See generally Conn. Gen. Stat. secs. 45a-433 – 45a-439.

<sup>87</sup> Conn. Gen. Stat. sec. 45a-318.

designates the person you want to be able to have custody and control of your remains.<sup>88</sup> Some people include these instructions as part of a will, but since a will may not be found for days after death, it is preferable to give the instructions directly to the person you want to take care of matters, as well as to family.

***Does a person need an attorney to get these documents?***

GLAD recommends working with an attorney on these documents. Although forms are available, the form may not be suited to your individual needs and wishes. Moreover, an attorney may be able to better help effectuate your goals, for example, by drafting a will in a way which is more likely to deter a will contest by unhappy family members, or an appointment of a health care agent with very specific instructions. In addition, an attorney may help to navigate the legal uncertainties flowing from the areas of overlap between these documents.

***If an unmarried couple separates, what is the legal status of a relationship or partnership agreement/contract?***

Upon separation, if the couple has a Relationship or Partnership Agreement/Contract, its terms will be invoked and the couple's assets will be divided as per the agreement. Without an agreement, unmarried couples may be forced to endure costly and protracted litigation over property and financial matters.

**If you have changed your mind about who should be your “attorney-in-fact,” health care representative, beneficiary or executor under a will, funeral planner, conservator, or designee under a designation documents, then those documents should be revoked—with notice to all persons who were given copies of those documents—and new documents should be prepared which reflect your present wishes.**

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<sup>88</sup> Conn. Gen. Stat. sec. 45a-318.

## ■ Domestic Partnership

### *What is domestic partnership?*

Although it is a term used in many contexts, “domestic partnership” most often means a status which recognizes an unmarried couple and their children as a family for certain limited purposes, most commonly employee benefits. Some states, cities and towns have also enacted domestic partner laws. In other contexts, “domestic partner” is also a shorthand term for family, replacing “lover,” “friend,” and “roommate.” Some people call cohabitation agreements “domestic partner agreements

### *Does Connecticut provide same-sex domestic partner benefits to state employees?*

Not any longer. Although Connecticut offered domestic partnership benefits for its state employees for several years, there was an agreement that when marriage became available to same-sex couples, benefits would only be available to married or civil union spouses. Beginning in November 2009, domestic partnership benefits were terminated.

### *Can cities and towns in Connecticut provide domestic partner health insurance benefits to their own employees?*

Yes. For example, Hartford has a domestic partnership ordinance providing a means for couples to register as domestic partners.<sup>89</sup>

### *What kinds of domestic partner benefits may private employers provide?*

Private employers may provide any benefits to domestic partners they wish – whether health insurance, family medical or bereavement leave, equal pension benefits, relocation expenses, access to company facilities, or any other benefit.

However, even when employers provide these benefits, federal laws sometimes treat domestic partner benefits differently from spousal

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<sup>89</sup> Hartford, CT Municipal Code, Chap. 2, Art. III, sec. 2-63 (2000).

benefits, often with financial consequences. For example, employees must pay federal income tax on a domestic partner's health insurance benefits, but spousal benefits are exempt.<sup>90</sup> Similarly, while spousal consent is required if a married employee decides to name a third party as a pension beneficiary or survivor benefits recipient, an employee with a domestic partner can change these designations freely.

***Can I use the state non-discrimination law to force my employer to provide domestic partnership benefits?***

This is an open question. On the one hand, Connecticut non-discrimination law says that an employer cannot discriminate on the basis of sexual orientation in terms of compensation, and employee benefits are a form of compensation. But on the other hand, lawsuits in other states have largely failed with these types of claims on the grounds that all unmarried people – gay and non-gay alike – are barred from benefits, so there is no specific sexual orientation discrimination.

## ■ Adoption

***What is the difference between joint, second-parent, and single-parent adoptions?***

A joint adoption is when both partners adopt a child together at the same time. A second-parent adoption is when one partner adopts the other partner's child. A single-parent adoption is where a single individual adopts a child.

***Can a single gay individual adopt a child in Connecticut?***

Yes.

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<sup>90</sup> See Internal Revenue Code, Private Letter Ruling 9603011 (Jan. 19, 1996).

### ***Can same-sex partners together adopt a child in Connecticut?***

Yes. A couple with a marriage or civil union must generally adopt a child not born into the relationship as a couple.<sup>91</sup> A couple who does not have a marriage or civil union can both become legal parents of a child through a process, called “second-parent adoption,” whereby one adopts (or gives birth to the child), and then the second parent adopts.<sup>92</sup>

### ***What is the advantage of doing a second-parent adoption or joint adoption?***

Both joint adoptions and second-parent adoptions ensure your child has two legal parents, which often provides greater comfort and security to everyone involved. Depending on your particular family situation, the law may not recognize both partners as legal parents without an adoption. In these cases, the non-legal parent needs special permission to make medical decisions for the child or attend school meetings, and is at risk of losing custody if the couple splits up.

Adoption allows a non-legal parent to become a legal parent, entitled to make decisions for the child without special authorization. It also permits the adoptive parent to automatically assume custody of the child if their partner dies. Likewise, if the adoptive parent dies, the child will have the right to inherit from them even absent a will and may be able to collect social security survivor benefits.

Finally, if the couple separates, adoption ensures that both parents have the right to custody and visitation and that any disputes will be decided based on what is in the best interests of the child rather than on who is the legal parent.

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<sup>91</sup> Conn. Gen. Stat. sec. 45a-732 (married person cannot adopt unless spouse adopts jointly, unless probate court finds sufficient reason for spouse not to adopt).

<sup>92</sup> Conn. Gen. Stat. sec. 45a-724(a)(3).

***Do we need to do a second-parent adoption if we are married or in a civil union?***

A second-parent adoption is the best way to ensure the ongoing parental rights of both parents. While Connecticut law presumes that a child born into a marriage or a civil union is the child of both spouses,<sup>93</sup> another state may not respect that presumption if you or your partner moves. By contrast, adoption is a court judgment creating a parent-child relationship and is very likely to be respected by other states, even if these states are otherwise hostile to same-sex couples parenting.

***If same-sex parents raise a child together, but only one is the “legal” parent, then what rights does the non-legal parent have vis-à-vis the child?***

As a general matter, the rights of a non-legal parent are limited. If a couple is unmarried, the law permits a non-legal parent to petition the Superior Court for visitation (but not custody).<sup>94</sup> The court will grant visitation if it finds that: (1) a parent-like relationship exists between the child and the non-legal parent, and (2) denying visitation would cause real and significant harm to the child.<sup>95</sup> Several Connecticut courts have allowed lesbian co-parents the right to visit with their children following a separation.<sup>96</sup> A visitation award does not come with any child support obligations, but if support is offered, a legal parent may accept it.

Regardless of the status of a person’s legal rights, it is critical to remember that children form strong attachments to their parental caregivers regardless of legal labels. Separating a child from a person who has acted as their parent can be a devastating loss. Moreover, court proceedings to establish visitation will be painful and costly, so anything people can do outside of court to make decisions together about a child’s

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<sup>93</sup> See *Barse v. Pasternak*, 2015 Conn. Super. LEXIS 142 (2015) (legal presumption that child born into wedlock is the legitimate child of the mother and mother’s spouse extends to same-sex couples, even if the spouse did not conceive or adopt the child or comply with artificial insemination statutes).

<sup>94</sup> Conn. Gen. Stat. sec. 46b-59.

<sup>95</sup> Conn. Gen. Stat. sec. 46b-59(b).

<sup>96</sup> See e.g. *Antonucci v. Cameron*, 25 Conn. L. Rptr. 509 (Conn. Super. Ct. Dept., Sept. 24, 1999) (allowing visitation to lesbian co-parent where visitation is in the best interests of the child); *Laspina-Williams v. Laspina-Williams*, 46 Conn. Supp. 165, 742 A.2d 840 (1999) (denying motion to dismiss of biological mother in co-parent visitation case).

interests is strongly encouraged. See GLAD's publication: *Protecting Families: Standards for LGBT Families* at <https://www.glad.org/wp-content/uploads/2017/01/protecting-families-standards-for-lgbt-families.pdf>.

***Short of second-parent adoption, how can a family protect the interests of the child vis-à-vis their non-legal parent?***

There are a number of steps that can be taken, although none offer the security of a second-parent adoption.

**Co-parenting Agreement:** A co-parenting agreement is an agreement setting out the parents' expectations about each other's roles and their plans in the event of separation, disability, or death. While these agreements may not always be given full effect by courts, which are bound to make custody and visitation decisions based on the child's best interests, they are important indicators of what the couple *believed* was in the best interests of the child and may influence a court's ultimate decision.

**Wills:** A legal parent may nominate a guardian to take custody of the child upon the parent's death. These wishes are given strong preference by courts. However, if the child has another legal parent living, then that person will have priority over the nominated guardian.

**Power of Attorney:** A legal parent may choose to grant the non-legal parent power of attorney over the child, which allows the non-legal parent to make medical or financial decisions. Power of attorney documents should be updated regularly.

## ■ Custody and Visitation

***What standards should same-sex couples with children who are breaking up maintain?***

Same-sex couples with children who are breaking up should:

1. Support the rights of LGBT parents;
2. Honor existing relationships regardless of legal labels;
3. Honor the children's existing parental relationships after the break-up;
4. Maintain continuity for the children;
5. Seek a voluntary resolution;
6. Remember that breaking up is hard to do;
7. Investigate allegations of abuse;
8. Not allow the absence of agreements or legal relationships to determine outcomes;
9. Treat litigation as a last resort; and
10. Refuse to resort to homophobic/transphobic laws and sentiments to achieve a desired result.

For more detailed information about these standards see the publication *Protecting Families: Standards for LGBT Families* at: <https://www.glad.org/wp-content/uploads/2017/01/protecting-families-standards-for-lgbt-families.pdf>.

### ***How does a court generally go about making custody determinations?***

When a married couple divorces, the parties are encouraged to make their own agreement about custody and visitation. If they can't reach an agreement, a Superior Court judge will make a custody and visitation determination based the best interests of the child.<sup>97</sup> A court considers all relevant factors, keeping in mind a child's growth, development, well-being, and the continuity and stability of their environment.<sup>98</sup>

In all contested cases, the judge will appoint a family relations officer to investigate in order to help the judge arrive at a decision. The investigation can touch on matters of "parentage and surroundings of any child, [the child's] age, habits and history, inquiry into the home conditions, habits and characters of his parents or guardians and evaluation of his mental or physical condition."<sup>99</sup>

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<sup>97</sup> Conn. Gen. Stat. sec. 46b-56(b).

<sup>98</sup> *Cappetta v. Cappetta*, 196 Conn. 10, 16, 490 A.2d 996, 999 (1985).

<sup>99</sup> Conn. Gen. Stat. sec. 46b-6.

## *Are there different kinds of custody?*

Yes.<sup>100</sup> Four kinds:

**“Sole legal custody”** means that only one parent has the right to make major life decisions for the child, including matters of education, medical care, and emotional, moral and religious development.

**“Shared legal custody”** means that both parents are involved in and make these decisions.

**“Sole physical custody”** means that a child lives with and is under the supervision of only one parent, subject to reasonable visitation with the other parent, unless a court finds that visitation is not in the child’s best interests.

**“Shared physical custody”** means that the child resides with both parents in a way which ensures frequent contact with both.

The court may also award custody to a third party if it finds it to be in the child’s best interests.<sup>101</sup>

## *If I have a child from a former straight relationship, and I am now involved with a same-sex partner, can my ex use my sexual orientation against me in custody proceedings?*

As stated above, Connecticut courts base custody arrangements on the best interests of the child. As a general rule, a parent’s sexual orientation or marital status should have no bearing on a child’s best interests.

Nevertheless, your former partner may try to argue that your sexual orientation is detrimental to your child. Any number of reasons can be cited, such as that the LGBT parent’s sexual orientation is causing other people to tease or ostracize the child, that the parent is a bad role model,

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<sup>100</sup> Conn. Gen. Stat. sec. 46b-56(a).

<sup>101</sup> *Id.*

or that the parent's new partner is not good for the child. In the overwhelming majority of circumstances, these matters can be answered to the satisfaction of a judge in a way that does not penalize the gay parent or the child. Contact GLAD for further resources for dealing with such a situation.

***Does it matter if my ex knew or suspected I was gay or lesbian before we separated?***

It may make a difference with respect to future modification of court orders for custody. People can seek to modify court orders for custody when there has been a change in circumstances that alters the child's best interests.<sup>102</sup> If a spouse did not know of your sexual orientation at the time of the court proceedings but learned of it later, they may argue that this is a change of circumstances and that the custody issues should be litigated anew.

***Can a court keep my kids from visiting when my partner is present?***

Courts have the power to do this, but should not do so unless it is clearly in the best interests of the child. Connecticut courts have rejected the notion that any particular lifestyle, in and of itself, will harm a child and so will insist on specific proof.

## ■ Domestic Violence

***What is domestic violence?***

Connecticut law defines domestic abuse or "family violence" as: (1) an act that results in physical harm, bodily injury, or assault; or (2) a violent threat that causes fear of imminent physical harm, bodily injury, or assault.<sup>103</sup> Verbal threats by themselves do not trigger the law's protections unless there is "a present danger and the likelihood that physical violence will occur."

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<sup>102</sup> See generally, Conn. Gen. Stat. sec. 46b-56.

<sup>103</sup> Conn. Gen. Stat. sec. 46b-38a(1).

## ***Do domestic violence laws apply to people in same-sex relationships?***

Yes, depending on how serious you and your partner are or were. Connecticut's family violence law applies to abuse between "family or household members," a definition which includes spouses and ex-spouses, people are or were residing in the same household, people who have a child together, and people who are in or have recently been in a dating relationship.<sup>104</sup>

## ***How do I get a court order protecting me from an abusive partner?***

You can get a court order from the Family Court, which will prohibit the abuser from coming near you or your home, or from harassing you any further.<sup>105</sup> It may also include temporary custody or visitation rights, protections for your children, and protections for any animals you may own.<sup>106</sup> An order will only be issued if the court finds you have been subjected to "a continuous threat of present physical pain and injury."<sup>107</sup> Orders may be granted on an emergency basis.

The process is intended to be simple. You may go to the court nearest where you live, or if you have fled your home, in the town where you used to live. You will need to fill out an application alleging "abuse" as defined above, along with an affidavit providing the details. The affidavit is signed under oath, so everything you say must be true. Try to demonstrate in as much detail as possible why you feel threatened.

The defendant/abuser must then be served with (given a copy of) the court order, and notified of their right to contest the order in court. You may wish to have an attorney represent you during this part of the process, especially if you think custody or visitation issues may arise in court. You should bring with you any witnesses who can substantiate the abuse, as well as copies of threatening letters, medical records, or any other documents that can show how you have been harmed and why you are afraid. Expect to be asked questions by the judge and the attorney for

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<sup>104</sup> Conn. Gen. Stat. sec. 46b-38a(2).

<sup>105</sup> Conn. Gen. Stat. sec. 46b-15(b).

<sup>106</sup> *Id.*

<sup>107</sup> Conn. Gen. Stat. sec. 46b-15.

the abuser/defendant. You have the same right to ask questions.

Once the order is issued, it is effective statewide. Violation of a court order is a criminal offense.<sup>108</sup> The court may grant orders of protection for up to 6 months in duration, and those orders may later be extended.<sup>109</sup>

If for some reason you decide not to go through with the legal process, you should show up in court anyway and ask that the order be dismissed. If you don't show up, it is possible the court will think of you as unreliable if you need legal help in the future.

There is another type of order available called a "protective" order. It is issued automatically when an assailant is arrested and requires no contact to occur between the assailant and victim.

There are other laws that prohibit stalking, harassing and trespassing which may apply to you, but are beyond the scope of this document.

### ***Where can I go to get help?***

In addition to the local police, district attorney, and Superior Court you can contact:

Connecticut Coalition Against Domestic Violence (CCADV)  
(860) 282-7899 or Toll-Free (888) 774-2900  
[www.ctcadv.org](http://www.ctcadv.org)

Connecticut Sexual Assault Crisis Services  
(860) 282-9881 or Toll-Free (888) 999-5545 (English)  
888-568-8332 (Español).  
[www.connsacs.org](http://www.connsacs.org)

Connecticut Women's Education and Legal Fund (CWEALF)  
(860) 524-0601 or Toll-Free (800) 479-2949  
[www.cwealf.org](http://www.cwealf.org)

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<sup>108</sup> See generally, Conn. Gen. Stat. sec. 46b-15 (c).

<sup>109</sup> Conn. Gen. Stat. sec. 46b-15(d).

*Does domestic violence play a role in custody decisions?*

It may, but there is no law saying that it should. It is a factor that affects the best interests of the child analysis.

# HATE CRIMES, SEX LAWS & POLICE

## ■ Hate Crimes & Violence

### *Does Connecticut have a hate crimes law?*

Yes. Connecticut has a number of hate crimes statutes that enhance criminal penalties for bias crimes and also allow an injured person to sue for monetary damages.<sup>110</sup> Connecticut's main hate crimes law sets out sentencing enhancements for hate crimes based on actual or perceived race, religion, ethnicity, disability, **sexual orientation** and **gender identity and expression** depending on their severity.<sup>111</sup> In order to track hate crimes, the State Police maintains a reporting system so that incidents are centrally recorded.<sup>112</sup>

### *How does the law define what is a hate crime?*

Connecticut's sentencing enhancements for hate crimes apply when a perpetrator commits a crime with the specific intent to harass or intimidate an individual because of their actual or perceived race, religion, ethnicity, disability, sexual orientation, gender identity, or gender expression.<sup>113</sup> In other words, the perpetrator selects his victim out of bigotry.

If those prerequisites are shown, a sliding scale of sentencing enhancements applies:

1. If the attacker "causes serious physical injury" to a person, the crime is a *Class C Felony*.<sup>114</sup>
2. If the attacker either: (1) causes any physical contact with their victim; (2) damages, destroys, or defaces their victim's property or personal affects; or (3) credibly threatens to do either (1) or (2), the

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<sup>110</sup> See <https://www.cga.ct.gov/2017/rpt/pdf/2017-R-0196.pdf>.

<sup>111</sup> Conn. Gen. Stat. sec. 53a-181i – 181l.

<sup>112</sup> See Conn. Gen. Stat. sec. 29-7m.

<sup>113</sup> Conn. Gen. Stat. sec. 53a-181j(a).

<sup>114</sup> Conn. Gen. Stat. sec. 53a-181j(b).

crime is a *Class D Felony*.<sup>115</sup>

3. If the attacker is found to act without malice, but nonetheless either: (1) damages, destroys, or defaces their victim's property or personal affects; (2) credibly threatens to damage, destroy, or deface their victim's property or personal affects, or encourages another person to do so, the crime is a *Class A Misdemeanor*.<sup>116</sup>

Another provision of Connecticut law applies enhanced penalties to perpetrators who repeatedly commit hate crimes.<sup>117</sup>

There are also specific laws concerning desecration of religious sites and cross burning that are beyond the scope of this document.<sup>118</sup>

### ***How do I know if an attack was a hate crime?***

Trust your gut and report to the police all the details of any possible hate crime. If you leave out the details about bias, the police will have no way of knowing that the crime may be a hate crime. Law enforcement officials tend to use the following as guideposts for determining whether or not a crime is a hate crime.

- Did the attacker use anti-LGBT language or slurs?
- Was the victim in an area associated with LGBT people (e.g. outside a gay bar, at a Pride parade location, at a cruising area)?
- Have there been similar crimes in the area?
- Was the victim identified and targeted because of appearance or behavior (e.g., holding hands with a same-sex partner, wearing a Pride flag)
- Did the attack occur regardless of economic motive (i.e., was the victim attacked but not robbed)?

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<sup>115</sup> Conn. Gen. Stat. sec. 53a-181k.

<sup>116</sup> Conn. Gen. Stat. sec. 53a-181l.

<sup>117</sup> Conn. Gen. Stat. sec. 53a-40a.

<sup>118</sup> See e.g. Conn. Gen. Stat. sec. 46a-58.

***Besides the police, who can I call if I think I've been a victim of a hate crime?***

For help and referrals, call the Connecticut Women's Education and Legal Fund (CWEALF) Hate Crimes Project. They can be contacted at (860) 247-6090 or Toll-Free (800) 479-2949.

***What other options do I have if I think I have been a victim of a hate crime?***

If you have been injured or if your property has been damaged, you may file a civil action against your attacker in addition to pursuing your rights in the criminal justice system.<sup>119</sup> This action must be filed within three years of the date of the crime. If you prevail in court, the judge will award you triple damages, and may also decide to grant equitable relief (such as an injunction ordering the attacker to stay away from you) and attorney's fees.<sup>120</sup>

***In what ways might the federal hate crimes law help to investigate and prosecute hate crimes?***

The *Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act*<sup>121</sup> was passed by Congress on October 22, 2009 and was signed into law by President Obama on October 28, 2009. It expands the 1969 United States federal hate crime law to include crimes motivated by a victim's actual or perceived gender, sexual orientation, gender identity or disability.

First, and perhaps foremost, the Act allows local and state law enforcement agencies to apply for the following federal assistance from the U.S. Attorney General:

- investigative, technical, forensic or prosecutorial support for criminal investigations and prosecutions,

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<sup>119</sup> Conn. Gen. Stat. sec 52-571c.

<sup>120</sup> *Id.*

<sup>121</sup> See <https://www.justice.gov/crt/matthew-shepard-and-james-byrd-jr-hate-crimes-prevention-act-2009-0>.

- grants for extraordinary expenses associated with the investigation and prosecution of hate crimes, and
- grants to combat hate crimes committed by juveniles.

In providing assistance to local and state authorities, the priorities are hate crimes:

- where the offender(s) has committed crimes in more than one state, or
- that occur in rural areas which do not have the resources needed to prosecute such crimes.

Second, for hate crimes that in some way involve crossing state or national borders, or involve or affect interstate commerce, and where a state does not have jurisdiction or has requested federal assumption of jurisdiction, or where the federal government feels that justice has not been served or that U.S. prosecution is in the public interest, the Act authorizes the federal government to prosecute the case.

The Act also requires the Federal Bureau of Investigation to track statistics on hate crimes on the basis of gender and gender identity (statistics for the other groups are already tracked) and on crimes committed by and against juveniles. This is the first federal law to explicitly extend legal protections to transgender persons.

## ■ Criminal Sex Laws

*Does Connecticut have a sodomy law?*

No.

*If it's not illegal for LGBT people to have sex, why are people still getting arrested?*

LGBT people are subject to the same laws as non-LGBT people. Sex in public, with underage persons, without consent, or with force are all

illegal acts. Sex for pay – as either the customer or the provider – is also illegal.

Connecticut also has a “public indecency” law,<sup>122</sup> which prohibits any of the following acts in a public place:

- a. sexual intercourse
- b. lewd exposure of the body with intent to arouse or satisfy the sexual desire of the person, or
- c. a lewd fondling or caress of the body of another person.

***What kinds of activity does the “public indecency” law prohibit?***

First, it is important to note what kinds of activity the law does **not** prohibit. The law only encompasses sexual activity and nudity: no one should be arrested or hassled for hand-holding, cruising, talking, flirting, toe-tapping, or other non-sexual touching.

Second, the law only prohibits sex in a “public place.” According to Connecticut law, a “public place” is “any place where the conduct may reasonably be expected to be viewed by others.”<sup>123</sup> Thus, sex is not illegal simply because it takes place outdoors, in parked cars, or on public lands. It all depends on the circumstances.<sup>124</sup>

As a practical matter, regardless of one’s rights, having sex outdoors is a risky business. For one, based on numerous reports to us, we believe that some police will overlook outdoor sexual activity between straight couples, but arrest LGBT people engaged in the same behavior. Another concern is that some police “hunt” for LGBT people having sex outdoors in park lands and rest areas to arrest them, sometimes in uniform and sometimes as undercover decoys. If a person is caught, they can be charged with a violation of the sex laws.

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<sup>122</sup> Conn. Gen. Stat. sec. 53a-186.

<sup>123</sup> *Id.*

<sup>124</sup> *See, e.g., Connecticut v. Vega*, 38 Conn. Sup. 313, 315 (1982) (exposure in front of apartment window seven feet above ground is public); *Connecticut v. Cutro*, 37 Conn. App. 534, 543 (1995) (masturbating in mall parking lot between 9:15 and 9:30 p.m. is public where defendant could be seen by person three cars away)

### ***Does Connecticut have a sex offender registry law?***

Yes, every state now has such a law, although the terms differ from state to state.

### ***What types of crimes are deemed to be “sex offenses”?***

As you would expect with a law designed to ensnare dangerous predators, most of the crimes involve violence or children. However, if you are convicted of violating the public indecency law with someone who was under the age of 18, you will be deemed a sex offender under Connecticut law.<sup>125</sup>

### ***What if I was not actually convicted? Or what if my conviction is very old?***

The sex offender registry only applies to people who plead guilty to a sex offense, were found guilty by a jury, or who entered a plea of *nolo contendere*.<sup>126</sup> Furthermore, the law does not apply to those who were convicted of a sex offense and released into the community before October 1, 1988.<sup>127</sup>

### ***How can I find what charges I have been convicted of?***

You can request a criminal history record from the Connecticut State Police Bureau of Identification, 1111 Country Club Road, Middletown, CT 06457, (860) 685-8480. For a form and instructions, consult the following link:

[http://www.ct.gov/despp/lib/despp/reports\\_and\\_records/dps-846-c.pdf](http://www.ct.gov/despp/lib/despp/reports_and_records/dps-846-c.pdf).

### ***What obligations are imposed on “sex offenders”?***

Generally, sex offenders must register annually with the Department of Public Safety and provide their name, identifying factors, criminal history record, residence address, and treatment history for mental abnormality or personality disorder (if any). Depending on the type of

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<sup>125</sup> Conn. Gen. Stat. sec. 54-250 (2). For a full list of sex offenses, see Conn. Gen. Stat. sec. 54-250 (2)(offenses against minors), (11) (sexually violent offenses).

<sup>126</sup> Conn. Gen. Stat. sec. 54-250 (1).

<sup>127</sup> See e.g. Conn. Gen. Stat. secs. 54-251 (a), 54-252 (a).

offense, registration is required for a period of at least 10 years and may continue for life.<sup>128</sup> There are limited exemptions from the obligation to register.<sup>129</sup>

A person convicted of violating the public indecency law with a minor must register for 10 years, but a person with two or more such convictions must register for life.<sup>130</sup>

### ***What information is publicly available about sex offenders?***

In most instances, registration information is available to the public online through the Department of Public Safety, at [http://www.communitynotification.com/cap\\_office\\_disclaimer.php?office=54567](http://www.communitynotification.com/cap_office_disclaimer.php?office=54567).<sup>131</sup>

The information made public includes the person's name, aliases, date of birth, State Police Bureau of Identification number, registration address, race, color of eyes and hair, sex, height, weight, identifying scars or marks or tattoos, date of registration, date last verified, and date and description of the crime.

### ***What is the age of consent for sexual activity?***

Generally, the age of consent for sexual activity in Connecticut is 16.<sup>132</sup> However, in some specific circumstances, such as when the older partner is the younger partner's guardian or otherwise responsible for their welfare, the age of consent is raised to 18.

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<sup>128</sup> Conn. Gen. Stat. secs. 54-251 (a), 54-252 (a).

<sup>129</sup> Conn. Gen. Stat. secs. 54-251 (b), 54-255.

<sup>130</sup> Conn. Gen. Stat. sec. 54-251.

<sup>131</sup> Conn. Gen. Stat. sec. 54-258(1).

<sup>132</sup> Conn. Gen. Stat. sec. 53a-71

## ■ Police Harassment

*I am often told by police to “move along” from public areas. Is that legal?*

Not necessarily. If the area is public and not posted as having particular hours, you generally have a right to be there as long as you are not engaged in unlawful activity. Public places belong to everyone, and are often also places of public accommodation subject to Connecticut’s non-discrimination law. Even if a police officer wants to deter crime, or suspects some kind of unlawful intent, they have no general right to request people to move from one place to another, *unless there is unlawful conduct*.<sup>133</sup>

*What are the general rules about interaction with police?*

The presence of individuals who appear to be LGBT – whether because such individuals are displaying symbols such as a rainbow flag or pink triangle or for any other reason – should not trigger any special scrutiny by a police officer.

Police may of course approach a person, and make inquiries. But the fact that a person has been convicted of a past offense, or fails to respond, or responds in a way which does not satisfy the officer, cannot, without more, justify an arrest.

If an officer has a “reasonable and articulable suspicion” that a crime has been committed or is about to be committed, they may briefly detain an individual, or stop the person for purposes of investigation.<sup>134</sup> However, an arrest can only occur upon “probable cause” that a crime has been committed.

*What can I do if I believe I have been improperly treated by the police?*

Complaints may be made to any individual police department for matters concerning its officers, and complaints to the Connecticut State

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<sup>133</sup> *Kent v. Dulles*, 357 U.S. 116, 126 (1958).

<sup>134</sup> *State v. Anderson*, 24 Conn. App. 438, 441, 589 A.2d 372, 373 (1991); *Terry v. Ohio*, 392 U.S. 1, 16 (1968).

Police may be made to Department of Public Safety, Attn: Legal Affairs Unit, 1111 Country Club Rd., Middletown, CT 06457. Their general number is (860) 685-8000.

In some cases, you may decide to pursue a lawsuit, either because of injuries, improper detainment, or for some other reason. These matters are highly specialized, and GLAD can make attorney referrals.

# **STUDENTS' RIGHTS**

## ■ Harassment and Discrimination at School

### ***Are there any laws protecting LGBT public school students in Connecticut?***

Yes. Connecticut public schools must allow all children an equal opportunity to participate in school regardless of their sexual orientation, gender identity, and gender expression.<sup>135</sup>

Also, the Connecticut Commission on Human Rights and Opportunities (CHRO) views public schools and public colleges as public accommodations (see the section above on Public Accommodations).

### ***What kinds of conduct does the law cover?***

Technically, the law only requires that schools give students equal opportunity to participate in activities, programs, and courses of study. It does not explicitly prohibit harassment or discrimination, although both would likely violate the spirit of the law.

Furthermore, at this time, the law contains no mechanism for students or their parents to bring a lawsuit for violations of the law.<sup>136</sup>

### ***Are there other laws, which may protect me from discrimination and harassment because of my sexual orientation or gender identity?***

Possibly. Federal law prohibits sex discrimination in public schools that receive federal funding. Depending on the situation, harassment of LGBT students may be actionable as sex discrimination.<sup>137</sup> Harassment of transgender students, in particular, is actionable. Several federal

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<sup>135</sup> Conn. Gen. Stat. 10-15c.

<sup>136</sup> See *McPhail v. City of Milford*, 1999 Conn. Super. LEXIS 428 (1999) (student could not maintain private right of action because statute was to be enforced specifically by the state board of education).

<sup>137</sup> See, e.g., *Ray v. Antioch Unified School District*, 107 F. Supp. 2d 1165 (N.D. Cal. 2000) (stating that attacks based on a student's perceived sexuality constitute sex discrimination).

courts have held that the federal anti-discrimination law, Title IX, prohibits discrimination based on gender identity.<sup>138</sup>

Complaints can be made to your school's Title IX coordinator, as well as to the federal Department of Education, Office of Civil Rights, in Boston. In cases where a school has reacted with deliberate indifference, monetary damages may be available. A student's constitutional rights may be violated by some kinds of discrimination and harassment.

Although the U.S. Departments of Education and Justice released a joint guidance in 2016 taking the position that Title IX protects transgender students from discrimination based on gender identity,<sup>139</sup> that guidance was rescinded by the Trump administration in February 2017.

### ***What can I do if I'm being discriminated against at school?***

There are many ways to approach the issue. One is to ask for support from a friend, teacher or counselor, and talk to the people who are bothering you. That is not an option, however, if you don't feel safe doing so.

Take a look at your school's policies and notify whoever is supposed to be notified – usually a vice principal or Title IX coordinator. You may wish to document any incidents of harassment or discrimination in writing. Once you meet with the right officials, make a note of what you told them and on what date and ask when they will be getting back to you with a response. If they don't help you or don't follow through, you may wish to write to the superintendent and school board and ask them to end the discrimination.

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<sup>138</sup> See, e.g., *Whitaker v. Kenosha Unified School District*, 858 F.3d 1034 (7th Cir. May 30, 2017) (holding that discrimination against transgender students constitutes sex discrimination under Title IX and the Equal Protection Clause of the U.S. Constitution) and *Bd. Of Educ. v. U.S. Dep't of Educ.*, 208 F. Supp. 3d 850 (S.D. Ohio 2016) (preliminary injunction granted to 11-year-old girl to permit her to use the girls' restroom and to be treated "as the girl she is.").

<sup>139</sup> See *Dear Colleague Letter on Transgender Students*, U.S. Department of Justice/U.S. Department of Education, available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201605-title-ix-transgender.pdf>.

At the same time, or after contacting the administration as set out above, you may want to send a copy of your complaint to the State Dept. of Education. While they do not have an explicit policy on complaints and they have no obligations under the non-discrimination law, you could request that they intervene on your behalf. Contact Office of Public Information, Conn. State Dept. of Education, 165 Capitol Ave., Hartford, CT 06145. Their phone number is (860) 566-5677 and their website is <http://www.state.ct.us/sde/>

If the above methods fail to stop the discrimination, you may also wish to consider taking legal action. Contact GLAD for attorney referrals.

### ***Does Connecticut have a law to protect public school students from bullying?***

Yes. The law improved significantly in 2011 with the passage of Public Act 11-232, *An Act Concerning the Strengthening of School Bullying Laws*.<sup>140</sup> Per the law, bullying is defined as repeated written, oral, or electronic communication, or physical acts or gestures by one or more students repeatedly directed at another student, that:

- causes the bullied student physical or emotional harm or damages their property;
- places the bullied student in reasonable fear of being harmed;
- creates a hostile school environment for the bullied student;
- infringes on the bullied student's rights or substantially disrupts the education process or the school's orderly operation.

The law also recognizes that students who are LGBT or are perceived to be LGBT or who associate with LGBT students are often the target of bullying.<sup>141</sup>

Per the law, each school board must develop a "safe school climate plan" that:

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<sup>140</sup> Conn. Gen. Stat. sec. 10-222d.

<sup>141</sup> Conn. Gen. Stat. sec. 10-222d(a)(1).

- prohibits bullying on school grounds, at a school-sponsored or school-related activity, at a school bus stop or on a school bus, or through electronic means (i.e. cyberbullying)
- prohibits discrimination and retaliation against an individual who reports or assists in the investigation of an act of bullying
- enables students to anonymously report acts of bullying
- enables parents to file written reports of suspected bullying
- requires school employees who witness bullying or receive reports of bullying to report it
- requires schools to investigate all reports of bullying and have a prevention and intervention strategy
- requires that both the parents of the bully and the parents of the victim be notified about bullying and told about the measures the school has chosen to take in response
- requires the school to notify the police about any acts of bullying that may constitute criminal conduct
- requires schools to maintain a publicly available list of the number of verified bullying incidents and to report this annually to the Connecticut State Department of Education
- requires all school employees to complete annual training on identifying, preventing and responding to bullying and to youth suicide.

## ■ Transgender Students

*Does Connecticut have any specific guidance for schools to follow to protect transgender students?*

In addition to Conn. Gen. Stat. 10-15C discussed above, on February 23, 2017, Governor Dannel P. Malloy issued Executive Order No. 56, directing the State Department of Education, in consultation with the Connecticut Commission on Human Rights and Opportunities, to develop guidance for Connecticut school districts on the rights, responsibilities and best educational practices for transgender students. The guidance document is designed to assist schools and districts in

implementing civil rights protections for transgender students under state and federal laws and to foster an educational environment that is safe and inclusive.

See [https://portal.ct.gov/-/media/SDE/Title-IX/transgender\\_guidance\\_faq.pdf?la=en](https://portal.ct.gov/-/media/SDE/Title-IX/transgender_guidance_faq.pdf?la=en).

The guidelines include the following:

- Schools should respect a transgender student's name and pronouns;
- Schools should respect transgender students' privacy regarding any medical information, previous names, etc.;
- The name and gender on a student's records should conform to the student's gender identity;
- Transgender students should be able to use the restroom, locker room, and changing facility that accord with their gender identity;
- In any sex-segregated activities (including athletics), transgender students should be able to participate in a manner consistent with their gender identity.

## ■ Gay/Straight Alliances

***Do students have the right to form Gay/Straight Alliances in their schools?***

Yes, as to high school students; probably, as to middle school students. A federal law known as the "Equal Access Act" requires that all federally funded secondary schools provide equal access to extra-curricular clubs. So long as a school has at least one student-led extra-curricular club, it must allow additional clubs to organize, and must provide them with equal access to meeting spaces, facilities, and funding without discriminating based on a club's purpose, be that purpose religious, philosophical, political, or otherwise.<sup>142</sup> GLAD brought and won a case for students at West High in Manchester, New Hampshire on this very basis.

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<sup>142</sup> 20 U.S.C. § 4071.

For more information see GLAD's publication, *The Right to Establish a GSA in Public Schools* at <https://www.glad.org/wp-content/uploads/2017/01/gsa-public-schools.pdf>. If your school is preventing you from forming a GSA, contact GLAD Answers.

## ■ Conversion Therapy

*Does Connecticut have a law banning therapy or treatment to change a minor's sexual orientation or gender identity?*

On May 10, 2017, the Connecticut legislature passed and Governor Dannel P. Malloy signed into law HB 6695 *An Act Concerning the Protection of Youth From Conversion Therapy*.<sup>143</sup>

State and national medical, mental health, and child welfare organizations all oppose the practice of conversion therapy, a practice that seeks to change a person's sexual orientation or gender identity. Extensive professional literature shows the practice to be both ineffective in changing sexual orientation or gender identity and harmful to youth. Young people who have been subjected to conversion therapy are at increased risk of depression, suicidal thoughts and suicide attempts, and illegal drug use.

Under the bill's provisions, any licensed health professional who practices conversion therapy would be subject to discipline by the Department of Public Health up to and including the loss of their professional license. A violation of the ban on conversion therapy is also considered an unfair or deceptive trade practice.

**For additional information about youth and student issues go to:**  
<https://www.glad.org/issues/youth/>.

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<sup>143</sup> Conn. Gen. Stat. secs. 19a-907 through 19a-907c.



Through strategic litigation, public policy advocacy, and education, GLBTQ Legal Advocates & Defenders works in New England and nationally to create a just society free of discrimination based on gender identity, HIV status, and sexual orientation.

**GLAD Answers** and publications are provided *free of charge* to all who need them. We hope that those who are able will make a contribution to ensure that GLAD can continue the fight for equal justice under the law.

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*Thank You!*



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