



FACT SHEET on LGBT Immigration Rights

Out4Immigration: www.out4immigration.org

How U.S. Immigration Law Affects Same-Sex Binational Couples

"There are no immigration benefits available to [gays] based on their relationship. With that said, there's certainly nothing that says a U.S. citizen cannot move to another country." -- Chris Bentley, spokesman for the Department of Homeland Security's Citizen and Immigration Services, *LA Weekly*, January 9, 2004

FACT: LGBT individuals do not have the same immigration rights as heterosexual individuals. We cannot sponsor our partners (or our partners cannot sponsor us) for green cards and the right to stay together in the United States.

FACT: The United States does not recognize LGBT relationships at a federal level—and immigration is a federal issue. Many of us have been with our partners for several years, work hard, pay taxes, have children—but in the eyes of our government none of that matters. We are legal strangers.

FACT: The U.S. government is breaking up LGBT families. This happens every day. Because U.S. immigration laws discriminate against us we have very few legal options for staying together. Visas are temporary. When a foreign partner's visa runs out, their American partner cannot help them. The couple is forced to either separate—or leave the country and live in exile.

FACT: At least twenty countries—Canada, most European countries, Australia, New Zealand, Brazil, Israel and South Africa—**recognize same-sex relationships for the purpose of immigration. The United States does not.**

FACT: In the 2000 Census, there were more than 36,000 same-sex binational couples living legally in the United States. This means one partner is a U.S. citizen and the other is foreign-born. We believe that this statistic is low because couples forced into exile were not counted. We also believe that due to the sensitive nature of this issue, a lot of couples do not feel comfortable enough to disclose their relationship to the census taker. Since this last census some of the foreign partners may have obtained green cards through their work. Many more have not. The choices available for such couples to stay together are limited and unfair.

FACT: Transgendered immigrants and their partners face an especially difficult and hostile environment when it comes to U.S. immigration law. In 2004, the Bush administration issued a new immigration policy that no longer recognizes legal marriages with a transsexual spouse. In 2005, the Board of Immigration Appeals published an interim decision which upheld the validity of legal marriages. It remains to be seen how couples will be treated under this interim decision. However, if the transgendered person is gay or lesbian they are subject to the same discriminatory immigration laws as all LGBT people.

FACT: Sexual orientation and gender identity are often grounds for being granted asylum in the U.S., if the person can prove that they will be harmed if forced to return to a country that is hostile toward their sexual orientation. In order to apply for asylum, you must be in the United States. There are time limits involved. Organizations like the National Center for Lesbian Rights (NCLR, www.nclrights.org) hold free monthly legal clinics and can provide more information.

FACT: LGBT immigrants face specific barriers to life in the United States that are often not addressed by either the larger immigrant rights movement or the LGBT community. For example, when immigrant rights activists speak of respecting "family unity" there is no discussion about the protection of LGBT families, and the issues that they are facing. Similarly, many in the LGBT community are unaware of the discrimination in immigration law that prohibits a U.S. citizen from sponsoring their same-sex partner for a green card. Out4Immigration works with members of both these larger groups to educate the general public and advocate for fair and humane immigration reform.

HOW CAN WE STOP THIS DISCRIMINATION? The Uniting American Families Act (UAFAs) would make a simple change to current U.S. immigration law that would end the discrimination we face. This legislation would simply add the term "permanent partner" in sections of the Immigration & Nationality Act where "spouse" appears. In other words, it would recognize the partnership of those couples in domestic partnerships, civil unions and same-sex marriages. The UAFAs has been sponsored by Rep Jerrold Nadler in the House and Sen Patrick Leahy in the Senate for the past three sessions and is gaining support. The current bill number in the House is HR 1024 and in the Senate is S424. We look forward to the bill being discussed and voted on in Congress soon.

Out4Immigration is also conducting a weekly letter writing campaign to educate our legislators in Congress about this important issue and to seek their support for Equal Immigration Rights for same-sex binational couples. You can join the weekly campaign by going to <http://www.change.org/actions/search?search=lgbt+immigration+rights>

Rep Mike Honda has also introduced the Reuniting Families Act (RFA, HR 2709) to reduce the amount of backlogs in green card applications under the category of Family Reunification. He has included UAFAs in the bill. We hope that UAFAs will be included in the omnibus Comprehensive Immigration Reform bill that will be introduced this year. The Senate version of this bill DID NOT include UAFAs.



HOW CAN PEOPLE FIND OUT MORE ABOUT LGBT IMMIGRATION ISSUES? Go to our website at www.out4immigration.org, and sign up for our Yahoo Groups listserv. By becoming a member of the Out4Immigration listserv, you'll receive regular updates on the education and activism we do. You can also find us on Blogger (out4immigration.blogspot.com), Facebook (facebook.com/out4immigration) and Twitter (@out4immigration).