



UNEQUAL UNDER THE LAW

2007-2010 TWO STEPS FORWARD AND TWO STEPS BACK

"We are all the same people, all of us." –Ellen DeGeneres

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TABLE OF CONTENTS

STILL UNEQUAL UNDER THE LAW	page 1
RECENT ACTIONS.....	page 2
THE RESEARCH: AN UPDATE	page 3
STATE LAWS: AMENDMENTS ADDING DISCRIMINATION	page 4
NEW DISCRIMINATORY LAWS	page 5
STATUTES REPEALED, NOT REPLACED	page 6
STATE LAWS: UNEQUAL IN SO MANY WAYS	page 7
MINNESOTANS HAVE AN INTEREST IN FAIRNESS	page 9
EQUALITY IS GOOD FOR THE ECONOMY	page 10
WORKING TOWARD FAIRNESS AND EQUALITY	page 10
METHODOLOGY	page 10
ACKNOWLEDGMENTS	page 10
REFERENCES	page 10

In 2007, Project 515 issued its original research report, *Unequal Under the Law: 515 Ways Minnesota Laws Discriminate Against Couples and Families*. The research was commissioned to launch Project 515 and help Minnesotans understand that all committed couples in the state deserve to be treated fairly.

The detailed report enumerates and describes 515 Minnesota state statutes that mandate specific treatment for married couples. Either implicitly or explicitly, these statutes exclude same-sex couples who cannot be married under Minnesota law.

Many Minnesotans erroneously believe that committed same-sex couples and unmarried domestic partners can gain the rights and protections denied them by these discriminatory laws by signing legal documents and contracts. Even if couples are willing and financially able to go to the expense of obtaining legal counsel, most of the rights and responsibilities automatically provided to married couples cannot be replicated by signing legal documents or contracts. That's the law.

A MOTHER'S REQUEST FOR HER BABY'S MEDICAL CARE INFORMATION: DENIED

Like many other couples, Darla and Sam wanted children. So they decided Sam would become pregnant and Darla would legally adopt the baby. They're now the happy mothers of 3-year old Noa.

Noa was born prematurely, spending three weeks in the intensive care unit of a local hospital. Because Darla's company offered better health care benefits than Sam's employer, they decided to cover Noa under Darla's insurance.

"It made a lot of sense," says Darla. "Even though Sam was the birth mother, I was the adoptive mother and my benefits were more generous, so in our mind, it was smarter to cover Noa under my policy."

Three weeks in pre-natal ICU care plus multiple doctor visits resulted in sizeable and hard-to-understand bills. When Darla called the health-care provider (her clinic) to question certain items she had been billed for, the health-care provider refused to give her the information because she was not the birth mother and didn't share the baby's last name.

"It took me more than a year to figure out the bills," says Darla. "It was so energy-draining and frustrating. Every time I called, they didn't know how to talk to me about my family. They wouldn't discuss my daughter's medical care with me and even though the policy was under my name, they kept sending the bills to the insurance company under my partner's name. The bills contained a lot of inaccuracies, yet they refused to discuss them with me. It got to the point we didn't even want to go to the doctor anymore!"

Eventually, the billing issues were resolved. Darla and Sam were happy with the medical care they received, but highly dissatisfied with the back office administration. As a result, they decided to switch clinics and they were fortunate to be able to keep the same doctor.

"We are constantly amazed at the hurdles that are placed in the way of couples who do not have the benefit of marriage. I'm not sure we would have the perseverance and patience to continually fight for the most basic rights that are automatically afforded to people with a marriage certificate."

—Janet and David Berry

Since the report's release, Project 515 has engaged and led Minnesotans in dialogue that supports pro-equality legislation. Our focus is on raising awareness and reshaping the conversation about equality and the discrimination that exists through media outreach efforts, community engagement and informational visits to communities in Greater Minnesota. Project 515 has also led the effort to support legislation aimed at achieving equality in our state. In fact, legislation supported by Project 515 was successfully passed and signed into law in 2009. That legislation protects Minnesota's same-sex couples and their families from losing their homes following the prolonged illness and death of a partner. The Protecting One's Home bill (Chapter 160; SF 1208) marked a significant step forward for equality in the state.

In 2010, Project 515 led the effort to support six legislative initiatives. The Final Wishes/Wrongful Death bill passed both the Senate and the House with bipartisan votes, but was ultimately vetoed by the Governor. The bill would have provided surviving same-sex partners an equal opportunity to honor the final wishes of their deceased partners and to seek restitution following a wrongful death. Project 515 also worked with legislative allies to introduce a legislative package of four bills called the Basic Protections Initiative, which offered equality to committed same-sex couples in areas of probate, judiciary, health information records and employment benefits. These bills all received hearings and made progress, but given the fast-paced session, none made it all the way to the Governor's desk.

"Gay men and lesbians have prospered because they've refused to acquiesce to the notion that they should hide their lives from public view. Two by two they've adopted children, bought homes, volunteered in their communities and slogged through life together just the way hetero couples do, except without preferential tax codes, inheritance rights and the automatic assumption that they can make decisions for one another in emergency situations..." Anna Quindlen

UNRECOGNIZED IN LIFE AND DEATH

Dallas Drake was a trusted and familiar face in his community after dedicating his career to protecting his neighbors. He was the first openly gay firefighter in Minnesota. But when he tried to retrieve his car from the impound lot after the death of his long-time partner Joe Shulka, the clerk at the suburban Twin Cities impound lot said, "the police department told me not to release it to you because you're not the next-of-kin."

Dallas and Joe began their partnership in 1991 after meeting at a local event. Through the years they bought a house, started a non-profit organization and enjoyed the thrill of chasing a Minnesota summer storm. They understood that Minnesota laws did not recognize their same-sex relationship, so they made sure to list each other as the power of attorney and executor in their wills.

Joe took his own life in September 2008. He could no longer take the daily insults hurled at him about his sexuality and the discrimination he faced as a gay man. In the early 1990s he was nearly beaten to death by a group of men who suspected he was gay. These pressures, along with recent financial trouble, were too much for Joe to bear. He ended his life in a local hotel room.

Dallas waited more than a day-and-a-half for any word about Joe's whereabouts. Finally, Joe's sister called to say Joe was gone. The medical examiner refused to call Dallas directly even though instructions for who should be notified were in Joe's wallet. When Dallas tried to withdraw money from Joe's bank account, he was denied access. Six weeks after Joe's death, armed with a death certificate and the help of a judge's order, Dallas finally accessed his account to pay his bills. Dallas had no recourse with financial institutions, insurance companies and other companies even though both Dallas and Joe were listed on the accounts.

"The most difficult part is that I lost half of me the day Joe died," Dallas said. "But I also lost my income, my companionship and understanding. I can't do this without my partner."

"The fact is, if our relationship was legally recognized I would not have had to wait so long. No one would have questioned my access to my bank account, my car or Joe's Social Security or paycheck," he said.

Dallas and Joe spent their lives working to solve unnecessary death through their work at the Center for Homicide Research. Ironically, the journey of Dallas and Joe was interrupted by death. They participated fully in the collective human story, but their relationship wasn't recognized in life or in death.

To ensure Project 515's data remains current, it commissioned updated research on Minnesota laws. As with the original research, the organization worked with Professor Anthony Winer of the William Mitchell College of Law and a group of law student volunteers.

The updated research shows that since the issuance of the original 2007 report, 12 of the original 515 statutes were repealed without being replaced by successor statutes. Two more were repealed and replaced by successor statutes that did not continue distinct discrimination. Still three more have been amended to eliminate discrimination on the basis of marital status. Thus, a total of 17 statutes (of the original 515) have either been repealed or altered in a way that eliminates discrimination. At the same time, however, eight new statutes were enacted that discriminate on the basis of marital status.

While it thus may seem, purely on the basis of the number of statutes, that "gains" for fair treatment outnumbered "losses," this impression is not warranted. During the same period of time, nine other statutes (of the original 515) were amended in ways that added new discriminatory language. These amendments did not add to the official count of discriminatory laws. However, they are another reminder of the propensity of policy-makers to routinely use the institution of marriage to confer legal rights and responsibilities to married couples – rights and responsibilities that are unavailable to same-sex couples.

In short, while a mere count of statutes seems to indicate a very slight improvement, and while real but limited gains were made in some legislative areas, the true level of statutory discrimination is basically unchanged since 2007.

So, while the debate on the issue of equality and fairness for same-sex couples and their families continues to progress, much work remains.

Project 515 continues to believe that for true equality and fairness in the eyes of the law to become a reality, all committed couples must share similar obligations and responsibilities. This will only make Minnesota families and communities stronger.

Most of the rights provided to married couples cannot be replicated by signing legal documents or contracts. That's the law.

IT'S NOT ABOUT BENEFITS, BUT ACCEPTANCE

Dave Engstrom wants what any parent desires for their children — equality and fairness.

But he's frustrated that his 32-year-old lesbian daughter can't count on receiving the equal and fair treatment his married daughter or his 20-year-old son may take for granted.

"I'm very protective of all of my kids," Dave said. "You'd like them to get a fair shot and equal treatment on everything, and I know she doesn't."

Dave's daughter began working for a company that offers health benefits to domestic partners. His daughter, who is in a committed relationship, was thrilled to find an employer that considers her as valuable as its other employees.

"It's not so much the benefits, but the acceptance," Dave said. "I'm happy she has a good, stable relationship. She needs someone just as everyone does. It's difficult to go through life alone."

Dave has been married for 34 years and currently lives in Afton, Minn., with his wife and son. He has served as City of Afton mayor and was a two-term Washington County commissioner. As commissioner, he served on the county's social services advisory committee.

"Over and over again, you'd see that preventative funding is always the best," Dave said. "When you can support stable relationships and families, it benefits everybody long-term. But when you go through life alone or you're being discriminated against, there are more problems and you need more help, but you can't get it because state law may prohibit it."

Dave is currently a lobbyist at the state capitol and thinks it is "outrageous" and "shocking" that so many state laws exclude committed and long-term partners. "Just hearing that number has enlightened me and will cause me to consider in my own work how future laws affect people and their relationships," he said. "Hopefully this report will highlight those laws that should be straightened out or eliminated."

"There should be no discrimination, whether people are same-sex or opposite-sex partners," Dave continued. "As a parent of a lesbian daughter, I want what I expect for all three of my children: equality and fairness, whether they're gay, lesbian or straight."

**STATE LAWS: AMENDMENTS
ADDING DISCRIMINATION**

Here are some examples of amendments between 2007 and 2009 that have added discriminatory language to existing statutes:

No. MINN. AMENDMENT §

1 188

Original Description from 2007 Report: "Priority for emergency placement of a child is given to those related by blood or marriage. The parent in a same-sex couple who is not biologically related to the child is not considered to be a relative." Amendments in 2009 add new specified rights of relatives, other than the parent, to be notified of certain events regarding care of the child and would not require such notices to a non-adoptive, non-biological parent.

No. MINN. AMENDMENT §

2 237

Original Description from 2007 Report: "A surviving spouse has a continued right to agricultural property tax classification. The same is not true for the same-sex partner of the decedent." The statute also deals with continued tax treatment of property after potential ownership-changing events. An amendment in 2009 allows a favorable exemption for divorcing couples, but not separating same-sex couples.

No. MINN. AMENDMENT §

3 300

Original Description from 2007 Report: "The surviving spouse of an employee of the state may elect a 100 percent survivor annuity. A same-sex partner is not eligible to make the same election." A 2008 Amendment adds a requirement of signed spousal consent before the employee/former employee may assign payment under this section to a designated beneficiary. A same-sex partner cannot assign payment.

No. MINN. AMENDMENT §

4 309

Original Description from 2007 Report: "A former spouse may be eligible for the surviving spouse benefit from the Public Employees Retirement Association if the marriage dissolution decree provides for the same. A same-sex partner is not eligible for the same benefit." A 2008 Amendment now requires the signature of the spouse if the Association member wishes to waive this option. This actually creates a new obligation for spouses. However, it is an obligation around a state benefit that is not available to same-sex couples, so it is not truly an obligation that is avoided by same-sex couples.

No. MINN. AMENDMENT §

5 314

Original Description from 2007 Report: "If a police officer or firefighter names someone other than a surviving spouse as beneficiary of the joint and survivor optional annuity, the surviving spouse must waive right to his or her benefit. A same-sex partner has no statutory right to this benefit." Under a 2007 Amendment, a surviving spouse is now eligible to receive survivors' benefits even if, in specified cases, the member died before reaching retirement age. This creates yet another benefit that is unavailable to a same-sex partner – in this case, a spouse's access to survivor benefits is extended.

No. MINN. AMENDMENT §

6 317

Original Description from 2007 Report: "A surviving spouse of an eligible police or fire worker is entitled to receive a survivor's benefit. The same benefit is not extended to same-sex partners." A 2007 Amendment requires the signed consent of the spouse before the police or fire worker can designate benefits to a different beneficiary. This too creates a new obligation on certain spouses. But like #4 above, it is an obligation around a benefit to which same-sex couples are not allowed.

No. MINN. AMENDMENT §

7 400

Original Description from 2007 Report: "The Unemployment Insurance Act excludes employees who are employed by their spouse from receiving unemployment benefits. Employees employed by their same-sex partners are not excluded from unemployment benefits." A 2007 Amendment generally augments the definition of "wages" for any spouse under the Unemployment Insurance Act to include one-half of any payments received by the other spouse in connection with caretaking services provided to the person making the payment.

No. MINN. AMENDMENT §

8 419

Original Description from 2007 Report: "The surviving spouse of a Minnesota National Guard member is entitled to receive a tuition reimbursement grant if the Guard member is killed in the line of duty. A same-sex partner does not have a similar right to tuition benefits." A 2008 Amendment also allows spouses of living Guard members to use unused portions of the members' tuition and textbook reimbursement grant.

STATE LAWS: AMENDMENTS ADDING DISCRIMINATION CONTINUED	
No.	MINN. AMENDMENT §
9	427
Original Description from 2007 Report: "A surviving spouse of a veteran retaining a special housing unit as a homestead may retain class 1(b) homestead classification. The same is not true for the surviving same-sex partner of the decedent." A 2008 Amendment applies certain valuation exclusions to the homesteads of disabled veterans and their spouses, thus making the tax treatment for such homesteads more favorable.	
NEW DISCRIMINATORY LAWS	
No.	MINN. STAT. §
1	197.75
The surviving spouse of a decedent veteran is entitled to educational benefits under § 197.75(2). The new statute provides an annual educational stipend, guaranteed admission and free tuition to any Minnesota eligible public institution for the purpose of attaining a bachelor's degree or equivalent. A surviving same-sex partner of a decedent veteran would not be eligible for these benefits.	
No.	MINN. STAT. §
2	325G.54
The spouse of a service member may terminate a wireless service contract without penalty under some circumstances. A same-sex partner of a service member would not be entitled to terminate a wireless contract under similar circumstances.	
No.	MINN. STAT. §
3	525A.02
A "disinterested witness" is someone other than a spouse, child, parent, sibling, grandchild, grandparent, or guardian of an individual who makes, amends, revokes, or refuses to make an anatomical gift. A "disinterested witness" could also be another adult who exhibited special care and concern for the individual. This provision does not automatically allow a same-sex partner's testimony to influence the implementation of a potential donor's decisions regarding anatomical gifts.	

NEW DISCRIMINATORY LAWS: CONTINUED	
No.	MINN. STAT. §
4	3.7392
A survivor includes the surviving spouse for the purposes of this I-35W Catastrophe Survivors Compensation bill. A same-sex surviving partner of a decedent killed while present on the bridge during the I-35 bridge collapse could not bring a claim.	
No.	MINN. STAT. §
5	192.056
If a service member jointly owns a business with his or her spouse, that business is now protected from civil proceedings or actions by creditors under certain circumstances for a certain period of time. A same-sex partner of a service member is not entitled to this exemption.	
No.	MINN. STAT. §
6	192.325
An employer may not take adverse action against the employee spouse of a service member based on the membership status of the employee's spouse. An employer may not interfere with an employee's ability to attend events related to the service of the employee's service member spouse. The spouse cannot be punished or discharged by an employer for attending such events. A same-sex partner of a service member would not be entitled to these protections.	
No.	MINN. STAT. §
7	136A.101
The spouse of a person who relocated to Minnesota from a presidential disaster area, if that spouse is a student, is a "resident student" and entitled to tuition privileges. A same-sex partner of a person who relocated to Minnesota under similar circumstances would not qualify for this benefit.	
No.	MINN. STAT. §
8	290.06
This section allocates gas tax credit on the basis of marital status. Tax credits claimed by same-sex couples are not allocable in the same way.	

STATUTES REPEALED, NOT REPLACED

No. MINN. STAT. §

1 221.151

Certain transportation permits may be transferred to the permit holder's spouse and no permission of the courts is required. The same permits cannot be transferred to the same-sex partner of the permit holder.

No. MINN. STAT. §

2 221.296

A motor carrier permit may be transferred to the permit holder's spouse and no permission of the courts is required. The same permit cannot transfer to the same-sex partner of the permit holder.

No. MINN. STAT. §

3 326.85

The Builders Advisory Council shall have one public member, which may not include the spouse of any member of the profession being licensed or regulated. The same-sex partner of a member of the profession qualifies as a public member and can avoid this obligation.

No. MINN. STAT. §

4 256B.0913, subd. 5(g) and 5(h)

A person or their family can receive cash payments as part of the alternative medical care program. A same-sex partner and nonbiological parent might not fall under this definition.

No. MINN. STAT. §

5 501B.86

If a married person wishes to reject an inheritance, his or her spouse must consent in order for the disclaimer to be binding against the spouse. The same is not true for same-sex partners.

No. MINN. STAT. §

6 525.532

An individual's spouse must consent before an inheritance of real property may be fully disclaimed. A same-sex partner does not have to provide consent for same.

No. MINN. STAT. §

7 609.335

An individual cannot simultaneously enter multiple contracts for marriage. Same-sex couples are not protected by marriage contract statutes.

No. MINN. STAT. §

8 41.55

An individual is eligible for a family farm security loan only if the net worth of the married couple is less than \$75,000. The debts and assets of a same-sex partner are not considered even if the couple lives together as a single economic unit.

No. MINN. STAT. §

9 41.65

In the sale of state-owned farm property, the commissioner of agriculture must give priority to individuals or married couples with a net worth of less than \$100,000. The debts and assets of a same-sex partner are not considered even if the couple lives together as a single economic unit.

No. MINN. STAT. §

10 256L.07

To be eligible for MinnesotaCare, neither an emancipated minor nor his or her spouse may have access to insurance through a post-secondary school. An emancipated minor in a same-sex relationship would qualify for MinnesotaCare regardless of the health insurance available to his or her partner.

No. MINN. STAT. §

11 359.29

If the annuitant dies prior to negotiating the check for the month in which the death occurs, payment must be made to the surviving spouse. A same-sex partner has no right to receive this payment.

No. MINN. STAT. §

12 354.465

A marital partner who elected a joint and survivor annuity from the Teacher's Retirement Fund prior to July 1, 1981, or his or her spouse, may modify the election. A same-sex partner does not have the authority to change the election.

STATE LAWS: UNEQUAL IN SO MANY WAYS

Equality- and fairness-seeking Minnesotans may be surprised about how extensively state laws affect their gay and straight family members, friends, and coworkers who are in long-term, committed relationships.

Some Minnesota laws affect couples during illness.

For example:

- The family members of a patient in a public facility have the right to be notified if the patient is moved or if the patient's care has changed. These facilities are not required, however, to notify the same-sex partners of patients. (Section 246.70)
- The spouse of a hospital patient is the first person a physician would consult if the patient were unable to consent to treatment. The same-sex partner of a patient is not included at all on the list of people who may provide consent for treatment. (Section 253B.03)
- An individual seeking an accessible place for a disabled family member to rent has first priority. Lifelong but unmarried partners of disabled people cannot exercise the same priority on behalf of their partners. (Section 363A.40)

Some laws affect couples' abilities to prepare for the future.

For example:

- Health or accident insurance policies may cover two people, as long as the second person is a spouse or a dependent. However, a same-sex partner does not have a statutory right to be included in a joint insurance policy. (Section 62A.03)
- School districts are directed to set up early-childhood family education programs that give parents and other relatives tools to promote childhood development. Committed partners who will likely share parenting responsibilities are not included in these programs because they are not considered relatives. (Section 124D.13)

70 percent of Minnesotans said they believe "gays and lesbians should have the same rights and responsibilities as everyone else."

WHEN A POWER OF ATTORNEY DOESN'T WORK ANY LONGER

Randy and Tom's relationship was like many others — camping trips, vacations to Tom's family farm in Illinois and helping raise Randy's two kids. "It was not nirvana, it was not perfect — no relationship is — but it was a real relationship," Randy said.

Six years into their life together, Tom began having difficulty swallowing. Following a Northern Minnesota camping trip in late July 2006, Tom's doctor diagnosed him with esophageal cancer and admitted him to the hospital.

The following days and months were challenging — breaking the news to Randy's kids and their families; chemotherapy and radiation treatments; late night trips to urgent care to treat the horrible side effects; a feeding tube; and a December 22 surgery to remove and replace Tom's esophagus.

"He was bound and determined it wasn't going to beat him," Randy said. After the surgery, "we thought we were on the road to recovery." Still, Randy and Tom made sure their house was in order. They reviewed their powers of attorney, wills and other available legal documents.

Unfortunately, Tom had a major setback and underwent a Christmas morning emergency surgery. The next five months saw a series of ups and downs. Then in late April, the cancer returned with a vengeance. Tom died May 4, 2007.

Through it all, Randy spent hours at the hospital every day, making the life and death decisions and keeping their families and friends informed while working full time and being there for his children. "I was the caregiver and rightfully so," Randy said. "That's just what you do when you love someone."

The next painful step was to make funeral arrangements and it was at this point that Minnesota's discriminatory policies became abundantly clear. On the morning of Tom's death, the cremation society notified Randy he would need one of Tom's legal next of kin to sign the release for Tom's body and make funeral arrangements because Minnesota law didn't recognize their relationship. The cremation society employee, gracious but resolute, told Randy his power of attorney ended when Tom died.

"All of a sudden you're an outsider," Randy said. "For hours each and every day for five months, I was there as Tom's partner. Yet I'm not allowed to take on the final responsibility and carry out Tom's wishes. We need to turn that around."

Other laws affect committed couples in their professional lives. For example:

- The spouse of a corporate board member is presumed authorized to vote on behalf of the corporate member. However, long-term partners cannot vote on behalf of their partners. [Section 308A.635]
- Under the Minnesota Franchise Act, when the owner of a motor fuel franchise dies, the owner's spouse or another family member who has the right to inherit the business may assume ownership of the franchise. However, the same is not true of a same-sex partner who has lived with the owner for decades. [Section 80C.145]
- A surviving spouse has a continued right to the agricultural property tax classification. But the same is not true for a domestic partner who has also farmed the property for years. [Section 273.111]

Some laws affect couples' safety or how they are treated during times of tragedy. For example:

- When a parole board makes decisions about the release of felons convicted of first-degree murder, it considers input from the "victims," which include surviving spouses. However, same-sex partners are not recognized as victims. [Section 243.05]
- Spouses are entitled to workers' compensation benefits if their spouse is killed at work. However, a long-term but unmarried partner is not allowed to receive similar benefits. [Section 176.111]
- If victims are killed during crimes, their families are entitled to restitution. Same-sex partners are not considered family under the law, and therefore cannot receive restitution. [Section 611A.01]
- A person has the right to take an unpaid leave of absence from work if a spouse is injured or killed during active military duty. A domestic partner is not allowed the same opportunity. [Section 181.947]

Some state laws affect couples politically. For example:

- Someone who is married to a member of the military has the right to vote by absentee ballot. A same-sex partner of a member of the military does not, however. [Section 203B.02]
- Minnesotans may submit their spouses' campaign donations. However, people who have been in a relationship for decades cannot submit campaign donations on behalf of their partners. [Section 211A.12]

FAIRNESS AND RESPECT ARE NEEDED ESPECIALLY DURING DIFFICULT TIMES

Bob and his partner, Richard, had been together for 18 years and kept each other's contact information in their wallets in case of emergency. But when Richard died unexpectedly from a heart attack in a grocery store parking lot, Bob was left out of the notification and decision-making process.

The Hennepin County Medical Examiner initially called Bob's phone number, but refused to share any information with him because according to the law, Bob was not considered Richard's next-of-kin.

Unfortunately, Bob and Richard hadn't drawn up legal documents. Still, legal paperwork often isn't enough to ensure that members of committed same-sex relationships are treated with fairness and respect in an emergency.

Eventually, Richard's sister Marg from Duluth, was notified of Richard's death and she immediately called Bob. "He was my brother's partner, but I was the one who got the official news because I was the next-of-kin family member. If they had been a married couple, the medical examiner would have notified Bob," Marg said. "The situation was unfair and cruel. Bob was worried sick because he knew there was something wrong with Richard, but he couldn't find out what."

From then on, Marg was forced to make decisions about Richard's remains, even though Bob was the one who knew Richard's wishes. "The whole process was so offensive – that no one recognized or respected their 18-year relationship," Marg said.

Three weeks after Richard's death, Marg got another call from the medical examiner's office. For heart disease research purposes, the office wanted details about Richard's activities the night before his death. "How am I supposed to know that?" Marg told the caller. "I'm his sister. You should call his partner." But the office refused.

"As Richard's sister, I was shocked by the unfairness and lack of respect for their relationship," Marg said. "My family shouldn't be treated unfairly – especially during such a difficult time."

Many Minnesota laws affect couples even after death. For example:

- Married people have the right to control the disposition of their spouses' remains. However, people who have made lifetime commitments to their partners have no similar right. (Section 149A.80)
- The coroner is allowed to give clothes and other personal property of limited value to the spouse or any blood relative of the person who has died. The coroner is not allowed, however, to release these items to a same-sex partner. (Section 525.393)
- The surviving spouse of a law enforcement officer killed in the line of duty may receive a payment of \$100,000. The same benefit is not available to the committed but unmarried partner of a law enforcement officer killed during duty. (Section 299A.44)

And some laws seem archaic or trivial but highlight the extent of Minnesota's system of laws. For example:

- Farmers may slaughter their poultry to feed their immediate family members without getting a food handler's license. Same-sex partners are not legally considered family members. As a result, farmers need a special license to slaughter their poultry for their same-sex partners. (Section 31.56)
- Holders of licenses to hunt deer on their own land may transfer those licenses to their spouses. But it is not legal for hunters to transfer their licenses to a partner they have lived with for years. (Section 97A.441)
- A combined fishing license exists for spouses. However, no joint license exists for an unmarried but committed couple. (Section 97A.475 Subd 7(6))

MINNESOTANS HAVE AN INTEREST IN FAIRNESS

Minnesotans feel strongly about fairness and equality for gay and lesbian individuals because they are people they know and love. They are family members, friends, coworkers, neighbors, and community and business leaders. For most Minnesotans, their strong feelings about fairness and equality do not change when gay and lesbian individuals become part of committed couples.

According to the 2006 Project 515 Education Campaign survey, 52 percent of Minnesotans said they personally know or work with someone who is lesbian or gay and 40 percent said they have a close friend or relative who is lesbian or gay.¹

More and more of these gay and lesbian Minnesotans are choosing partners with whom to share their lives. The 2000 U.S. Census reported more than 9,000 Minnesota households identified as same-sex partner households. The Williams Institute on Sexual Orientation at the UCLA School of Law indicated that the largest percentage jump in reported same-sex couples from 2000 to 2005 occurred in the Midwest. Minnesota is one of the top 10 states with the largest percentage increase in reported same-sex couples. The reality is that these couples and families exist and will continue to

exist, regardless of how others feel about them. However, families are unnecessarily and unfairly being hurt by current law.

Minnesotans also recognize the important roles their gay and lesbian friends and family members play in the state. By a margin of 55 percent to 12 percent, Minnesotans said they think "gay and lesbian people have made a positive contribution to Minnesota," according to the Project 515 Education Campaign survey. And those who know someone who is lesbian or gay are much more likely – 73 percent more likely – to feel this way.

So why shouldn't state law consider gay and lesbian Minnesotans equal to other Minnesotans?

A MISSED OPPORTUNITY FOR THE STATE

A top-ranked private college in Minnesota set out to hire a senior professor. Out of more than 120 applicants, one particular candidate clearly stood out as more than qualified. His academic reputation and expertise were well-known and he was highly-regarded as among the top 10 professors in the country for this field of study. The selection committee was excited about attracting such a candidate and the professor was made a finalist for the position. But for the professor, how Minnesota would recognize his family under the law was a critical question. And probably no question a father should ever have to ask.

The professor and his partner had a child and were considering more in the future. The couple had already gone through joint custody adoption in their home state. Although Minnesota does allow co-adoption of a child by a same-sex couple, it doesn't automatically recognize an adoption from another state or recognize the family in many other ways. The professor decided he could not once again put his family through the arduous and expensive adoption process only to leave them unable to fully function under the law as a family.

When all was said and done, the professor withdrew his application though he was one of the top candidates for the position. As any good father would, he put his family first. The college was frustrated and disappointed that its top candidate withdrew because of the inequities of Minnesota laws, and the state lost a potential new citizen.

Families are unnecessarily and unfairly being hurt by current law.

¹ 2006 statewide public opinion survey sponsored by Project 515 Education Campaign and conducted by Decision Resources Ltd. of Minneapolis, MN.

EQUALITY IS GOOD FOR THE ECONOMY

More and more, the business community is heeding the call for greater equality and fairness – and noticing the economic benefits that result. Businesses recognize that they cannot change many of the factors that determine their corporate growth and stability. But they can support and treat their greatest asset – people – with respect and fairness.

The Human Rights Campaign Corporate Equality Index (CEI) shows the progress U.S. businesses are making toward equality. In 2010, 305 businesses achieved the top rating of 100 percent, compared to 260 businesses in 2009. Collectively, these businesses employ more than 9 million full-time U.S. workers. When the CEI was launched in 2002, only 13 businesses achieved 100 percent. The rating criteria includes such factors as non-discrimination policies, diversity training and domestic partner benefits.

Of the Fortune 500 companies located in Minnesota, 70 percent have developed policies that ensure gay and lesbian employees do not encounter discrimination and have taken steps to offer domestic partner benefits to their employees. The Minnesota companies leading in this way include Ameriprise Financial, 3M, Ecolab Inc., General Mills, Land O'Lakes and UnitedHealth Group, among others.

Still more business leaders in the state and across the country are changing their policies to welcome gay, lesbian, bisexual and transgender employees, support their relationships and families, and treat them just as they would any other employee. As a result, businesses are better able to find and keep the most qualified employees, and employees are more satisfied, loyal and likely to recommend their employers to others (November 2005 Gallup poll).

Not only does the public accept this practice, it encourages this leadership. In 1982, 59 percent of people who participated in a Gallup poll said that gays and lesbians should have equal rights in terms of job opportunities. In 2007, an overwhelming 89 percent agreed.

If equality and fairness are among the best policies for businesses large and small, why shouldn't their policies be central to our system of laws?

A majority of Fortune 500 companies offer health insurance and other benefits to domestic partners.

REFERENCES:

Project 515 is a 501(c)(4) organization, sister to Project 515 Education Campaign, a 501(c)(3) organization. Both have a specific, achievable goal: to ensure that same-sex couples and their families have equal rights and consideration under Minnesota law.

The Project 515 Education Campaign (formerly Equality Minnesota) survey was developed and administered by Dr. Bill Morris of Decision Resources Ltd., a Minneapolis-based research firm noted for its polling expertise related to civic issues and public affairs, especially in greater Minnesota. Morris, president of the firm, is the former chair of the Republican Party in Minnesota.

WORKING TOWARD FAIRNESS AND EQUALITY

Despite Minnesotans' call for fairness and equality before the law, despite the example of leading businesses in Minnesota and across the country, and despite the progress Project 515 has made in raising awareness and leading efforts to support legislation, at least 515 Minnesota laws continue to fall short in their fair treatment of same-sex couples.

Project 515 hopes this updated report and accompanying stories will continue the discussion, inform debate and help all of us better understand how fairness and equality are worth working toward. Together we can make Minnesota more stable, welcoming, economically healthy, and overall a great place for all Minnesotans to live.

METHODOLOGY

The data used in the original report was compiled between February and April 2007. The updated data was compiled in the fall of 2009. The laws included here were collected from a series of keyword searches of Minnesota Statutes 2009 done on the State of Minnesota Office of the Revisor of Statutes web site. The search terms included: married, marriage, marital, spouse, husband, wife, immediate family, family member and relative.

Each statute found with any of the search terms was compiled into a list and evaluated to determine whether the statute provided a right or obligation to married people. All relevant statutes were included in this report of 515 statutes.

It is important to acknowledge that the keyword search did not reveal every statute that gives rights and benefits to, or imposes obligations on married people. Statutes that did not include the search terms were left out of this report despite their possible relevance. In addition, many statutes use specialized terms to refer to a married couple or a family unit. For example, the term "heirs" is defined in the probate law to include the surviving spouse of the person who died. Because "heirs" was not one of the search terms, some of those statutes may have been omitted.

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