

## **How unequal are civil unions? Unequal in 1,138 ways and counting Here are just five benefits that you probably did not know about**

Civil unions are inherently unequal. The federal government alone accords 1,138 benefits and responsibilities based on marital status. They include Social Security survivor and spousal benefits, the ability to sponsor one's partner for immigration purposes, the Medicaid spend-down provision, eligibility for Family and Medical Leave, and tax treatment of pension and retirement plans. These are benefits and responsibilities that will be completely denied to same-sex couples if Massachusetts chooses civil unions over marriage.

In 1997, the General Accounting Office—the audit, evaluation, and investigative arm of Congress—identified 1,049 instances in federal law that accord benefits or responsibility to persons or couples based on marital status. In January 2004, the GAO updated its report and found that there are now 1,138 benefits and responsibilities that are contingent upon marital status.

What are these federal benefits? Here is a sampling of five benefits—that you probably have not considered—that have been added to federal law since 1997:

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### **Nutritious Meals**

Under the Older Americans Act, federal dollars are granted to states to distribute to local organizations that provide nutritious meals to low-income older individuals. The federal government requires that spouses be offered the same meals, even if they don't meet the age requirement for the program. As long as one person in the married couple is eligible for the program, both individuals can access the nutritious meals program. Same-sex partners do not have the right to receive these meals. Instead, they are at the mercy of local or state officials who can decide whether or not their nutritional needs will be met. (42 U.S.C. 3030s)

### **First-Time Homebuyer Programs**

The federal government supports a number of first-time homebuyer assistance programs. Both unmarried opposite-sex and same-sex couples are eligible for this program, if they meet the income guidelines. Homemakers and single parents, who have recently divorced, are allowed to apply as "first-time" buyers even though they may have previously shared ownership of a home with a spouse. A first-time homebuyer is defined as someone who has not owned a home in three years. Under first-time homebuyer programs, single parents and displaced homemakers who are recently divorced are automatically considered first-time homebuyers. They do not have to wait the three-year period. However, individuals who were in same-sex relationships that ended could be denied first-time status and forced to wait three years before they are eligible. Since the same-sex partner was not legally married, he or she cannot qualify for this program as divorced. For many, the delay can make it much harder, if not impossible, to buy a home. (42 U.S.C. 12713)

### **Educational Assistance to Families of Public Safety Officers**

When police officers, firefighters, or public safety officers are killed or completely disabled in the line of duty, their spouses and dependents become eligible for a number of public benefits, including educational assistance. Through the Federal Law Enforcement Dependents Assistance Act, children and spouses of public safety officers receive financial assistance to go to college. The same-sex partners of public safety officers, and possibly their children (who lack legal recognition of the parent-child relationship due to the lack of marriage rights of their parents), do not have access to this educational assistance. (42 U.S.C. 3796d-1)

## **Compensation for Radiation Exposure**

The Energy Employees Occupational Illness Compensation Program provides benefits to Department of Energy employees and contractors who were exposed to cancer-causing levels of radiation. Employees of the Department of Energy, and its contractors or subcontractors with radiation-related cancer, are now eligible for up to \$150,000 in compensation and payment of medical expenses. If the eligible person has already died, the surviving spouse and/or children receive the compensation benefit. Same-sex partners—because they are not recognized as legal partners by the federal government—are ineligible to receive their partner’s compensation benefits. (42 U.S.C. 7384s and 42 U.S.C. 7384u)

## **Burial Headstones**

Every veteran has a right to be buried with honor. That is why the federal government provides headstones or grave markers for veterans whose graves would otherwise go unmarked. Surviving spouses of veterans are also provided markers, or their name is inscribed upon their spouse’s marker. These markers and engravings are unavailable for same-sex partners of veterans. (38 U.S.C. 2306)

## **Only marriage—not civil unions—provides full and complete equality**

The above programs describe only five of the 1,138 benefits, protections and responsibilities of marriage encoded in federal law. Currently, same-sex couples are denied access to even the most basic benefits that most of us take for granted. Depending on one’s circumstances, these may include access to the nutritional meals program, first-time homebuyer assistance, educational assistance, and burial rights. If civil unions are established instead of marriage, same-sex couples will not enjoy equal treatment under these and other federal laws. Children of same-sex couples—who are often denied a legal relationship with one of their parents due to the fact that their parents are not married—will also be denied equal treatment under the law. Only marriage will accord full equal rights to same-sex couple families.

## **Other Benefits, Protections and Responsibilities Highlighted by the 2004 U.S. General Account Office Report**

While only five of the 1,138 benefits, protections and responsibilities are highlighted here, the U.S. General Accounting Office notes several other policy areas affected by marital status. They include:

- Coverage under the Medicare + Choice program
- Family violence prevention and services
- Medical care for survivors and dependents of certain veterans
- Benefits for children of Vietnam Veterans
- Federal civilian and military service benefits
- Native American housing assistance
- Housing assistance for Native Hawaiians
- Supportive housing for the elderly
- Interstate stalking
- Rural domestic violence and child abuse enforcement
- Native Hawaiian education

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Founded in 1973, the National Gay and Lesbian Task Force is the oldest national organization working to eliminate prejudice, violence and injustice against lesbian, gay, bisexual and transgender (LGBT) people at the local, state and national level. The Task Force trains activists and leaders and organizes broad-based campaigns to defeat anti-LGBT referenda and advance pro-LGBT legislation. The Task Force Policy Institute, the community’s premiere think tank, researches and reports on critical policy issues. As part of a broader social justice movement for freedom, justice and equality, the Task Force is creating a world that respects and celebrates the diversity of human expression and identity where all people may fully participate in society. For more information on the Task Force, log on to <http://www.TheTaskForce.org>