

# Timeline of Gay History in Delaware

**As we work our way toward equality for lesbian, gay, bisexual and transgender Delawareans, it might be helpful to see how we fit into the flow of Delaware gay history. Doing so hopefully will invigorate all of us not only to wind up on the right side of history, but also actively help achieve that better day.**

**1719** – Same-gender sexual relations (misnamed “sodomy”) is a crime requiring the death penalty in Delaware.

**1826** -- The death penalty for “sodomy” is changed to a maximum of 3 years’ solitary confinement. (Delaware’s 3 years’ imprisonment will remain the most lenient “sodomy” prison sentence in the nation for more than a century.) A fine of \$1000 is added, as well as a public flogging of up to 60 lashes “on the bare back well laid on.” Delaware’s flogging is considered severe, existing only in a few jurisdictions nationwide.

**1852** – Delaware replaces the lashes with an hour in the pillory and retains the \$1000 fine as well as the 3-year imprisonment, which however no longer needs to be solitary confinement.

**1905** – Delaware abolishes the pillory for all crimes.

**1915** – A Delaware court finds that fellatio is included under the “sodomy” law.

**1923** – Delaware passes a law banning probation for persons convicted of “sodomy:” only a few states have similar laws prohibiting probation for “sodomy.”

**1929** – Sterilization is mandated for persons convicted of 3 felonies and judged to have “mental abnormality.” (By the end of **1948** a total of 783 sterilizations had occurred in Delaware, which had the highest per capita number of sterilizations in the nation for the last 5 years of the study. The sterilization penalty remains unchanged and on the books in Delaware.)

**1954** – New Castle County Superior Court finds 2 men guilty of “sodomy” but the judge opines they are really not so much criminals as mentally ill.

**1961** – 15 men are arrested for “sodomy” in Wilmington and Newark. The arrestees are required to name names; are taken from their jobs without notice to their employers, leading to many firings; and are filmed in their “actions and conversations” at the police station. Delaware attorneys are fearful of defending them due to police reprisals.

**1962** – The final reported “sodomy” case in Delaware and the only one decided by the Delaware Supreme Court finds a man guilty of 10 counts of consensual “sodomy” with 3 individuals. He is sentenced to 18 months in prison; fined \$50 each for 9 counts plus court costs; given 3 months’ probation for the 10<sup>th</sup> count (despite the law outlawing probation for “sodomy”); and ordered to receive psychiatric therapy.

**1964** – The law is changed to allow probation for “sodomy.”

**1972** – Delaware becomes the 6<sup>th</sup> state in the nation to repeal its “sodomy” law, and defines the age of consent as 16. Also, whipping is abolished as a legal punishment in Delaware, the last public whipping having occurred as late as **1952**. For context, Pennsylvania abolished whipping in 1794, condemning it as barbaric.

**1975** – Two male students at University of Delaware are harassed by a policeman for holding hands in public: he orders them to “let go” while slapping his nightstick in his hand and citing the sensibilities of women and children. (Two gay men in **2003** are rebuked by a passerby on the Rehoboth Beach boardwalk for holding hands “in front of children.”)

**1987** – During the initial AIDS crisis and resulting hysteria, a Delaware “sodomy” law is re-introduced in the Delaware House. After harsh condemnation by health officials and legislators, Speaker of the House B. Bradford Barnes withdraws the bill with a “tearful apology.”

(Note: Most of the above material is the result of research by Mr. George Painter, whose further study of Delaware's "sodomy" law history can be found at [www.sodomylaws.org](http://www.sodomylaws.org).)

**1992** – A gay man sustains brain damage as a result of being beaten with a baseball bat by assailants on the Rehoboth Beach boardwalk.

**1992** – Unrelated to the above incident, a Delaware hospital refuses treatment for a gay man who had sustained an injury with bleeding. Fearing HIV, the ER arranges for the victim to be transported to another hospital for routine ER treatment.

**March 2 & 8, 1995** – Douglas Steele and Corey Marshall legally change their names to become Douglas and Corey Marshall-Steele. This sets a legal precedent in Delaware for a same-gender couple to change their surnames to reflect their relationship. The precedent is later successfully used by another male couple whose judge had intended to disallow their surname change.

**January 26, 1996** -- The first adoption of a child by an openly gay Delawarean occurs when Charles Veal adopts a baby boy. Charles' spouse Edward McGrath will co-adopt the boy November 2005.

**March 14, 1996** – With only one original sponsor, the Domestic Partnership Act (H.B. 578) is introduced and later defeated. It would have established as a legal status domestic partnerships between persons of the same gender and would have guaranteed only visitation rights in health care facilities and prisons.

**April 4, 1996** – With 23 original sponsors H.B. 503, misnamed the Defense of Marriage Act (DOMA), is introduced and later passed, outlawing same-gender marriage from being performed in Delaware or recognized in Delaware if performed elsewhere. The House Judiciary Committee hearing for this bill had 40 speakers of whom 33 opposed the bill and only 7 supported it. Those opposing the bill included clergy members, attorneys, sociologists, educators, businesspeople, parents and others, both straight and gay. For national context, the federal DOMA is also passed the same year for fear that Hawaii would legalize same-gender marriage.

**January 1, 1997** – The Episcopal Diocese of Delaware for the first time includes same-gender domestic partners in its employee health and dental coverage. It is considered a very progressive breakthrough for a religious entity in Delaware at the time.

**Spring 1997** – S.B. 53 is introduced which would add sexual orientation to Delaware's hate crime law. It is passed very quickly by Delaware standards due to a legislator who had a gay sibling and supported the bill. For national context, Matthew Shepard is murdered in Oct. 1998.

**February 1998** – H.B. 466 is introduced and would ban sexual orientation discrimination in the workplace. It is easily defeated even though a *Newsweek* poll at the time showed 84% of Americans opposed sexual orientation discrimination in the workplace.

**March 25, 1999** – The first Lobby Day for gay civil rights is held in Delaware. Over 100 Delaware citizens go to Legislative Hall in Dover to lobby for H.B. 11, which would ban workplace discrimination based on sexual orientation. Despite objections from the Delaware Christian Coalition, participants are permitted to use the Republican Committee Room for the reception. The Delaware Christian Coalition also objects that *apple pie*, being an American symbol, would be served in the reception. On the other hand the effort receives very strong support from Governor Carper, the Secretary of Labor, the Human Relations Commission, unions and clergy members. Although the number of confirmed "yes" votes doubles after a day of lobbying, the bill fails to pass the House and dies: 15 yes, 8 not voting, 18 no. For context, at the time 10 states and the District of Columbia had already enacted similar legislation.

**Spring 2000** -- Lobby Day is again held, this time to ask for laws in Delaware banning discrimination based on sexual orientation and gender identity in the areas of employment, housing, public accommodations and insurance.

**November 7, 2000** -- The first openly gay person is elected to public office in Delaware when John Brady is voted in as Sussex County Recorder of Deeds. John filed for office on July 29 and revealed he was gay in an August article in the *Delaware State News*. He then went on to win the September primary and the general

election. The milestone is especially remarkable in that the first openly gay Delaware public official is a Republican whose office is in the most conservative county in Delaware.

**March 2001** – H.B. 99, outlawing sexual orientation discrimination in employment, housing, public accommodations and insurance, is passed by the House.

**October 12, 2001** -- The first second-parent adoption by a gay family in Delaware occurs when Delaware Family Court awards two boys, ages 1 and 6, to an anonymous male couple. Chief Judge Vincent J. Poppiti found this in the best interests of the children, who had been born premature and cocaine-addicted, but thrived under the loving care of the men. The men had been together for 22 years. Over 20 states had already been recognizing second-parent adoptions.

**May 9, 2002** – Hickman-Brown Public Opinion Research releases the first ever statewide professional poll on a gay-themed issue. Commissioned by the Human Rights Campaign and the ACLU of Delaware, the poll finds 69% of Delawareans want H.B. 99 to become law and 78% want it at least voted on in the full Senate rather than dying in committee.

**June 30, 2002** – H.B. 99 dies when Senate Small Business Chairperson Sen. Robt. Venables (with the behind-the-scenes support of President Pro Tem Thos. Sharp) refuses to allow it out to the full Senate despite the 78% of Delawareans mentioned above.

**May 15, 2003** – Gov. Minner calls an unprecedented and very well attended press conference declaring her 100% support for a new version of H.B. 99 which would outlaw sexual orientation discrimination in employment, housing, public accommodations, insurance and public works contracting. Primary sponsor Rep. Wm. Oberle is present and reveals House passage is only 1 or 2 votes away

**May 19, 2003** -- Openly gay Commissioner Mark Aguirre introduces and Commissioner Richard Sargent expands a sexual orientation anti-discrimination ordinance (housing, employment, public works contracting and public accommodations) for Rehoboth Beach: it is passed unanimously. .

**June 2003** – H.B. 99 is again passed by the House. Senate President Pro Tem Thurman Adams receives it and promises that he will not assign it to a “killer” committee but that it will receive a full-senate vote in 2004. (He will go back on his word in **January 2004** by deliberately assigning the bill to the Judiciary Committee chaired by the extremely anti-gay Sen. James Vaughn.)

**March 8, 2004** – With the anti-gay marriage law of 1996 continuing in force, Sen. John Still announces his proposed amendment to the Delaware constitution that would outlaw same-gender marriage and even civil unions. Still expresses his fear of “activist judges” in Delaware, even though Delaware’s courts were cited as best in the nation for the third consecutive year. For context, Massachusetts permits same-gender marriage starting May 17, 2004. The proposed amendment dies on June 30, 2004 when the legislators fail to take it up.

**April 3, 2004** - Democrat Emily Falcon is elected the first openly gay delegate from Delaware to a national political convention.

**April 4, 2004** - For the first time ever in Delaware, a newspaper publishes a same-gender engagement notice when *The News Journal* runs the engagement announcement of Victoria Morelli and Kristen Tosh.

**June 30, 2004** - Religious extremists successfully intimidate enough senators so that H.B. 99 again dies in committee without receiving a full-Senate vote. Delawareans may continue to openly and legally discriminate against other Delawareans based on sexual orientation.

**September 28, 2004** - The City of Newark Personnel Manual is amended to include sexual orientation non-discrimination in selection and employment within the City of Newark.

**January 27, 2005** - H.B. 36 is introduced in the House to replace the failed H.B. 99. It incorporates many "safeguards" against the "dangers" anti-H.B. 99 activists had imagined.

**March 24, 2005** - H.B. 36 passes in the House after numerous amendments are added but many believe the additions are demeaning and insulting to lesbian, gay and bisexual persons. As with the previous bills it does not cover transgenders.

**April 13, 2005** - H.B. 36 is assigned by Senate President Pro Tem Thurman Adams to the Senate Judiciary Committee chaired by Sen. James Vaughn.

**June 30, 2006** - H.B. 36 dies when Sen. Vaughn does not allow it out of committee and the Senate does not circumvent him.

**January - June, 2007** - An unprecedented four LGBT-supportive bills are introduced in the Delaware House and Senate. S.B. 141 would prohibit sexual orientation discrimination in employment, housing, public accommodations, insurance and public works contracting. S.B. 10 would mandate that state employees' straight and gay domestic partners would receive the same benefits as spouses. S.B. 57, which did become law, included unmarried straight couples and gay couples in Delaware's domestic violence statute. H.B.167 would allow an adult hospitalized patient or nursing home resident to name anyone as a requested visitor, regardless of marital or blood relationship (thus allowing, for example, same-gender domestic partners to visit).

**June 30, 2008** - S.B. 141, S.B. 10 and H.B. 167 (see above) all died at the end of the legislative session.

**Currently** – By state law it remains perfectly legal for lesbian, gay, bisexual and transgender Delawareans to be denied food, clothing, shelter, employment, public accommodations and insurance due to discrimination. Delaware employers with anti-gay and anti-transgender bias may legally fire, not hire, demote or deny raises or promotions. Gay Delawareans are denied the hundreds of rights, responsibilities and benefits that accrue to civil marriage in Delaware, not to mention the 1,138 federal rights, responsibilities and benefits that accrue to federally recognized civil marriage. And so the work continues....

Copyright 2004, 2005, 2006, 2007, 2008 Mr. Douglas Marshall-Steele