

Timeline of LGBT 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 LGBT history. Doing so might well invigorate all of us not only to wind up on the right side of history, but also to actively help achieve that better day.

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

1826—The death penalty for “sodomy” is changed to a maximum of three years’ solitary confinement. (Delaware’s three 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 three-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 three 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 five years of the study.)

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

1961—Fifteen 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 ten counts of consensual “sodomy” with three individuals. He is sentenced to 18 months in prison; fined \$50 each for nine counts, plus court costs; given three months’ probation for the tenth 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 sixth 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 the University of Delaware are harassed by a police officer 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.)

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 accident victim to be transported to another hospital for routine ER treatment.

March 2 and 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.

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.

May 14, 1996—With only one original sponsor, the Domestic Partnerships Act (H.B. 578) is introduced and later stricken. 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.

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, which would add sexual orientation to Delaware’s hate crime law, is introduced. 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 October 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 Gov. 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, ten 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. Brady 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.

June 27, 2001—The first second-parent adoption by a gay family in Delaware occurs when Delaware Family Court in New Castle County awards two boys, ages one and six, 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 Committee chair Sen. Robert Venables, with the behind-the-scenes support of President Pro Tem Thomas 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. William Oberle is present and reveals House passage is only one or two 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 Charter, which 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 the anti-gay 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 die at the end of the legislative session.

November 15, 2008—Delaware sees its first ever gay rights demonstration, when 30 Delawareans picket in front of Dover City Hall in protest of California's "Prop 8" and in favor of same-gender marriage. Passersby are overwhelmingly supportive during the two-and-a-half-hour demonstration.

February 10, 2009—The City of Newark's personnel policy is amended to prohibit discrimination based on gender identity and expression. It had prohibited sexual orientation discrimination since September 28, 2004 (confer above).

June 2009—The best year and legislative session to date in Delaware history, in terms of gay-supportive legislation. After over 11 years of trying, sexual orientation antidiscrimination legislation, S.B. 121, is finally passed and by large margins in both chambers. A hospital visitation bill, H.B. 112, allowing hospitalized patients to choose who may visit them (including their same-gender significant others) is passed overwhelmingly in both chambers. S.B. 84, de facto parent legislation, is also passed overwhelmingly in both Senate and House: it solidifies the adoption and parenting rights of gay and other second parents. S.B. 27, Sen. Robert Venables' attempt to change the Delaware Charter to ban same-gender marriage, fails by a large margin. H.B. 10, requiring same-gender domestic partner benefits for state employees, is the only unsuccessful legislation, being tabled by its sponsors in light of Delaware's huge economic deficit.

July 28, 2009—Delaware residents Jose and Guy Weidner-Ahorrio, presenting their Social Security cards and their Massachusetts marriage license as proof of their newly hyphenated surname to the Delaware DMV, had been told that because Delaware does not recognize same-gender marriage, even their Social Security cards were insufficient to change their individual surnames on their licenses to their hyphenated surname: they would have to change their surnames in the Delaware Court of Common Pleas. At a Human Relations Commission hearing the deputy attorney general representing DMV apologized to the men and agreed to: be responsible for all costs involved in the Weidner-Ahorrios' name change and to expedite the process; revise the DMV Web site to clearly reflect that only court-altered names were acceptable; conduct and document training on name change for all

staff, who would have to inform applicants on the procedure rather than just summarily rejecting the application; and consider a change of state regulation, accepting Social Security cards or passport identification as valid documentation for a license name change.

August 11, 2009—Gov. Jack Markell signed Executive Order Eight, which among other things banned discrimination based on gender identity and expression in state government. This was the first time in Delaware history that transgenders were specifically protected in any way by law or executive order.

March 22, 2011—The Civil Union and Equality Act of 2011, S.B. 30, is introduced after a poll by Lake Research Partners of 700 likely Delaware voters found 62 percent in favor of civil unions and only 31 percent opposed. Almost half of Delaware's legislators cosponsored the bill, and it is strongly supported by Gov. Jack Markell.

April 5, 2011—John Buchheit is elected mayor of Delaware City, making him the first openly gay mayor in Delaware history.

May 11, 2011—After the Delaware Senate had passed it 13-6 on April 7 and the Delaware House passed it by 26-15 on April 14, the *Civil Union and Equality Act of 2011* was signed by the governor. Civil unions are legal for same-gender Delawareans as of January 2012.

Currently—Although gay Delawareans may enter into civil unions, they are still denied the 1,138 federal rights, responsibilities and benefits that accrue to federally recognized civil marriage. Delaware continues to have an anti-gay-marriage law which fines or imprisons gay Delawareans who present themselves as married, even if they married in a state which allows it. Delaware transgenders have no hate-crime protection, and antidiscrimination protection only in state government by executive order. Homophobia continues rampant in many areas of Delaware. And so our work continues...