



HUMAN
RIGHTS
CAMPAIGN®

MEDIA PRIMER:

2011

FLASHPOINTS
FOR LGBT
EQUALITY

T HIS NEW YEAR BRINGS NEW CHALLENGES FOR LESBIAN, GAY, BISEXUAL AND TRANSGENDER PEOPLE, BUT ALSO NEW OPPORTUNITIES. LAST YEAR'S ELECTIONS THAT RESULTED IN THE LOSS OF THE U.S. HOUSE OF REPRESENTATIVES TO AN ANTI-EQUALITY LEADERSHIP, ALONG WITH MORE ANTI-LGBT SENATORS, WILL CERTAINLY IMPEDE - BUT NOT ENTIRELY STOP - PRO-LGBT FEDERAL LEGISLATIVE EFFORTS. LOOKING AT THE STATES HOWEVER, THERE ARE CLEAR OPPORTUNITIES FOR ADVANCING AN EQUALITY AGENDA, INCLUDING IN THE AREA OF RELATIONSHIP RECOGNITION FOR SAME-SEX COUPLES. OF COURSE, ANTI-LGBT FORCES WILL TRY TO TURN BACK THE CLOCK AT EVERY OPPORTUNITY, AND FAIR-MINDED AMERICANS WILL CONTINUE TO BE VIGILANT TO PRESERVE PRO-EQUALITY LAWS ACROSS THE COUNTRY.

CONGRESS

As the new Congress is sworn in this week, there is no denying that pro-LGBT numbers have shrunk on Capitol Hill. A Human Rights Campaign analysis shows a pick-up of 53 House seats to anti-LGBT lawmakers as well as a 5 seat addition in the Senate. Not only do those opposing basic equality hold positions of power as House leaders and committee chairmen, their ranks have swollen to 225 – a solid majority of the chamber. This presents not just a roadblock to progress but also the threat of legislation that could be damaging to the community.

HOUSE

	111th	112th	Variance
Anti-LGBT	172	225	+53
Pro-LGBT	196	167	-29
Mixed Record	65	43	-22

SENATE

	111th	112th	Variance
Anti-LGBT	35	40	+5
Pro-LGBT	42	40	-2
Mixed Record	23	20	-3

When anti-equality forces controlled Congress for a decade (1994-2005), they stymied any progress on LGBT issues, instead making attacks on our community part of their governing agenda. Among these were: attempting twice to amend the U.S. Constitution to deny marriage equality to same-sex couples nationwide; trying to strip federal courts of the authority to hear marriage equality cases; blocking DC's local efforts to provide domestic partnership benefits to its employees; cutting funding for HIV prevention, research and treatment despite a growing epidemic, while pouring federal dollars into disproven abstinence-only programs that exclude or even denigrate LGBT youth; and standing in the way of openly-LGBT appointees.

A Congress controlled by anti-equality Republican leaders could very well return to this playbook, and even go further by: cutting Justice Department funds for enforcement of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act; trying to roll back Obama administration advances for LGBT people, like benefits for the partners of Foreign Service officers or hospital visitation protections; and standing in the way of the nomination of pro-equality federal judges.

Anti-LGBT leaders controlling one house of Congress won't stop the LGBT community from reintroducing critical bills like the inclusive **Employment Non-Discrimination Act** (ENDA) or the repeal of the so-called **Defense of Marriage Act** (DOMA). We will continue to work with our key allies on Capitol Hill to try and find ways to move pro-equality legislation forward.

Two areas remain ripe for congressional action, even amidst this challenging new environment. Perhaps some of the most eye-opening narratives about the LGBT community in the last year were the stories of youth who had experienced anti-LGBT bullying and harassment and the stories of many youths whose lives were ended by suicide. Two pieces of legislation in Congress aim to address anti-LGBT bullying and harassment – the **Safe Schools Improvement Act** (SSIA) and the **Student Non-Discrimination Act** (SNDA). Additionally, tax and benefits issues may receive some attention, including the Domestic Partnership Benefits and Obligations Act (DPBO), which would provide equal family benefits to same-sex partners of federal civilian employees and help the federal government compete with America's leading employers, as well as the **Tax Equity for Health Plan Beneficiaries Act** (DP Tax), which would eliminate the unfair tax on employer-provided health insurance benefits for any eligible beneficiary.

Additionally in the 112th Congress, several other LGBT-related pieces of legislation will include: the **Uniting American Families Act** (UAFA) that would permit U.S. citizens and legal permanent residents to sponsor their same-sex partners for immigration purposes; **the Freedom from Discrimination in Credit Act**, which would add sexual orientation and gender identity to the Equal Credit Opportunity Act; legislation to protect LGBT people from **housing discrimination**; **the Every Child Deserves a Family Act**, which would encourage states to add adoption and foster care laws and policies that do not discriminate based on sexual orientation or gender identity; and issues related to **HIV/AIDS funding** for prevention, care and treatment.

CONGRESSIONAL REPUBLICAN LEADERSHIP HRC SCORECARD RATINGS

	111th	110th
Sen. Mitch McConnell	0%	20%
Sen. John Kyl	0%	0%
Sen. Lamar Alexander	14%	20%
Rep. John Boehner	0%	0%
Rep. Eric Cantor	0%	0%
Rep. Kevin McCarthy	0%	0%

FEDERAL ADMINISTRATIVE CHANGES

HRC developed the Blueprint for Positive Change at the beginning of the Obama administration – a list of non-legislative policy changes to improve the lives of LGBT people and our families – and we have had a number of important victories to date, including historic changes to hospital visitation rules nationwide. We will continue to push for the adoption of policy and regulatory changes across the executive branch, including: protections for LGBT people and their families in accessing disaster relief services from the Federal Emergency Management Agency; respectful and non-discriminatory policies addressing the treatment of transgender air travelers by the Transportation Security Administration; and the implementation of promised housing discrimination protections for LGBT families at the Department of Housing and Urban Development.

STATE LEGISLATION

Marriage and relationship recognition may be a recurring theme of 2011 for action in the states. **Maryland, New York and Rhode Island** are poised to advance marriage equality bills. **Hawaii**, after electing a progressive governor, will likely overcome 2010's disappointing veto of civil unions. **Delaware** will make its first push for civil unions, with a good chance of success on the first try. **Illinois** awaits the governor's signature on civil unions legislation.

On the other side of the coin, some states may try to roll back protections for same-sex couples and their families. **New Hampshire** will have to fight tooth and nail to hang on to marriage equality now that Republicans have a veto-proof majority in both houses. **Iowa** state Sen. Michael Gronstal will come under considerable pressure for his vow to block any attempt to amend the state constitution to limit marriage to opposite-sex couples. States such as **Indiana, Pennsylvania and North Carolina** are at risk for having their state constitutions amended to enshrine discrimination as well.

5 AND DC

States that permit same-sex couples to marry

16 AND DC

States with at least some form of same-sex relationship recognition

21 AND DC

States with sexual orientation workplace non-discrimination laws

12 AND DC

States with sexual orientation and gender identity workplace non-discrimination laws

In addition to relationship recognition, several states will make a strong push for bills ending discrimination in employment and public accommodations. After the Mormon Church backed off its opposition to non-discrimination bills, **Utah** is on the brink of passing a statewide employment non-discrimination act. **Maryland, Massachusetts** and **New York** are all attempting to add gender identity to their non-discrimination laws after their respective bills failed to gain traction in 2010.

Parenting bills are likely to bring some of the toughest challenges in 2011 – none of them good. Narrowly defeated bills limiting or eradicating the ability of LGBT people to adopt will crop up again in states like **Tennessee** and **Arizona**. And after a court case striking down their legislative ban, Florida may see movement toward attempts to amend the state constitution to put the adoption ban back in place.

COURTS

Three federal cases on marriage equality are all likely to receive a ruling from the federal circuit courts during the next two years. **Perry v. Schwarzenegger**, which has been heard by the 9th U.S. Circuit Court of Appeals, challenges the constitutionality of California's Proposition 8 and advances the argument that marriage is a fundamental right in which same-sex couples are constitutionally entitled to participate. The 1st U.S. Circuit Court of Appeals will decide two cases out of Massachusetts. **Gill v. Office of Personnel Management**, filed by Gay & Lesbian Advocates & Defenders, challenges the "Defense of Marriage Act" (DOMA) Section 3 which prohibits the federal government from extending federal benefits to legally married same-sex couples. **Commonwealth of Massachusetts v. Department of Health and Human Services**, brought by the state attorney general, similarly challenges DOMA Section 3. **Donaldson and Guggenheim v. Montana**, a case filed by the American Civil Liberties Union, will also be percolating through the Montana state court system that could result in civil unions for same-sex couples there. Several other cases will be percolating through the federal district courts and through the state courts during 2011 that could impact the marriage equality landscape in subsequent years.

CULTURE AND COMMUNITIES

In addition to legislative, administrative and legal work at the federal and state levels, there are a number of other issue areas that will become LGBT flashpoints in the year ahead. As we saw in 2010, Americans are waking up to the scourge of **anti-LGBT bullying** that has plagued our young people. HRC's Welcoming Schools program works to combat gender stereotyping and name calling starting in the earliest grades – and we will strengthen our youth programs for kids of all ages and keep the deadly crisis of school bullying in the national spotlight. Our community will continue to **fight anti-LGBT bigotry** by bringing media attention to those who demean and demoralize LGBT people. In 2010, HRC delivered 150,000 letters to the Mormon Church hierarchy after a hateful sermon as well as ran a successful rapid-response campaign against the Arkansas school board official who suggested gays would be better off dead. As we intensify our push for same-sex couples to be seen as the fit adoptive parents they are, HRC's All Children – All Families project will **enable more same-sex couples to adopt children**. HRC's Workplace Project and our healthcare initiative have made extraordinary gains for equality in a relatively short time. By working directly with decision makers in **corporations and hospitals**, we will continue to change the "business as usual" for LGBT employees, customers, and patients. Finally, HRC's Religion & Faith program will continue to work from within **religious communities** to ensure that pro-equality clergy speak out for justice, refute religious-based bigotry, and encourage people of faith to support equality.

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