

Navigating different aspects of the law and how it affects us in our daily lives can be difficult for anyone, but knowing exactly how the law affects the rights of LGBT citizens can be even more confusing. Equality Illinois presents a series of informational **KNOW *your* RIGHTS** brochures designed to educate the LGBT community about its rights and responsibilities under state and federal law. The contents of this pamphlet do not constitute legal advice. Please consult an attorney for legal advice.



Visit www.eqil.org or
call us at (773) 477-7173
if you have other questions that have
not been addressed in this brochure.

KNOW *your* RIGHTS:

LGBT
EQUALITY
IN
ILLINOIS

IMMIGRATION



IMMIGRATION

As a United States citizen or Permanent Resident, can I sponsor my non-citizen partner or spouse of the same sex to become a legal permanent resident?

Now that the U.S. Supreme Court has overturned major parts of the Defense of Marriage Act (DOMA), the federal government recognizes the 1,138 federal rights and benefits that accompany marriage for those gay and lesbian couples who marry in a pro-marriage state. One of the 1,138 rights that gay and lesbian married couples can now access is the right to sponsor a non-citizen spouse for permanent residency, or a “green card.”

The federal government only recognizes marriages, so couples who entered into an Illinois civil union are not eligible for any federal benefits that accompany marriage. However, if a couple marries in one of the states that recognize marriage for gay and lesbian couples (Iowa and Minnesota being the closest), sponsorship for legal residency will indeed be an option.

If getting married in an equality jurisdiction is not possible, your spouse or partner may seek out other nonimmigrant visa options to live in the United States, such as a student visa, a work visa through sponsorship by an employer, or asylum for those seeking protection in the

United States due to persecution or the fear of persecution on the basis of sexual orientation in one’s home country.

Can one obtain asylum in the United States on the basis of one’s sexual orientation, gender identity, or HIV status?

Yes. Some foreign nationals who have suffered or may suffer persecution because of their sexual orientation, transgender identity, or HIV-positive status, may be able to obtain asylum in the United States. For more information on how to qualify or how to apply for asylum, visit www.uscis.gov.

Are there restrictions on travel or immigration into the United States for HIV-positive individuals?

No. In January 2010, the United States lifted its HIV ban on travel and immigration. Being HIV-positive is no longer an automatic ground for inadmissibility. Applicants for legal permanent residency (informally known as a green card) are no longer tested for HIV and waivers are no longer necessary. Travelers are no longer asked about their HIV status. One’s HIV-positive status could still be a factor in a public charge analysis.

RESOURCES

Immigration law can be a difficult area to navigate. If you and/or your spouse or partner is unsure of your rights, be sure to contact an attorney who practices immigration law.

For immigration-related concerns and complaints, consult the following:

For more detailed information regarding immigration law and how it applies to same-sex couples, **visit immigrationequality.org**

The National Immigrant Justice Center (NIJC), located in Chicago, provides immigration legal assistance to qualifying low-income LGBT and HIV-positive immigrants, and those who are victim of persecution in their home countries because of their sexual orientation or gender identity. Contact NIJC at **312-660-1370**.

