



Written by [Joe Wolverton, II, J.D.](#) on April 18, 2011

Congress Considers Bill to Extend Immigration Rights to Homosexual Couples

According to figures supplied by The Human Rights Campaign, approximately 36,000 homosexual Americans are involved in bi-national relationships.

Speaking in favor of the [Uniting American Families Act](#) (UAFA), Representative Jerry Nadler (D-N.Y.) said:

Today thousands of committed same-sex couples are needlessly suffering because of unequal treatment under our immigration laws, and this is an outrage. Our Constitution guarantees that no class of people will be singled out for differential treatment — and LGBT [Lesbian, Gay, Bisexual, Transgender] Americans should not and must not be excluded from that guarantee.



As presently written, the immigration statutes permit American citizens to sponsor their non-citizen spouses for permanent residency (the misnamed “green card”) and eventual citizenship. Those involved in homosexual relationships are not permitted participation in the program.

Nadler, the chief sponsor of the bill in the House, considers this arrangement “gratuitously cruel.”

Cosponsor Zoe Lofgren (D-Calif.) is the Chairman of the U.S. House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, the committee currently considering the matter. On Thursday, Lofgren appeared before reporters and added her comments criticizing the current state of the law regarding immigration options for spouses:

It's appalling that the United States government forces families to separate. As a nation, we should be encouraging the cohesion of American families, not forcing the deportation of partners and parents.

As of the time of writing, Nadler and Lofgren are joined in this legislative endeavor by 134 cosponsors. While Lofgren is relatively new to the effort to expand immigration rights to cover same-sex couples, Congressman Nadler has not been daunted by the repeated failures of this bill to pass the House, as this measure (or one substantially similar) has been presented to every Congress since 2000.

In order to accomplish the desired alteration of the relevant immigration statutes, the bill, HR 1024, adds the terms “permanent partnership” and “partner” to the existing terms of “marriage” and “spouse.”

The new terms are defined by the proposed statute as follows:



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The term "permanent partner" means an individual 18 years of age or older who

(A) is in a committed, intimate relationship with another individual 18 years of age or older in which both parties intend a lifelong commitment;

(B) is financially interdependent with that other individual;

(C) is not married to or in a permanent partnership with anyone other than that other individual;

(D) is unable to contract with that other individual a marriage cognizable under this Act; and

(E) is not a first, second, or third degree blood relation of that other individual. The term "permanent partnership" means the relationship that exists between two permanent partners.

As expected, there are many groups opposed to such a radical change to the immigration law.

The U.S. Conference of Catholic Bishops sent a letter expressing their belief that if enacted the bill "would erode the institution of marriage and family by according marriage-like immigration benefits to same-sex relationships, a position that is contrary to the very nature of marriage, which pre-dates the church and the state."

Even some organizations otherwise actively encouraging Congress to pass "comprehensive immigration reform" are lobbying lawmakers to vote down UAFAs.

The leader of the National Hispanic Christian Leadership Conference, Reverend Samuel Rodriguez, described the bill as a "slap in the face to those of us who have fought for years for immigration reform," and warned that "the very broad and strong coalition that we have built on behalf of comprehensive immigration reform" among faith-based groups would abandon the effort should this bill give same-sex couples benefits and privileges equal to those afforded to traditional couples.

The right-leaning policy outfit Center for Immigration Studies worries that were the bill to pass, a gaping loophole would open in the law permitting widespread fraud and an increase in illegal immigration.

As quoted in the Boston [press](#):

Said the Center's policy studies director, Jessica M. Vaughan, "[The bill] does not seem like a serious effort to reform immigration law, because it does not offer a reliable method for officers to make a decision to establish someone's qualifications to apply for this benefit" — in plain English, the bill does not offer a foolproof method for determining that two individuals seeking the entry of one person based on the other's citizenship or legal residency truly are in a committed relationship.

The center's perspective is challenged by an advocacy organization from the other end of the spectrum. Immigration Equality insists that the same rigorous standards currently applied to the legitimacy of heterosexual partnerships will be applied to homosexual applicants for residency.

The Department of Homeland Security (DHS), currently charged with enforcing U.S. immigration laws, will be able to apply the same standards that it applies to marriages in determining whether a permanent partnership is genuine. Permanent partners, like married couples, would be required to prove emotional and financial commitment through documentation such as: jointly



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owned property; shared child custody; joint bank accounts; joint credit cards; shared insurance policies; evidence of a commitment ceremony; and photographs of shared vacations and holidays with extended family.

This latest attack on traditional marriage comes fewer than two months after the Obama administration [announced](#) that it would no longer defend legal challenges to the Defense of Marriage Act (DOMA).

In a statement announcing the President's decision, Attorney General Eric Holder said, "Much of the legal landscape has changed in the 15 years since Congress passed DOMA. The Supreme Court has ruled that laws criminalizing homosexual conduct are unconstitutional. Congress has repealed the military's Don't Ask, Don't Tell policy. Several lower courts have ruled DOMA itself to be unconstitutional."

As published in the *San Francisco Chronicle* [online](#):

Lofgren argued that in light of the administration's decision to stop defending the Defense of Marriage Act, which bars all federal benefits, including immigration rights, to same-sex couples, such deportations should be stopped.

She said until the courts decide DOMA's fate, or it is repealed, the administration should exercise its prosecutorial discretion to stop proceedings against legally married partners seeking immigration rights.

"If DOMA is so unconstitutional that it can't be defended in court, then don't use it to separate families under the immigration law," Lofgren said.

Sensing the impending death of DOMA and emboldened by the prospect of a radical liberalization of the immigration law, pro-homosexual immigration groups are taking steps to speed the process along by filing numerous complaints in federal courts.

As reported by *Yahoo! News*:

The group Immigration Equality is now gathering plaintiffs such as [Erwin] de Leon [married to his homosexual partner for 13 years, who faces the prospect of being deported when his student visa expires] to argue in federal court that the Defense of Marriage Act, which says the federal government only recognizes marriage between men and women, is discriminating against gay immigrants. Immigration Equality Executive Director Rachel Tiven said the plaintiffs will most likely file the case in the Second U.S. Circuit, which covers Vermont and Connecticut, where gay marriage is legal, and New York, where gay marriages performed in other states are recognized.

Tiven said the yet-to-be-chosen plaintiffs will most likely be binational couples who live in the United States, even though her organization also hears frequently from binational couples who are forced to live in other countries after their petitions for legal residency were denied.

In the meantime, the group is asking the Department of Homeland Security to stay deportations in cases where a person was denied residency because the federal government wouldn't recognize his or her same-sex marriage. Once a person is deported from the United States, he or she may not return for 10 years.

Regardless of the zeal of its advocates, legislative and otherwise, there is little chance that such a drastic rewriting of the law will pass the whole House, particularly in light of the Republican majority. As for the companion measure introduced in the upper chamber by Senator Patrick Leahy (D-Vt.), the support will likely fail to cross the necessary threshold and reach the desk of the President for his



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