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**Documenting Discrimination on the Basis of Sexual Orientation
and Gender Identity in State Employment**

Title

Voters' Initiatives to Repeal or Prevent Laws Prohibiting Employment Discrimination Against
LGBT People, 1974-Present

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Chapter 15: Voters’ Initiatives to Repeal or Prevent Laws Prohibiting Employment Discrimination Against LGBT People, 1974-Present

One marker of the hostility and animus directed towards LGBT Americans is the proliferation of attempts to use state and local ballot measures to repeal or preclude protection against employment discrimination based on sexual orientation or gender identity. The pattern of outcomes has slowly shifted in the last 30 years from a majority of these attempts succeeding to a majority failing.¹ Nonetheless, proponents of workplace equality for the LGBT minority have had to respond – more frequently than any other group - to repeated, well-funded campaigns to erect barriers against basic civil rights protections.

According to University of Michigan political scientist Barbara S. Gamble, “[g]ay men and lesbians have seen their civil rights put to a popular vote more often than any other group. Almost 60 per cent of the civil rights[-related ballot] initiatives have involved gay rights issues... Of the 43 gay rights initiatives that have reached the ballot, 88% have sought to restrict the rights of gay men and lesbians by repealing existing gay rights laws or forbidding legislatures to pass new ones.”²

In this chapter,³ we expand and update Gamble’s analysis, documenting 120 ballot measures from 1974 to 2009. Most of these, 92, were at the local level, with 28 at the state level.

In this analysis we do not include the many ballot measures to repeal or prevent the extension of marriage to same-sex couples. Our findings include:

- One hundred fifteen of these measures sought to repeal prohibitions of discrimination against LGBT people in the workplace, prevent or inhibit such prohibitions from being passed, or even

¹ See Tables 15-A and 15-CII, *infra*.

² Barbara S. Gamble, *Putting Civil Rights to a Popular Vote*, 41 AMER. J. POL. SCI. 245, 257-58 (1997).

³ See Tables 15-A, 15-B, 15-C, and 15-D, *infra*.

mandate discriminatory or stigmatizing conduct or speech towards LGBT people. Of the ballot measures that were initiated, 58 passed, or 50% of those attempted. While the ballot measures were proposed in eighteen different states, most were in Oregon, Michigan, Maine, Washington, Florida, and California.

- During this same period, we document only five ballot measures that would have provided protections to LGBT people in the workplace, four of which passed. Only one such ballot measure was proposed prior to 1998.
- Fifty-five percent of these ballot measures were initiated during a five-year period from 1991 to 1995. However, the most recent two were in 2009 -- an effort to repeal protections for LGBT people in Gainesville, Florida that failed, and a similar effort to repeal a civil rights law in Kalamazoo, Michigan that will be voted on this year.
- Not all of these measures were voted on. Nineteen did not qualify for the ballot, five more were disqualified by courts, three were withdrawn, and one has not been voted upon yet. When these twenty-eight measures that did not reach the ballot box are excluded, over two thirds (66%) of the measures were passed. Four of the measures that passed resulted in changes to state law protections for LGBT people, at least temporarily, in Colorado, Oregon, and Maine.

Ballot initiatives aimed at preventing the LGBT population from gaining legal protection from discrimination in the workplace and other settings began as attempts to repeal specific civil rights-protective legislation or executive orders. Over time, however, these initiatives have often gone beyond the goal of simple repeal. First, an increasing number of campaigns have attempted to undermine traditional mechanisms of majoritarian democracy by preemptively blocking *future* legislative adoption of measures to guarantee equality in the workplace, as well as in other venues such as housing and public accommodations. Second, several of the ballot measures have sought to chill or prohibit the

expression of messages of tolerance or even discussion of sexual orientation in certain venues. Another mechanism for repressing speech has been a strategy to outlaw use of government funds for any organization that is supportive of LGBT groups.⁴

A. Ballot Initiatives 1974 to 1992

The first repeal of an ordinance protecting LGBT rights occurred in Florida in 1977, with the “Save Our Children” campaign led by entertainer Anita Bryant. The campaign was filled with religious rhetoric and stereotypical inflammatory allegations, and resulted in the repeal of a Dade County ordinance that prohibited sexual orientation discrimination.⁵ Similar outcomes around the country followed shortly thereafter, including the repeal of local anti-discrimination laws in St. Paul, Minnesota, Wichita, Kansas, and Eugene, Oregon in 1978.⁶ The first defeat of an anti-gay ballot measure also occurred that year, when California voters rejected the Briggs Initiative, a statewide initiative that sought to give school boards the right to fire or refuse to hire teachers for “soliciting, imposing, encouraging, or promoting homosexual conduct.”⁷

Efforts to deny LGBT people legal protection continued and increased through the 1980s and early 1990s. Voters in San Jose and Santa Clara Counties, California, repealed local anti-discrimination legislation in 1980.⁸ In Oregon, after the governor issued an executive order banning sexual orientation

⁴William E. Adams, *Pre-Election Anti-Gay Ballot Initiative Challenges: Issues of Electoral Fairness, Majoritarian Tyranny, and Direct Democracy*, 55 OHIO ST. L.J. 583, 584-85 (Summer 1994).

⁵ Gamble, *supra* note 2, at 258.

⁶ William E. Adams, Jr., *Is It Animus or a Difference of Opinion? The Problems Caused by the Invidious Intent of Anti-Gay Ballot Measures*, 34 WILLAMETTE L. REV. 449, 458 (Summer/Fall 1998) (citing Derrick A. Bell, Jr., *The Referendum: Democracy's Barrier to Racial Equality*, 54 WASH. L. REV. 1, 18 n.71 (1978)); *St. Paul Citizens for Human Rights v. City Council*, 289 N.W.2d 402 (Minn. 1979) (denying an injunction prohibiting the city council from placing an initiative question repealing a city gay rights ordinance on the ballot), and noting that voters in Seattle rejected a repeal attempt that year). See also Gamble, *supra* note 2, at 258.

⁷ Adams, *supra* note 7, at 458 (citing Jane S. Schacter, *The Gay Civil Rights Debate in the States: Decoding the Discourse of Equivalentents*, 29 HARV. C.R.-C.L. L. REV. 283, 288 & n.34 (1994)).

⁸ Adams, *supra* note 7, at 458 (citing Gamble, *supra* note 2, at 258).

discrimination in state hiring, voters in 1988 repealed the order by referendum.⁹ Proposed statewide initiatives in Washington and Nevada in 1994 contained identical text transparently reflecting animus and hostility toward the gay community:¹⁰

“[I]nappropriate sexual behavior does not form an appropriate basis upon which to construct a minority or class status relation to civil rights;” and

“To identify oneself as a person who participates in or who expresses openly a desire for inappropriate sexual behavior, such as homosexuality, fails to constitute a legitimate minority classification.”

In 1992, two statewide measures, one in Oregon and one in Colorado, took even broader aim at dismantling protections against discrimination. The two measures had similar goals, seeking not only to repeal all existing state legal protections for LGBT people, but also to block all future enactment of protections in their states.¹¹ Oregon's Measure 9, which voters rejected, contained overtly hostile, condemning language, including the following:

State, regional and local governments and their departments, agencies and other entities, including specifically the State Department of Higher Education and the public schools, shall assist in setting a standard for Oregon's youth that **recognizes homosexuality, pedophilia, sadism and masochism as abnormal, wrong, unnatural, and perverse and that these behaviors are to be discouraged and avoided.**¹²

⁹ Adams, *supra* note 7, at 458 (citing Jane S. Schacter, *Romer v. Evans and Democracy's Domain*, 50 VAND. L. REV. 361, 372 (1997)).

¹⁰ See Tables 15-A and 15-B, *infra* – 1994 Nevada measure, 1994 Washington measures (2) and 1996 Oregon measure.

¹¹ Adams, *supra* note 7, at 459.

¹² See Table 15-A and Exhibit 15-B below (emphasis added).

Colorado's Amendment 2,¹³ which voters adopted, avoided directly condemning language. Instead, its proponents utilized the rhetoric of "no special rights," suggesting that gay men and lesbians were asking for special treatment, rather than for protection against being singled out for discrimination in employment, housing and public accommodation.¹⁴

B. Colorado Amendment 2 and *Romer v. Evans*

At the time that Colorado Amendment 2 was passed, there were only minimal protections against anti-gay discrimination in Colorado. Three communities - Aspen, Boulder and Denver - had local ordinances which protected "individuals from job, housing, and public accommodations discrimination when that discrimination is based solely on sexual orientation."¹⁵ Statewide, the only protections were a Governor's Executive Order issued in 1990, which prohibited "discrimination based on sexual orientation in the hiring, promotion, and firing of classified and exempt state employees,"¹⁶ and a single statute that prohibited health insurance companies from determining insurability based on an individual's sexual orientation.¹⁷

Amendment 2 would have rendered unconstitutional (under the Colorado Constitution) the Aspen, Boulder and Denver municipal ordinances and the two statewide protections. Eventually the lawsuit challenging it reached the United States Supreme Court, which struck Amendment 2 down as

¹³ See Table 15-A and Exhibit 15-B below. Colorado's Amendment 2 stated:

NO PROTECTED STATUS BASED ON HOMOSEXUAL, LESBIAN OR BISEXUAL ORIENTATION.
Neither the State of Colorado, through any of its branches or departments, nor any of its agencies, political subdivisions, municipalities or school districts, shall enact, adopt or enforce any statute, regulation, ordinance or policy whereby homosexual, lesbian, or bisexual orientation, conduct, practices or relationships shall constitute or otherwise be the basis of, or entitle any person or class of persons to have or claim any minority status quota preferences, protected status or claim of discrimination. This Section of the Constitution shall be in all respects self-executing.

¹⁴ Adams, *supra* note 7, at 459 (citing John Gallagher, *Are We Really Asking for Special Rights*, THE ADVOCATE at 24 (Los Angeles, Cal., Apr. 14, 1998) (explaining that the "special rights" slogan has become a winning one for opponents of gay rights in ballot initiative and referendum campaigns)).

¹⁵ THE REPORT ON BALLOT PROPOSALS OF THE LEGISLATIVE COUNCIL OF COLORADO GENERAL ASSEMBLY, AN ANALYSIS OF 1992 BALLOT PROPOSALS, RESEARCH PUBL. NO. 369, 9-12 (1992).

¹⁶ *Id.*

¹⁷ *Id.*

unconstitutional under the United States Constitution, concluding that it was “a denial of equal protection of the laws in the most literal sense.”¹⁸ Writing for the Court, Justice Kennedy stated that the amendment's “sheer breadth is so discontinuous with the reasons offered for it that the amendment seems inexplicable by anything but animus toward the class that it affects; it lacks a rational relationship to legitimate state interests.”¹⁹ Thus, in the Court's opinion, Amendment 2's scope was too expansive to rationally relate to any acceptable state purpose.²⁰ The Court also specifically rejected the “special rights” logic behind Amendment 2, stating:

We find nothing special in the protections Amendment 2 withholds. These are protections taken for granted by most people either because they already have them or do not need them; these are protections against exclusion from an almost limitless number of transactions and endeavors that constitute ordinary civic life in a free society.²¹

C. Cincinnati Charter Amendment 3

In 1991, the Cincinnati City Council passed the Equal Employment Opportunity Ordinance (“EEO”) prohibiting discrimination in city employment and appointments to city commissions and boards on the basis of sexual orientation. In 1992, these protections were expanded by the Council to prohibit discrimination based on sexual orientation in private employment, public accommodations, and housing with the Human Rights Ordinance (“HRO”).

In response, local voters in 1993 adopted an initiative – entitled Issue 3²² - to amend the Cincinnati city charter. Issue 3 was designed to nullify the EEO and HRO on the issue of discrimination

¹⁸ *Romer v. Evans*, 517 U.S. 620, 633 (1996).

¹⁹ *Id.* at 632.

²⁰ *Id.* .

²¹ *Id.* at 631.

²² See Table 15-C and Exhibit 15-D, *infra*. The Cincinnati amendment read:

The City of Cincinnati and its various Boards and Commissions may not enact, adopt, enforce or administer any ordinance, regulation, rule or policy which provides that homosexual, lesbian, or bisexual

on the basis of sexual orientation, and to prevent the passage of similar legislation in the future. Issue 3 added “Article XII” to the City Charter, declaring that the city could not “enact, adopt, enforce, or administer any ordinance, regulation, rule or policy which provides that homosexual, lesbian, or bisexual orientation, status, conduct, or relationship constitutes, entitles, or otherwise provides a person with the basis to have any claim of minority or protected status, quota preference or other preferential treatment.”

In the federal constitutional challenge which followed, the Sixth Circuit upheld the validity of Issue 3 shortly before the Supreme Court issued its decision in *Romer*.²³ After the *Romer* decision was announced, the Supreme Court remanded the Cincinnati case to the Sixth Circuit for further consideration.²⁴

On remand from the Supreme Court, the Sixth Circuit again upheld the Cincinnati city charter amendment.²⁵ The Court of Appeals distinguished Issue 3 from Colorado’s Amendment 2 by finding, *inter alia*, that the *Romer* holding was specific to *state* government processes not being structured to burden the ability of citizens to participate in political life, whereas the Cincinnati ordinance “merely reflects the kind of social and political experimentation that is such a common characteristic of *city* government.”²⁶ The Supreme Court then denied *certiorari* from the Sixth Circuit’s post-*Romer* decision.²⁷

D. Post-*Romer* Anti-Gay State and Local Initiatives

orientation, status, conduct, or relationship constitutes, entitles, or otherwise provides a person with the basis to have any claim of minority or protected status, quota preference or other preferential treatment. This provision of the City Charter shall in all respects be self-executing. Any ordinance, regulation, rule or policy enacted before this amendment is adopted that violates the foregoing prohibition shall be null and void and of no force or effect.

²³ *Equal. Found. for Greater Cincinnati, Inc. v. City of Cincinnati*, 54 F.3d 261 (6th Cir. 1995).

²⁴ *Equal. Found. for Greater Cincinnati, Inc. v. City of Cincinnati*, 518 U.S. 1001 (1996).

²⁵ *Equal. Found. for Greater Cincinnati, Inc. v. City of Cincinnati*, 128 F.3d 289 (6th Cir. 1997).

²⁶ *Order, Equal. Found. for Greater Cincinnati, Inc. v. City of Cincinnati*, No. 94-3855, 94-3973, 94-4280, 1998 WL 101701, *2 (6th Cir. Feb. 5, 1998), *cert. denied*, 525 U.S. 943 (1998); *see also Equal. Found. for Greater Cincinnati, Inc. v. City of Cincinnati*, 128 F.3d 289 (6th Cir. 1997).

²⁷ *See Equality Found. of Greater Cincinnati, Inc. v. City of Cincinnati*, 525 U.S. 943 (1998).

In the wake of *Romer* and the Sixth Circuit’s decision in the Cincinnati case distinguishing local laws, the primary focus of campaigns to block anti-discrimination protections shifted from the state to the local level. Two exceptions to that trend during the late 1990s were statewide campaigns to repeal or block anti-discrimination legislation in Maine and Oregon.²⁸ However, by far the majority of recent initiatives to repeal or preemptively block enactment of anti-discrimination employment and other protections for LGBT people have occurred at the city and county levels.²⁹

The overall use of ballot measures has continued. Since 1992, initiatives to repeal or block anti-discrimination laws have gone on the ballot in approximately 60 city and county jurisdictions.³⁰ Among those are more than two dozen ordinances introduced in cities and counties in Oregon between 1992 and 1994.³¹ Since the Supreme Court decision in 1996, there have been close to two dozen such initiatives introduced around the country, with the latest occurring in Gainesville, Florida, in February 2009.³²

The Supreme Court’s reasoning in *Romer* notwithstanding, anti-gay organizations have continued to use the “no special rights” theme, even to the point of including the language in the

²⁸ See Table 15-A, *infra*.

²⁹ See Table 15-A and Table 15-C, *infra*.

³⁰ See Table 15-C, *infra*.

³¹ See Table 15-C, *infra*.

³² See Table 15-C, *infra*. The proposed Gainesville amendment followed the Cincinnati model in voiding any existing protections and barring enactment of future protections based on any LGBT status unless such status was recognized by the Florida State Constitution as being protected, which it is not. The language of the proposed statute is the following:

CITY OF GAINESVILLE CHARTER AMENDMENT 1

Amendment to City Charter Prohibiting the City from Providing Certain Civil Rights

SHALL THE CITY CHARTER BE AMENDED TO PROHIBIT THE ADOPTION OR ENFORCEMENT OF ORDINANCES, REGULATIONS, RULES OR POLICIES THAT PROVIDE PROTECTED STATUS, PREFERENCES OR DISCRIMINATION CLAIMS BASED ON CLASSIFICATIONS, CHARACTERISTICS OR ORIENTATIONS NOT RECOGNIZED BY THE FLORIDA CIVIL RIGHTS ACT? THE ACT RECOGNIZES RACE, COLOR, CREED, RELIGION, GENDER, NATIONAL ORIGIN, AGE, HANDICAP, MARITAL AND FAMILY STATUS. ADDITIONALLY THIS AMENDMENT VOIDS EXISTING ORDINANCES CONCERNING SEXUAL ORIENTATION, GENDER IDENTITY, AND OTHER ORDINANCES INCONSISTENT WITH THIS AMENDMENT.

proposed bills or their titles.³³ For example, a measure proposed in Washington State in 1994 and 1995 that did not qualify for the ballot was expressly entitled “THE EQUAL RIGHTS, NOT SPECIAL RIGHTS ACT”;³⁴ and the 2001 Kalamazoo, Michigan initiative was entitled “Adoption of Special Class Status Based on Sexual Orientation, Conduct, or Relationship Prohibited.”³⁵

Another recent strategy, deemed a “stealth” approach,³⁶ has been to draft an initiative which does not mention sexual orientation and appears to champion civil rights for a list of other groups, but which in fact blocks enactment of protections for GLBT people by omission of those classes from the enumerated list of protected status groups:

Appearing to champion other groups' civil rights was explicitly evident in Florida's proposal in 1994 and Maine's in 1995. These proposals failed to even mention homosexuality. Instead, they catalogued all of the categories of persons already protected by existing discrimination statutes in those states and sought to forbid their respective state legislatures from adding any new groups. Although more benign on the surface, the effect of these measures on gays and lesbians is more sweeping. In an effort to deny protection for gays and lesbians, initiators were willing to deny other groups protection absent a constitutional amendment. To the extent that

³³ Legal scholar William Adams has noted the effect of this approach: “The coded rhetoric of 'special rights' permits opponents of gay rights to tap into deep and powerful reservoirs of social anxiety and anger about other antidiscrimination laws based on race, gender, and disability - particularly affirmative action measures - even as these opponents claim to champion existing civil rights protections.” Adams, *supra* note 7, at 459.

³⁴ See Table 15-A, *infra*.

³⁵ See Table 15-C, *infra*.

³⁶ See, e.g., ELLEN ANN ANDERSEN, *OUT OF THE CLOSET AND INTO THE COURTS: LEGAL OPPORTUNITY STRUCTURE AND GAY RIGHTS LITIGATION* 147-48 (University of Michigan Press 2004) (citing William E. Adams, *Pre-Election Anti-Gay Ballot Initiative Challenges: Issues of Electoral Fairness, Majoritarian Tyranny, and Direct Democracy*, 55 OHIO ST. L.J. 583 (Summer 1994).

this approach reflects a general mistrust of civil rights laws in general is even more troubling.³⁷

The initiative at issue in Gainesville in 2009 was similar to this “blocking by omission” strategy. It asked voters “to prohibit the adoption or enforcement of ordinances, regulations, rules or policies that provide protected status, preferences or discrimination claims based on classifications, characteristics or orientations not recognized by the Florida civil rights act.” The initiative listed the classes covered by the Florida civil rights act, which does not include sexual orientation or gender identity, and also made clear that the amendment would void existing protections based on sexual orientation or gender identity.

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Another strategy that has been employed is to sponsor anti-gay initiatives that target expression of ideas that are tolerant, accepting or supportive of equality rights. Lumping sexual orientation together with “homosexuality, pedophilia, sadism or masochism,” Oregon’s Measure 9 would have prohibited recognition of any protections based on such status, barred the use of public funds to “promote or encourage” anything to do with a homosexual sexual orientation and required the state to assist in broadcasting the message that homosexuality is “abnormal, wrong, unnatural, and perverse” and “to be discouraged and avoided”.³⁹ It further sought to suppress and censor information about sexual orientation, declaring “sexual orientation as it relates to homosexuality and bisexuality” as divisive and not necessary to the instruction of students in public schools, and would have been enforced by seeking to denying school funding to any school that “encouraged”, “promoted” or “sanctioned” such behavior.⁴⁰

³⁷ Adams, *supra* note 7, at 460 (citing Jane S. Schacter, *Romer v. Evans and Democracy's Domain*, 50 VAND. L. REV. 361, 374 (1997) (footnote omitted), and Barbara S. Gamble, *Putting Civil Rights to a Popular Vote*, 41 AM. J. POL. SCI. 245, 259 (1997)).

³⁸ See Table 15-C, *infra*. See also *supra* note 33.

³⁹ See Table 15-A, *infra* – 1992 Oregon Measure 9.

⁴⁰ See Table 15-A, *infra*. The text of the 2000 Oregon ballot measure read:
Section 1. ORS 336.067 is amended to read (new section):

E. Form and Scope of Anti-Gay Ballot Initiatives

Forms of Anti-Gay Ballot Measures

Anti-gay ballot measures have typically taken one of two basic forms:

Referenda provide voters the opportunity to repeal or uphold laws enacted by legislatures. In practice, with respect to laws protecting LGBT rights, such referenda are generally a reaction to laws that have been recently enacted by a council or legislature, or in some cases adopted by executive order. They occur at both the local and state-wide level.

Initiatives seek to make new law, although they may also contain provisions that would in effect repeal existing law. Like referenda, anti-gay ballot initiatives have generally arisen following enactment of civil rights laws, although the relationship is not as direct. Many communities have voted on and enacted anti-gay initiatives without ever having any anti-discrimination laws in place, particular in local communities.⁴¹

Scope of Anti-Gay Ballot Measures

It is useful to distinguish several goals and approaches of anti-gay initiatives.⁴²

- *Repeal* measures seek to overturn existing laws, executive orders, policies and the like that have been enacted by some legislative or executive governing body. This category includes basic referenda that seek to repeal one specific law as well as initiatives that directly repeal

(e) Sexual Orientation as it relates to homosexuality and bisexuality, is a divisive subject matter not necessary to the instruction of students in public schools. Notwithstanding any other law or rule, the instruction of behaviors relating to homosexuality and bisexuality shall not be presented in a public school in a manner which encourages, promotes or sanctions such behaviors.

Section 2. ORS 659.155 is amended to read (new section):

(1) Any public elementary or secondary school determined by the Superintendent of Public Instruction or any community college determined by the Commissioner for Community College Services to be in noncompliance with provisions of ORS 336.067 (e) or ORS 659.150 and this section shall be subject to appropriate sanctions, which may include withholding of all or part of state funding, as established by rule of the State Board of Education.

⁴¹ ANDERSEN, *supra* note 37, at 147.

⁴² This discussion is heavily based on ANDERSEN, *supra* note 37, at 147-49, and Adams, *supra* note 5, at 585-90. Andersen and Adams refer to the categories as **specifically targeted** (corresponds to “Blocking” above), **overtly hostile** (corresponds to “Stigmatizing” above), and **stealth initiatives** (corresponds to “Blocking by Omission” above).

existing laws along with enactment of new measures or that have the implicit effect of repealing or voiding existing law.

- *Preemptive Blocking* initiatives seek to remove power from governmental decision makers to take any future actions to prohibit discrimination based on sexual orientation. There are two types of blocking initiatives – *Blocking* and *Blocking by Omission*:
 - *Blocking*: Colorado's Amendment 2 was a Blocking initiative. It prohibited state and local governments in Colorado from enacting, enforcing, or adopting any law that prohibited discrimination based on “homosexual, lesbian, or bisexual orientation, conduct, practices, or relationships” or giving LGBT people any claim to “minority status, quota preferences, [or] protected status” based on their sexual orientation. The phrasing of Amendment 2 was subsequently copied by antigay activists in several other locales, including Cincinnati (1993), Arizona (1994), and Missouri (1994).
 - *Blocking by Omission*: This type of initiative takes the opposite tack from overtly blocking initiatives. These initiatives do not explicitly mention homosexuality or sexual orientation, instead proposing to enact civil rights law granting non-discrimination protections to a list of named groups, but never including sexual orientation or gender identity among the list. These initiatives appear neutral on their face but are nonetheless designed to repeal existing gay rights laws and prevent the passage of future ones by limiting the future scope of non-discrimination and civil rights laws to the specified classifications. The letter accompanying a 1994 petition to place such a Blocking by Omission initiative on Florida's ballot illustrates the initiative's underlying purpose: “This petition is designed to stop homosexual activists and other special interest groups from improper inclusion in discrimination

laws. Therefore, this amendment would prevent homosexuality and other lifestyles from gaining special protection in discrimination laws”⁴³.

- *Stigmatizing*: The third type of initiative also seeks to limit governmental ability to remedy discrimination based on sexual orientation. In addition, this type seeks to maintain or enforce social stigmatization of LGBT status and can be further analyzed in two distinct types: Condemning and Censoring.
 - *Condemning*: These initiatives either contain overtly hostile language in the initiative, including in its ballot title (*e.g.*, the 1993 Anchorage, Alaska initiative entitled “Petition to Repeal A Special Homosexual Ordinance,” which was ordered removed from the ballot due to presentation of the issue in a biased and partisan light)⁴⁴, and/or mandate that state or governmental entities must express and promote a negative view of LGBT status. The 1992 Oregon Measure 9, voted on the same day as Amendment 2, is the paradigmatic example of an overtly Stigmatizing/Condemning initiative. The proposed amendment to Oregon’s state constitution provided that all levels of government, including public educational systems, must assist in setting a standard for Oregon’s youth which recognizes that these “behaviors” are “abnormal, wrong, unnatural, and perverse,” and that they are to be “discouraged and avoided.”
 - *Censoring*: These initiatives seek to control the public message regarding sexual orientation by prohibiting state or governmental entities from expressing neutral, positive or accepting views of LGBT status, including prohibitions on state funding of gay-positive organizations or activities, restrictions on messages that can be

⁴³ ANDERSEN, *supra* note 37, at 148 (quoting Adams, *supra* note 5, at 590).

⁴⁴ See Table 15-C, *infra*.

provided in public schools and bans on expression that compares LGBT discrimination to other civil rights struggles. Oregon's Measure 9 also contained Stigmatizing/Censoring elements including the restriction that governments in Oregon could not use their monies or properties to promote, encourage, or facilitate homosexuality. Idaho's 1994 ballot forbade all public school employees from sanctioning homosexuality as a "healthy, approved, or acceptable behavior" (Proposition One), language mirrored by a proposed Washington initiative that same year (Initiative 608).⁴⁵

F. Tables and Exhibits

The attached tables list and summarize state and local ballot measures targeting the repeal and preemptive blocking of non-discrimination protections for LGBT people from the 1970s to the present. The list is representative and is not intended to be taken as a complete or exhaustive list of such measures.

⁴⁵ See Table 15-A, *infra*.

State and Local Anti-Gay Ballot Referenda and Initiatives Related to Employment⁴⁶

- **Table 15-A – State-Wide Anti-Gay Ballot Measures and Outcomes**
- **Table 15-B – Text of Selected State-Wide Ballot Measures**
- **Table 15-C – Local (City and County) Anti-Gay Ballot Measures and Outcomes**
- **Exhibit 15-D – Text of Selected Local Ballot Measures**

⁴⁶ Data compiled based on ELLEN ANN ANDERSEN, *OUT OF THE CLOSET AND INTO THE COURTS: LEGAL OPPORTUNITY STRUCTURE AND GAY RIGHTS LITIGATION* 144-145 Table II (University of Michigan Press at 144-45 2004); Donald P. Haider-Markel, Alana Querze, and Kara Lindaman, *Lose, Win, or Draw? A Reexamination of Direct Democracy and Minority Rights*, POLITICAL RESEARCH QUARTERLY Supplemental Appendix: Pro- and Anti-Gay Ballot Initiatives, 1972-2006 (2007) (); William E. Adams, *Pre-Election Anti-Gay Ballot Initiative Challenges: Issues of Electoral Fairness, Majoritarian Tyranny, and Direct Democracy*, 55 OHIO ST. L.J. 583, 584-85 Appendices A-J (Summer 1994).

Key to Table Headings and Abbreviations

Column heading	Key to abbreviations and terms used
Form	R = referendum I = initiative
Scope	<p><u>Repeal</u> = Ballot measures that seek to repeal existing LGBT-rights law.</p> <p><u>Overtly Discriminatory</u> = Ballots measures that seek to enact overt discrimination against LGBT group members. Most frequently, measures that include provisions that call for firing or refusal to hire LGBT educators or that bar LGBT individuals from adopting, marrying and other basic legal activities.</p> <p><u>Blocking</u> = Ballot measures that seek to block future enactment of protections based on LGBT status.</p> <p><u>Blocking by Omission</u> = Ballot measures that seek, often covertly under the guise of protecting civil rights, to block protections for LGBT groups by means of initiative language that does not expressly mention sexual orientation or LGBT groups but which seeks to enact laws that enumerate all and only the groups that are covered by anti-discrimination protections and leaves LGBT groups out.</p> <p><u>Stigmatizing</u> = Ballot measures that seek to maintain and enforce stigmatization of LGBT status either by:</p> <p style="padding-left: 40px;"><u>Condemning</u>: including overtly hostile language in the initiative and/or mandating that the state express and promote a negative view of LGBT status.</p> <p style="padding-left: 40px;"><u>Censoring</u>: prohibiting the state from expressing neutral, positive or accepting views of LGBT status, including prohibitions on state funding and bans on expression that compares LGBT discrimination to other civil rights struggles.</p>
Outcome	<p>DNQ = Did Not Qualify for Ballot</p> <p>JDQ = Judicially disqualified</p> <p>TBD=To be determined</p> <p>Passed/Failed = Unless otherwise expressly noted in the table, Outcome designates the success (“Passed”) or failure (“Failed”) of the anti-gay repeal/blocking or otherwise discriminatory effort, rather than the specific ballot measure. Therefore, in some cases, due to the wording of the ballot measure, “Outcome” will differ from the electoral result. For example, if a ballot referendum asked voters to “repeal” an LGBT non-discrimination ordinance, a successful vote to repeal would be designated “Passed” and a defeat of the repeal effort would be designated “Failed”. In contrast, if a referendum asks voters whether they want to enact an LGBT non-discrimination ordinance, a vote against the ordinance would be designated “Passed” and a vote to uphold the ordinance would be designated “Failed”, unless expressly noted otherwise.</p>

Table 15-A. STATE-WIDE BALLOT MEASURES⁴⁷

<u>Year</u>	<u>Location</u>	<u>Form</u>	<u>Purpose and Scope</u>	<u>Outcome of Anti-LGBT Effort⁴⁸</u>	<u>Developments/ Related Cases</u>
1978	CALIFORNIA	I	<p>STIGMATIZING AND OVERTLY DISCRIMINATORY.</p> <p>California Proposition 6 (“Briggs Initiative”), to bar gay and lesbian people from teaching in public schools</p> <p>Overtly Discriminatory – The measure sought to require firing of school employees for “homosexual activity or conduct”</p> <p>Stigmatizing / Condemning – Preamble described purpose as “<i>to protect its impressionable youth from influences which are antithetical to [the preservation of the family]</i>”.</p> <p>Homosexual activity defined as an act of “sodomy or perversion”</p> <p>Censoring – School employees would be fired for speaking publicly in a positive way about being homosexual, including “advocating” “encouraging” or “promoting” private sexual behavior.</p>	Failed	
1988	OREGON	R	<p>REPEAL AND BLOCKING.</p> <p>Measure 8, to revoke an executive order barring state agencies from discriminating against gay men and lesbians because of their sexual orientation.</p> <p>Repeal: Revoked governor’s executive order banning discrimination on the basis of sexual orientation.</p> <p>Blocking: The measure would have also prohibited any job protection for gay people in state government:</p>	Passed	Subsequently overturned as violation of Oregon constitution on free expression grounds in <i>Merrick v. Board of Higher Education</i> , 116 Or. App. 258; 841 P.2d 646 (1992).

⁴⁷ The list is representative and is not intended to be taken as a complete or exhaustive list of such measures. It focuses on efforts to repeal or block employment discrimination legislation, including domestic partner benefits legislation, and does not include efforts to repeal or block the extension of marriage or civil unions to same-sex couples.

⁴⁸ Unless otherwise expressly noted in the table, “Outcome” designates the success (“Passed”) or failure (“Failed”) of the anti-gay repeal/blocking or otherwise discriminatory measure. In some cases, due to the wording of the ballot measure, “Outcome” will differ from the electoral result. For example, if a ballot referendum asked voters to “repeal” an LGBT non-discrimination ordinance, a vote to repeal would be designated “Passed” and a defeat of the repeal would be designated “Failed”. In contrast, if a referendum asks voters whether they want to “enact” an LGBT non-discrimination ordinance, a vote against the ordinance would be designated “Passed” and a vote to enact the ordinance would be designated “Failed”, unless expressly noted otherwise.

<u>Year</u>	<u>Location</u>	<u>Form</u>	<u>Purpose and Scope</u>	<u>Outcome of Anti-LGBT Effort</u> ⁴⁸	<u>Developments/ Related Cases</u>
			“No state official shall forbid the taking of any personnel action against any state employee based on the sexual orientation of such employee.”		
1990	MASSACHUSETTS	R	REPEAL. Citizens for Families First collected signatures to put referendum on ballot with intent to repeal a 1989 statute prohibiting discrimination on the basis of sexual orientation in credit, housing, public accommodation and jobs.	JDQ	<i>Collins v. Secretary of the Commonwealth</i> , 556 N.E.2d 348 (Mass. 1990). – Referendum blocked by Massachusetts Constitution provision barring from referendum any law that relates to religion.
1992	ARIZONA	I	REPEAL AND BLOCKING.	DNQ	
1992	COLORADO	I	REPEAL AND BLOCKING. Amendment 2, to repeal all gay rights ordinances within the state and to enact a state constitutional amendment preventing the state or any political subdivision from passing new gay rights ordinances. Repeal: Intended to override existing municipal non-discrimination measures in Colorado cities. Blocking: Sweeping ban intended to prevent the state or any subdivision from attempting to “enact, adopt or enforce” any law granting any protection or remedy for discrimination on the basis of sexual orientation and to block any “minority status quota preferences, protected status or claim of discrimination.”	Passed	Struck down by U.S. Supreme Court in <i>Romer v. Evans</i> , 517 U.S. 620 (1996).
1992	FLORIDA	I	REPEAL AND BLOCKING.	DNQ	
1992	OREGON	I	REPEAL AND BLOCKING STIGMATIZING. Measure 9: To prevent enactment or granting of any protections on the basis of LGBT status, and to require the state to overtly disapprove of LGBT status. Blocking: “Quotas, minority status, affirmative action, or any similar concepts, shall not apply to these forms of conduct, nor shall government promote these behaviors.” Government monies not to be used to “promote, encourage or facilitate” homosexuality.	Failed	

<u>Year</u>	<u>Location</u>	<u>Form</u>	<u>Purpose and Scope</u>	<u>Outcome of Anti-LGBT Effort</u> ⁴⁸	<u>Developments/ Related Cases</u>
			Stigmatizing/Condemning: Grouped classification based on sexual orientation with “pedophilia, sadism or masochism”; government agencies, particularly public schools and higher education departments, required to “assist in setting a standard for Oregon’s youth that recognizes homosexuality ... as abnormal, wrong, unnatural and perverse... and that these behaviors are to be discouraged and avoided.”		
1994	ARIZONA	I	<p>REPEAL AND BLOCKING.</p> <p>A “clone” of Colorado Measure 2, the purpose was to repeal all gay rights ordinances within the state and to amend the state constitution to prevent the state or any political subdivision from passing new gay rights ordinances.</p> <p>Blocking: “Neither this state, through any of its branches or departments, nor any of its agencies, political subdivisions, municipalities or school districts, shall enact, adopt or enforce any statute, regulation, ordinance or policy whereby pedophile, homosexual, lesbian or bisexual orientation, are the basis of, or entitle any person or class of persons to status or claim of discrimination.”</p> <p>Stigmatizing: Grouped gay sexual orientation with “pedophile orientation”.</p>	DNQ	
1994	FLORIDA	I	<p>REPEAL AND BLOCKING.</p> <p>Constitutional amendment to repeal existing anti-discrimination laws covering LGBT populations and to prevent future enactment of laws protecting such groups from discrimination.</p> <p>Blocking by Omission: Entitled “LAWS RELATED TO DISCRIMINATION ARE RESTRICTED TO CERTAIN CLASSIFICATIONS,” making clear the intent to deny non-discrimination protection to unnamed groups. The amendment did not overtly mention LGBT groups but would have resulted in eliminating all possibility of legal protection: “The state, political subdivisions of the state, municipalities or any other governmental entity shall not enact or adopt any law regarding discrimination against persons which creates, establishes or recognizes any right, privilege or protection for any person based upon any characteristic, trait, status or condition other than race, color, religion, sex, national origin, age, handicap, ethnic background, marital status or familial status.”</p>	JDQ	In re Advisory Opinion To Attorney General - Restricts Laws Related to Discrimination, 632 So. 2d 1018 (Fla. 1994).
1994	IDAHO	I	<p>REPEAL AND BLOCKING. STIGMATIZING.</p> <p>Initiative designed to prevent applicability of any anti-discrimination laws to sexual orientation, and to censor messages provided in schools. It also banned marriage and recognition of domestic partnerships.</p>	Failed	

<u>Year</u>	<u>Location</u>	<u>Form</u>	<u>Purpose and Scope</u>	<u>Outcome of Anti-LGBT Effort</u> ⁴⁸	<u>Developments/ Related Cases</u>
			<p>Blocking: Entitled “SPECIAL RIGHTS FOR PERSONS WHO ENGAGE IN HOMOSEXUAL BEHAVIOR PROHIBITED.” The initiative stated that “classifications such as ‘sexual orientation’ or similar designations shall not be established.”</p> <p>Condemning/Censoring: Public school employees not allowed to “promote, sanction, or endorse homosexuality as a healthy, approved or acceptable behavior.”</p>		
1994	MAINE	I	REPEAL AND BLOCKING.	DNQ	
1994	MICHIGAN	I	REPEAL AND BLOCKING.	DNQ	
1994	MISSOURI	I	<p>REPEAL AND BLOCKING.</p> <p>A “clone” of Colorado Measure 2, the purpose was to repeal all gay rights ordinances within the state and to amend the state constitution to prevent the state or any political subdivision from passing new gay rights ordinances.</p> <p>Blocking: “Neither the State of Missouri, through any of its branches, departments or agencies, nor any of its political subdivision, including counties, municipalities and school districts, shall enact, adopt or enforce any statute, order, regulation, rule, ordinance, resolution or policy whereby homosexual, lesbian or bi-sexual activity, conduct or orientation shall entitle any person or class of persons to have or demand any minority status, protected status, quota preference, affirmative action or claim of discrimination.”</p>	DNQ	
1994	NEVADA	I	<p>REPEAL AND BLOCKING. STIGMATIZING.</p> <p>A constitutional amendment that sought to block non-discrimination protection based on sexual orientation, expressly condemn homosexuality and establish anti-homosexual bias as a right. Very similar to the 1996 Oregon measure.</p> <p>Blocking: “MINORITY STATUS BASED ON HOMOSEXUALITY PROHIBITED”; No use of classifications such as “sexual orientation” as a basis for class protections.</p> <p>Stigmatizing/Condemning: Entitled “CHILD PROTECTION ACT”, the preamble stated “The People of the State of Nevada find that inappropriate sexual behavior does not form an appropriate basis upon which to construct a minority or class status relation to civil rights. To identify oneself as a person who participates in</p>	DNQ	

<u>Year</u>	<u>Location</u>	<u>Form</u>	<u>Purpose and Scope</u>	<u>Outcome of Anti-LGBT Effort</u> ⁴⁸	<u>Developments/ Related Cases</u>
			<p>or who expresses openly a desire for inappropriate sexual behavior, such as homosexuality, fails to constitute a legitimate minority classification.”</p> <p>A special provision would have established anti-homosexual bias as a right: “The People establish that objection to homosexuality based upon one's convictions is a Liberty and Right of Conscience and shall not be considered discrimination.”</p> <p>Stigmatizing/Censoring: No governmental unit would be permitted to advise children, students or employees that “homosexuality is the legal or social equivalent of race, color, religion, gender, age or national origin; nor shall public funds be expended in a manner that has the purpose of [sic] effect of promoting or expressing approval of homosexuality.”</p>		
1994	OHIO	I	REPEAL AND BLOCKING.	Withdrawn	
1994	OREGON	I	<p>BLOCKING.</p> <p>Measure 7 – Intended to block extension of equal protection to groups, including based on sexual orientation.</p> <p>Blocking by Omission: This measure enumerated a short list of classes to be covered by equal protection. It would have added a new section to the Constitution’s Bill of Rights, leaving out sexual orientation, among other traditionally protected categories (e.g., marital status): “The equal protection of the laws shall not be denied or abridged by any public entity in this state on account of race, color, religion, gender, age or national origin.”</p>	JDQ	
1994	OREGON	I	<p>REPEAL AND BLOCKING. STIGMATIZING.</p> <p>Measure 13 – Second state-wide attempt to pass a Constitutional Amendment blocking government at all levels from enacting legislation that would be protective of LGBT class members. This is considered a “toned down” version of Measure 9, described above.</p> <p>Blocking: “minority status shall not apply to homosexuality; therefore, affirmative action, quotas, specials class status or special classifications such as 'sexual orientation,' 'domestic partnerships,' or similar designations shall not be established on the basis of homosexuality.”</p> <p>Stigmatizing/Condemning: The measure was entitled the “Child Protection Act.”</p>	Failed	

<u>Year</u>	<u>Location</u>	<u>Form</u>	<u>Purpose and Scope</u>	<u>Outcome of Anti-LGBT Effort</u> ⁴⁸	<u>Developments/ Related Cases</u>
			Stigmatizing/Censoring: “Children, students, and employees shall not be advised, instructed or taught by any government agency, department or political unit in the State of Oregon that homosexuality is the legal or social equivalent of race, color, religion, gender, age or national origin; nor shall public funds be expended in a manner that has the purpose or effect of promoting or expressing approval of homosexuality.”		
1994	WASHINGTON (1)	I	<p>REPEAL AND BLOCKING. STIGMATIZING AND OVERTLY DISCRIMINATORY.</p> <p>WASHINGTON PROPOSED INITIATIVE 608 – Sweeping anti-gay legislation to block protective classifications, repeal existing protections, censor state speech and declare a state of emergency.</p> <p>Overtly Discriminatory: The measure declared a “legitimate and compelling state interest ... in preventing special rights based on any homosexual, bisexual, transsexual, or transvestite status, preference, orientation, conduct, act, practice, or relationship.”</p> <p>Blocking: Sweeping denial of legal protections, status and benefits: “Neither the State of Washington, nor its political subdivisions ..., shall by any means or instrumentality, enact or enforce a policy whereby any homosexual, bisexual, transsexual, or transvestite status ... shall be a basis for a person to maintain any special classification or privilege; minority status; quota preference; affirmative action right; legal standing; public benefit; marital, spousal, parental, familial or domestic privilege, advantage, entitlement, benefit, position, or status; claim of discrimination; or special right or protection.”</p> <p>Stigmatizing/Censoring: “the sincerely-held values and beliefs of citizens regarding homosexuality, bisexuality, transsexuality, or transvestism are not denigrated or denied by the public schools and that homosexuality, bisexuality, transsexuality, or transvestism are not presented, promoted or approved as positive, healthy or appropriate behavior.”</p> <p>School employees, volunteers or guests not permitted to “present, promote or approve homosexuality, bisexuality, transsexuality, or transvestism, or any such conduct, act, practice, or relationship, as a positive, healthy, or appropriate behavior or lifestyle.”</p>	DNQ	

<u>Year</u>	<u>Location</u>	<u>Form</u>	<u>Purpose and Scope</u>	<u>Outcome of Anti-LGBT Effort</u> ⁴⁸	<u>Developments/ Related Cases</u>
			“EMERGENCY CLAUSE. This act is necessary for the immediate preservation of the public peace, health, morals, or safety, or the support of the state government and its existing public institutions, and shall take effect immediately.”		
1994	WASHINGTON (2)	I	<p>REPEAL AND BLOCKING. STIGMATIZING AND OVERTLY DISCRIMINATORY.</p> <p>PROPOSED INITIATIVE 610 – Similar to the 1996 Oregon/1994 Nevada “Child Protection” bills, with additional restrictions on marriage and adoptions and discrimination against LGBT status.</p> <p>Repeal effect on existing local protections and domestic partner benefits.</p> <p>Overtly discriminatory: In addition to the text quoted below, the law banned marriage, domestic partner benefits and adoption/foster parenting by LGBT individuals and couples.</p> <p>Blocking: ”THE SPECIAL RIGHT OF MINORITY STATUS BASED ON HOMOSEXUALITY PROHIBITED.” “... minority status shall not apply to homosexuality; therefore, affirmative action, quotas, special class status or special classifications such as 'sexual orientation,' 'sexual preference,' 'domestic partnerships' or similar designations shall not be established on the basis of homosexuality.”</p> <p>The law expressly allows “private, lawful sexual behavior” to be used as grounds for job termination: “With regard to public employees, no agency ... shall forbid generally the consideration of private lawful sexual behaviors as non-job related factors, provided that such consideration does not violate the provisions and purposes of this Act and that such factors do not disrupt the workplace.”</p> <p>Stigmatizing/Condemning: Called “CHILD PROTECTION ACT”; “The People find that inappropriate sexual behavior does not form an appropriate basis upon which to construct a minority or class status relating to civil rights. To identify oneself as a person who participates in or who expresses openly a desire for inappropriate sexual behavior, such as homosexuality, fails to constitute a legitimate minority classification.”</p> <p>“The People establish that objection to homosexuality based upon one's</p>	DNQ	

<u>Year</u>	<u>Location</u>	<u>Form</u>	<u>Purpose and Scope</u>	<u>Outcome of Anti-LGBT Effort</u> ⁴⁸	<u>Developments/ Related Cases</u>
			<p>convictions is a Right of Conscience and shall not be considered discrimination relating to civil rights by any unit, branch department or agency of state or local government.”</p> <p>Stigmatizing/Censoring: No public funds shall be expended in a manner that has the purpose or effect of promoting or expressing approval of homosexuality.</p> <p>Contained an entire section requiring censoring of any gay-positive messages in the schools: “THE PUBLIC EDUCATIONAL SYSTEM SHALL NOT PROMOTE OR EXPRESS APPROVAL OF HOMOSEXUALITY. The People establish that no person representing the state educational system as an employee, student, volunteer or guest shall undertake any activity that would in any manner advise, instruct, teach or promote to any child, student or employee that homosexuality is a positive or healthy lifestyle, or an acceptable or approved condition or behavior.”</p>		
1995	MAINE	I	<p>REPEAL AND BLOCKING.</p> <p>To prevent extension of anti-discrimination protections based on sexual orientation.</p> <p>Blocking: Entitled “AN ACT TO LIMIT PROTECTED CLASSES UNDER THE MAINE HUMAN RIGHTS ACT” -- the initiative would have changed Maine law to limit protections to only an enumerated list of classifications which did not include sexual orientation.</p> <p>The initiative did not expressly mention sexual orientation, but would have preemptively limited the legislatures and the courts from extending protection based on sexual orientation: “protected classes or suspect classifications under state or local human rights laws, rules, regulations, ordinances, or policies, shall be limited to race, color, sex, physical or mental disability, religion, age, ancestry, national origin, familial status, and marital status.” Drafters acknowledged this was intentional.</p>	Failed	
1995	WASHINGTON	I(2)	<p>REPEAL AND BLOCKING. STIGMATIZING AND OVERTLY DISCRIMINATORY.</p> <p>Measure 166 and 167 were a repeat of the 1994 Measure 608 that did not qualify for the ballot, and the portions of 610 that banned adoption/foster parenting by LGBT individuals or couples, as described above for Washington State.</p>	DNQ	

<u>Year</u>	<u>Location</u>	<u>Form</u>	<u>Purpose and Scope</u>	<u>Outcome of Anti-LGBT Effort</u> ⁴⁸	<u>Developments/ Related Cases</u>
1996	IDAHO	I		DNQ	
1996	OREGON	I	<p>REPEAL AND BLOCKING. STIGMATIZING AND OVERTLY DISCRIMINATORY.</p> <p>Constitutional Amendment to block protective legislation, censor educational messages, outlaw marriage and domestic partner benefits and create a right to anti-gay bias. Language similar to 1994 Nevada measure.</p> <p>Blocking: “MINORITY STATUS BASED ON SEXUAL BEHAVIOR PROHIBITED.”</p> <p>Stigmatizing/Condemning: Entitled “CHILD PROTECTION ACT”; created a right to anti-gay bias: “The People find that to be morally opposed to certain sexual behaviors such as homosexuality, when based upon a person's convictions, is a Right of Conscience ... Such objection produced by one's moral standards and values is therefore not discrimination relating to civil rights, nor shall it be considered so by any unit of state or local government.”</p> <p>Stigmatizing/Censoring: “Children, students and employees shall not be advised, instructed or taught by any government agency, department or political subdivision that a person's sexual behavior is the legal or social equivalent to existing minority civil rights classifications.” Prohibits use of public funds for any gay-positive message: “Public funds shall not be expended in a manner that has the purpose or effect of expressing approval of homosexuality.”</p>	Withdrawn	
1998	MAINE	R	<p>REPEAL.</p> <p>The Maine Sexual Orientation Discrimination Referendum, on the ballot as Question 1 (Special) - a veto referendum to reject a recently-enacted law passed by the Maine State Legislature that added sexual orientation to the list of bases on which it is illegal to discriminate in Maine, in terms of jobs, housing, public accommodations and credit.</p> <p>Repeal: The ballot question asked: “Do you want to reject the law passed by the Legislature and signed by the Governor that would ban discrimination based on sexual orientation with respect to jobs, housing, public accommodations and credit?”</p>	Passed	
2000	OREGON	I	REPEAL. STIGMATIZING AND OVERTLY DISCRIMINATORY.	Failed	

<u>Year</u>	<u>Location</u>	<u>Form</u>	<u>Purpose and Scope</u>	<u>Outcome of Anti-LGBT Effort</u> ⁴⁸	<u>Developments/ Related Cases</u>
			<p>Measure 9: Measure to censor messages about sexual orientation that are permitted to be expressed in public schools.</p> <p>Overtly Discriminatory: Applies to “sexual orientation” but only “as it related to homosexuality and bisexuality” – does not restrict discussions of heterosexuality in any way.</p> <p>Stigmatizing/Censoring: Declares sexual orientation is “divisive subject matter not necessary to the instruction of students in public schools.” Requires negative messages about LGBT orientation: “the instruction of behaviors relating to homosexuality and bisexuality shall not be presented in a public school in a manner which encourages, promotes or sanctions such behaviors.”</p>		
2000	MAINE	R	<p>REPEAL.</p> <p>Question 6 Referendum</p> <p>Repeal: Voters were asked to ratify “the action of the 119th Legislature whereby it passed an act extending to all citizens regardless of their sexual orientation the same basic rights to protection against discrimination now guaranteed to citizens on the basis of race, color, religion, sex or national origin in the areas of employment, housing, public accommodation and credit and where the act expressly states that nothing in the act confers legislative approval of, or special rights to, any person or group of persons.”</p>	<p>Passed*</p> <p>*LGBT rights law repealed</p>	
2005	MAINE	R	<p>REPEAL.</p> <p>The Maine Sexual Orientation Referendum, on the ballot as Question 1.</p> <p>Repeal: Voters were asked whether they wished to reject a recently-enacted law passed by the Maine State Legislature that made it illegal to discriminate on the basis of sexual orientation in the state.</p>	<p>Failed*</p> <p>*LGBT rights law upheld</p>	

EXHIBIT 15-B: TEXT OF SELECTED STATE BALLOT MEASURES

State	Text of Measure
<p>1978 – CALIFORNIA Proposition 6 “Briggs Initiative”</p> <p>(Source: Hastings School of Law, DATABASE OF CALIFORNIA BALLOT PROPOSITIONS (1911-PRESENT), <i>available at</i> http://holmes.uchastings.edu/cgi-bin/starfinder/8380/calprop.txt).</p>	<p>Title School Employees. Homosexuality</p> <p>Summary: Official Title and Summary Prepared by the Attorney General</p> <p>SCHOOL EMPLOYEES. HOMOSEXUALITY. INITIATIVE STATUTE. Provides for filing charges against schoolteachers, teachers' aides, school administrators or counselors for advocating, soliciting, imposing, encouraging or promoting private or public sexual acts defined in sections 286(a) and 288a(a) of the Penal Code between persons of same sex in a manner likely to come to the attention of other employees or students; or publicly and indiscreetly engaging in said acts. Prohibits hiring and requires dismissal of such persons if school board determines them unfit for service after considering enumerated guidelines. In dismissal cases only, provides for two-stage hearings, written findings, judicial review. Financial impact: Unknown but potentially substantial costs to State, counties and school districts depending on number of cases which receive an administrative hearing.</p> <p>Full Text: This initiative measure proposes to add sections to the Education Code. It does not expressly amend any existing law; therefore, the provisions to be added are printed in <i>italic type</i> to indicate that they are new.</p> <p>Proposed Law</p> <p>SECTION 1. Section 44837.5 is added to the Education Code, to read:</p> <p><i>44837.5 One of the most fundamental interests of the State is the establishment and the preservation of the family unit. Consistent with this interest is the State's duty to protect its impressionable youth from influences which are antithetical to this vital interest. This duty is particularly compelling when the state undertakes to educate its youth, and, by law, requires them to be exposed to the state's chosen educational environment throughout their formative years.</i></p> <p>A schoolteacher, teacher's aide, school administrator or counselor has a professional duty directed exclusively towards the moral as well as intellectual, social and civic development of young and impressionable students.</p> <p>As a result of continued close and prolonged contact with schoolchildren, a teacher, teacher's aide, school administrator or counselor becomes a role model whose words, behavior and actions are likely to be emulated by students coming under his or her care, instruction, supervision, administration, guidance and protection.</p> <p>For these reasons the state finds a compelling interest in refusing to employ and in terminating the employment of a</p>

	<p>schoolteacher, a teacher's aide, a school administrator or a counselor, subject to reasonable restrictions and qualifications, who engages in public homosexual activity and/or public homosexual conduct directed at, or likely to come to the attention of, schoolchildren or other school employees.</p> <p>This proscription is essential since such activity and conduct undermines that state's interest in preserving and perpetuating the conjugal family unit.</p> <p>The purpose of sections 44837.6 and 44933.5 is to proscribe employment of a person whose homosexual activities or conduct are determined to render him or her unfit for service.</p> <p>SECTION 2. Section 44837.6 is added to the Education Code, to read:</p> <p><i>44837.6 (a) The governing board of a school district shall refuse to hire as an employee any person who has engaged in public homosexual activity or public homosexual conduct should the board determine that said activity or conduct renders the person unfit for service.</i></p> <p>(b) For purposes of this section, (1) "public homosexual activity" means the commission of an act defined in subdivision (a) of Section 286 of the Penal Code, or in subdivision (a) of Section 288a of the Penal Code, upon any other person of the same sex, which is not discreet and not practiced in private, whether or not such act, at the time of its commission, constituted a crime;</p> <p>(2) "Public homosexual conduct" means the advocating, soliciting, imposing, encouraging, or promoting of private or public homosexual activity directed at, or likely to come to the attention of schoolchildren and/or other employees; and</p> <p>(3) "Employee" means a probationary or permanent certificated teacher, teacher's aide, school administrator or counselor.</p> <p>(c) In evaluating the public homosexual activity and/or the public homosexual conduct in question for the purposes of determining an applicant's unfitness for service as an employee, a board shall consider the factors delineated in Section 44933.5(f).</p> <p>SECTION 3. Section 44933.5 is added to the Education Code, to read:</p> <p><i>44933.5 (a) In addition to the grounds specified in Sections 44932, 44948 and 44949, or any other provision of law, the commission of "public homosexual activity" or "public homosexual conduct" by an employee shall subject the employee to dismissal upon a determination by the board that said activity or conduct renders the employee unfit for service. Dismissal shall be determined in accordance with the procedures contained in this section.</i></p> <p>(b) For the purposes of this section, (1) "public homosexual activity" means the commission of an act defined in</p>
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	<p>subdivision (a) of Section 286 of the Penal Code, or in subdivision (a) of Section 288a of the Penal Code, upon any other person of the same sex, which is not discreet and not practiced in private, whether or not such act, at the time of its commission, constituted a crime;</p> <p>(2) "public homosexual conduct" means the advocating, soliciting, imposing, encouraging or promoting of private or public homosexual activity directed at, or likely to come to the attention of, schoolchildren and/or other employees; and</p> <p>(3) "Employee" means a probationary or permanent certificated teacher, teacher's aide, school administrator or counselor.</p> <p>(c) Notwithstanding any other provision of law regarding dismissal procedures, the governing board, upon the filing of written charges that the person has committed public homosexual activity or public homosexual conduct, duly signed and verified by the person filing the charges, or upon written charges formulated by the governing board, shall set a probable cause hearing on the charges within fifteen (15) working days after the filing or formulation of written charges and forward notice to the employee of the charges not less than ten (10) working days prior to the probable cause hearing. The notice shall inform the employee of the time and place of the governing board's hearing to determine if probable cause exists that the employee has engaged in public homosexual activity or public homosexual conduct. Such notice shall also inform the employee of his or her right to be present with counsel and to present evidence which may have bearing on the board's determination of whether there is probable cause. This hearing shall be held in private session in accordance with Govt. Code 54957, unless the employee requests a public hearing. A finding of probable cause shall be made within thirty (30) working days after the filing or formulation of written charges by not less than a simple majority vote of the entire board.</p> <p>(d) Upon a finding of probable cause, the governing board may, if it deems such action necessary, immediately suspend the employee from his or her duties. The board shall, within thirty-two (32) working days after the filing or formulation of written charges, notify the employee in writing of its findings and decision to suspend, if imposed, and the board's reasons therefor.</p> <p>(e) Whether or not the employee is immediately suspended, and notwithstanding any other provision of law, the governing board shall, within thirty (30) working days after the notice of the finding of probable cause, hold a hearing on the truth of the charges upon which a finding of probable cause was based and whether such charges, if found to be true, render the employee unfit for service. This hearing shall be held in private session in accordance with Govt. Code 54957, unless the employee requests a public hearing. The governing board's decision as to whether the employee is unfit for service shall be made within thirty (30) working days after the conclusion of this hearing. A decision that the employee is unfit for service shall be determined by not less than a simple majority vote of the entire board. The written decision shall include findings of fact and conclusions of law.</p> <p>(f) Factors to be considered by the board in evaluating the charges of public homosexual activity or public homosexual conduct in question and in determining unfitness for service shall include, but not be limited to: (1) the likelihood that the activity or conduct may adversely affect students or other employees; (2) the proximity or remoteness in time or</p>
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	<p>location of the conduct to the employee's responsibilities; (3) the extenuating or aggravating circumstances which, in the judgment of the board, must be examined in weighing the evidence; and (4) whether the conduct included acts, words or deeds, of a continuing or comprehensive nature which would tend to encourage, promote, or dispose schoolchildren toward private or public homosexual activity or private or public homosexual conduct.</p> <p>(g) If, by a preponderance of the evidence, the employee is found to have engaged in public homosexual activity or public homosexual conduct which renders the employee unfit for service, the employee shall be dismissed from employment. The decision of the governing board shall be subject to judicial review.</p> <p>SECTION 4. Severability Clause</p> <p>If any provision of this enactment or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or application of this enactment which can be given effect without the invalid provision of application, and to this end the provisions of this enactment are severable.</p>
<p>1988 OREGON MEASURE 8</p>	<p>Be It Enacted by the People of the State of Oregon</p> <p>SECTION 1. Executive Order No. EO-87-20 be, and hereby is, revoked.</p> <p>SECTION 2. No state official shall forbid the taking of any personnel action against any state employee based on the sexual orientation of such employee.</p> <p>SECTION 3. The measure shall not be deemed to limit the authority of any state official to forbid generally the taking of personnel action against state employees based on nonjob related factors.</p> <p>SECTION 4. For purposes of this measure, "sexual orientation" means heterosexuality, homosexuality or bisexuality.</p> <p>SECTION 5. The various provisions of this measure are severable; therefore, if any provision of this measure be declared unconstitutional by any court of competent jurisdiction, the remaining provisions shall be unaffected by such declaration.</p>
<p>1992 COLORADO Measure 2</p>	<p>COLORADO AMENDMENT TWO</p> <p>Be it Enacted by the People of the State of Colorado:</p> <p>Article 2, of the Colorado Constitution is amended by the addition of Sec. 30, which shall state as follows:</p> <p>NO PROTECTED STATUS BASED ON HOMOSEXUAL, LESBIAN OR BISEXUAL ORIENTATION. Neither the State of Colorado, through any of its branches or departments, nor any of its agencies, political subdivisions, municipalities or school districts, shall enact, adopt or enforce any statute, regulation, ordinance or policy whereby homosexual, lesbian, or bisexual orientation, conduct, practices or relationships shall constitute or otherwise be the</p>

	<p>basis of, or entitle any person or class of persons to have or claim any minority status quota preferences, protected status or claim of discrimination. This Section of the Constitution shall be in all respects self-executing.</p>
<p>1992 OREGON Measure 9</p>	<p>OREGON: MEASURE NINE TO AMEND CONSTITUTION</p> <p>Be it Enacted by the People of the State of Oregon:</p> <p>PARAGRAPH 1. The Constitution of the State of Oregon is amended by creating a new section to be added to and made a part of Article I and to read:</p> <p>SECTION 41 (1) This state shall not recognize any categorical provision such as "sexual orientation", "sexual preference", and similar phrases that includes homosexuality, pedophilia, sadism or masochism. Quotas, minority status, affirmative action, or any similar concepts, shall not apply to these forms of conduct, nor shall government promote these behaviors.</p> <p>(2) State, regional and local governments and their properties and monies shall not be used to promote, encourage, or facilitate homosexuality, pedophilia, sadism or masochism.</p> <p>(3) State, regional and local governments and their departments, agencies and other entities, including specifically the State Department of Higher Education and the public schools, shall assist in setting a standard for Oregon's youth that recognizes homosexuality, pedophilia, sadism and masochism as abnormal, wrong, unnatural, and perverse and that these behaviors are to be discouraged and avoided.</p> <p>(4) It shall be considered that it is the intent of the people in enacting this section that if any part thereof is held unconstitutional, the remaining parts shall be held in force.</p>
<p>1994 OREGON Measure 7 and Measure 13</p>	<p>TEXT of Measure 7</p> <p>QUESTION: Shall Oregon's constitution forbid government from denying equal protection of laws due to race, color, religion, gender, age, national origin?</p> <p>TEXT: The Measure would add a new section to the Constitution's Bill of Rights: "The equal protection of the laws shall not be denied or abridged by any public entity in this state on account of race, color, religion, gender, age or national origin."</p> <p>TEXT of Measure 13:</p> <p>QUESTION: Shall constitution bar governments from creating classifications based on homosexuality or spending public funds in manner expressing approval of homosexuality?</p> <p>TEXT: THE MINORITY STATUS AND CHILD PROTECTION ACT</p> <p>Be it enacted by the People of the State of Oregon:</p> <p>The Constitution of the State of Oregon is amended by creating a new section to be added to and made a part of Article</p>

	<p>1. The new section shall be known as "The Minority Status and Child Protection Act" and will read as follows:</p> <p>SECTION 41: MINORITY STATUS BASED ON HOMOSEXUALITY PROHIBITED.</p> <p>(1) In the State of Oregon, including all political subdivisions and the government units, minority status shall not apply to homosexuality; therefore, affirmative action, quotas, specials class status or special classifications such as "sexual orientation," "domestic partnerships," or similar designations shall not be established on the basis of homosexuality.</p> <p>(2) Children, students, and employees shall not be advised, instructed or taught by any government agency, department or political unit in the State of Oregon that homosexuality is the legal or social equivalent of race, color, religion, gender, age or national origin; nor shall public funds be expended in a manner that has the purpose or effect of promoting or expressing approval of homosexuality.</p> <p>(a) The State of Oregon, political subdivisions and all units of state and local government shall not grant marital status or spousal benefits of homosexuality.</p> <p>(b) The State of Oregon, political subdivisions and all units of state and local government, with regard to public employees, shall generally consider private lawful sexual behaviors as non-job related facts, provided such factors do not disrupt the workplace and that such consideration does not violate subsections (1) and (2).</p> <p>(c) Though subsections (1) and (2) are established and in effect, no unit of state or local government shall deny to private persons business licenses, permits or services otherwise due under existing statutes; nor deprive, nullify, or diminish the holding or exercise of any rights guaranteed by the Constitution of the State or Oregon or the Constitution of the United States of America.</p> <p>(d) Though subsections (1) and (2) are established and in effect, this section shall not limit the availability in public libraries of books and materials written for adults which address homosexuality, provided access to such materials is limited to adults and meets local standard as established through the existing library review process.</p> <p>(3) The PEOPLE INTEND, that if any part of this enactment be found unconstitutional, the remaining parts shall survive in full force and effect. This Section shall be in all parts self-executing.</p>
<p>1994 ARIZONA</p>	<p>Arizona's Proposed Initiative</p> <p>PROPOSED INITIATIVE AMENDMENT TO THE CONSTITUTION OF THE STATE OF ARIZONA</p> <p>TEXT OF PROPOSED AMENDMENT</p> <p>Be it enacted by the people of Arizona: The following amendment to the Constitution of Arizona, amending Article II, Section 13 to become valid when approved by the majority of the qualified electors voting thereon and upon proclamation of the governor:</p>

	<p>Section 13. Equal privileges and immunities</p> <p>(1) No law shall be enacted granting to any citizen, class of citizens, or corporation other than municipal, privileges or immunities which, upon the same terms, shall not equally belong to all citizens or corporations.</p> <p>(2) NEITHER THIS STATE, THROUGH ANY OF ITS BRANCHES OR DEPARTMENTS, NOR ANY OF ITS AGENCIES, POLITICAL SUBDIVISIONS, MUNICIPALITIES OR SCHOOL DISTRICTS, SHALL ENACT, ADOPT OR ENFORCE ANY STATUTE, REGULATION, ORDINANCE OR POLICY WHEREBY PEDOPHILE, HOMOSEXUAL, LESBIAN OR BISEXUAL ORIENTATION, ARE THE BASIS OF, OR ENTITLE ANY PERSON OR CLASS OF PERSONS TO STATUS OR CLAIM OF DISCRIMINATION. THIS PARAGRAPH SHALL BE IN ALL RESPECTS SELF EXECUTING.</p>
<p>1994 FLORIDA</p>	<p>Florida's Proposed Initiative (struck down by Florida Supreme Court)</p> <p>TITLE:</p> <p>LAWS RELATED TO DISCRIMINATION ARE RESTRICTED TO CERTAIN CLASSIFICATIONS</p> <p>SUMMARY: Restricts laws related to discrimination to classifications based upon race, color, religion, sex, national origin, age, handicap, ethnic background, marital status or familial status. Repeals all laws inconsistent with this amendment.</p> <p>FULL TEXT OF PROPOSED AMENDMENT:</p> <p>BE IT ENACTED BY THE PEOPLE OF FLORIDA THAT: Therefore, to the extent permitted by the Constitution of the United States, the people of Florida, exercising their reserved powers, hereby declare that:</p> <p>1) Article 1, Section 10 of the Constitution of the State of Florida is hereby amended by:</p> <p>a) inserting "(a)" before the first word thereof and,</p> <p>b) adding a new sub-section "(b)" at the end thereof to read:</p> <p>"(b) The state, political subdivisions of the state, municipalities or any other governmental entity shall not enact or adopt any law regarding discrimination against persons which creates, establishes or recognizes any right, privilege or protection for any person based upon any characteristic, trait, status or condition other than race, color, religion, sex, national origin, age, handicap, ethnic background, marital status or familial status. As used herein the term "sex" shall mean the biological state of being either a male person or a female person; "marital status" shall mean the state of being lawfully married to a person of the opposite sex, separated divorced, widowed or single; and "familial status" shall mean the state of being a person domiciled with a minor, as defined by law, who is the parent or person with legal custody of such minor or who is a person with written permission from such parent or person with legal custody of such minor."</p> <p>2) All laws previously enacted which are inconsistent with this provision are hereby repealed to the extent of such inconsistency.</p> <p>3) This amendment shall take effect on the date it is approved by the electorate.</p>

1994 IDAHO

Proposed Title 67, Chapter 80, Idaho Code

Section 67-8001: PURPOSE OF ACT. The provisions of Title 67, Chapter 80 of the Idaho Code are enacted by the people of the State of Idaho in recognition that homosexuality shall not form the basis for the granting of minority status. This chapter is promulgated in furtherance of the provisions of Article 3, Section 24 of the Constitution of the State of Idaho.

Section 67-8002: SPECIAL RIGHTS FOR PERSONS WHO ENGAGE IN HOMOSEXUAL BEHAVIOR PROHIBITED. No agency, department, or political subdivision of the State of Idaho shall enact or adopt any law, rule, policy, or agreement which has the purpose or effect of granting minority status to persons who engage in homosexual behavior, solely on the basis of such behavior; therefore, affirmative action, quota preferences, and special classifications such as "sexual orientation" or similar designations shall not be established on the basis of homosexuality. All private persons shall be guaranteed equal protection of the law in the full and free exercise of all rights enumerated and guaranteed by the U.S. Constitution, the Constitution of the State of Idaho, and federal and state law. All existing civil rights protection based on race, color, religion, gender, age, or national origin are reaffirmed, and public services shall be available to all persons on an equal basis.

Section 67-8003: EXTENSION OF LEGAL INSTITUTION OF MARRIAGE TO DOMESTIC PARTNERSHIPS ON HOMOSEXUAL BEHAVIOR PROHIBITED. Same-sex marriages and domestic partnerships are hereby declared to be against public policy and shall not be legally recognized in any manner by any agency, department, or political subdivision of the State of Idaho.

Section 67-8004: PUBLIC SCHOOLS. No employee, representative, or agent of any public elementary or secondary school shall, in connection with school activities, promote, sanction, or endorse homosexuality as a healthy, approved or acceptable behavior. Subject to the provisions of federal law, any discussion of homosexuality within such schools shall be age-appropriate as defined and authorized by the local school board of trustees. Counseling of public school students regarding such students' sexual identity shall conform in the foregoing.

Section 67-8005: EXPENDITURE OF PUBLIC FUNDS. No agency, department or political subdivision of the State of Idaho shall expend public funds in a manner that has the purpose or effect of promoting, making acceptable, or expressing approval of homosexuality. This section shall not prohibit government from providing positive guidance toward persons experiencing difficulty with sexual identity. This section shall not limit the availability in public libraries of books and materials written for adults which address homosexuality, provided access to such materials is limited to adults and meets local standards as established through the normal library review process.

Section 67-8006: EMPLOYMENT FACTORS. With regard to public employees, no agency, department or political subdivision of the State of Idaho shall forbid generally the consideration of private sexual behaviors as nonjob factors, provided that compliance with the Title 67, Chapter 80, Idaho Code is maintained, and that such factors do not disrupt the workplace.

Section 67-8007: SEVERABILITY. The people intend, that if any part of this enactment be found unconstitutional, the remaining parts shall survive in full force and effect. This section shall be in all parts self-executing.

<p>1994 MISSOURI</p>	<p>Neither the State of Missouri, through any of its branches, departments or agencies, nor any of its political subdivision, including counties, municipalities and school districts, shall enact, adopt or enforce any statute, order, regulation, rule, ordinance, resolution or policy whereby homosexual, lesbian or bi-sexual activity, conduct or orientation shall entitle any person or class of persons to have or demand any minority status, protected status, quota preference, affirmative action or claim of discrimination.</p> <p>This section shall be in all respects self-executing. This section is severable, and should any portion hereof be found unconstitutional, the remainder shall in all respects remain in force.</p>
<p>1994 NEVADA</p>	<p>THE MINORITY STATUS AND CHILD PROTECTION ACT</p> <p>The Constitution of the State of Nevada is amended by creating a new section to be added to and made a part of Article 1. The new section shall be known as "The Minority Status and Child Protection Act" and will read as follows:</p> <p>The People of the State of Nevada do enact as follows:</p> <p>Section 21: MINORITY STATUS BASED ON HOMOSEXUALITY PROHIBITED</p> <p>(1) The People of the State of Nevada find that inappropriate sexual behavior does not form an appropriate basis upon which to construct a minority or class status relation to civil rights. To identify oneself as a person who participates in or who expresses openly a desire for inappropriate sexual behavior, such as homosexuality, fails to constitute a legitimate minority classification. The People establish that objection to homosexuality based upon one's convictions is a Liberty and Right of Conscience and shall not be considered discrimination relating to civil rights by any unit, branch department or agency of state or local government. The People further establish that in the State of Nevada, including all political subdivisions and units of state and local government, minority status shall not apply to homosexuality; therefore, affirmative action, quotas, special class status or special classifications such as "sexual orientation," "sexual preference," "domestic partnerships" or similar designations shall not be established on the basis of homosexuality.</p> <p>(2) Children, students and employees shall not be advised, instructed or taught by any government agency, department or political unit in the Stat [sic] of Nevada that homosexuality is the legal or social equivalent of race, color, religion, gender, age or national origin; nor shall public funds be expended in a manner that has the purpose of [sic] effect of promoting or expressing approval of homosexuality.</p> <p>(a) The State of Nevada, political subdivisions and all units of state and local government shall not grant marital status or spousal benefits on the basis of homosexuality.</p> <p>(b) The State of Nevada, political subdivisions and all units of state and local government, with regard to public employees, shall generally consider private lawful sexual behaviors as non-job related factors, provided such factors do not disrupt the work place and such consideration does not violate subsections (1) and (2).</p> <p>(c) Though subsections (1) and (2) are established and in effect, no unit of state or local government shall deny to private persons business licenses, permits or services otherwise due under existing statutes;</p>

	<p>not deprive, nullify, or diminish the holding or exercise of any rights guaranteed by the Constitution of the State of Nevada or the Constitution of the United States of America.</p> <p>(d) Though subsections (1) and (2) are established and in effect, this section shall not limit the availability in public libraries of books and materials written for adults which address homosexuality, provided access to such materials is limited to adults and meets local standards as established through the existing library review process.</p> <p>(3) The PEOPLE INTEND, that if any part of this enactment be found unconstitutional, the remaining parts shall survive in full force and effect. This Section shall be in all parts self-executing.</p> <p>(4) Any person residing in the State of Nevada or non-profit entity doing business in this State has standing to bring suit to enforce the provision and policies of this Act.</p>
<p>1994 WASHINGTON (1)</p> <p>Initiative 608</p>	<p>AN ACT relating to prohibiting special rights for homosexuals; adding new sections to chapter 49.60 RCW[;] and declaring an emergency. Be it Enacted by the People of the State of Washington</p> <p>NEW SECTION. Sec. 1.THE EQUAL RIGHTS, NOT SPECIAL RIGHTS ACT. This act shall be known and cited as the Equal Rights, Not Special Rights Act.</p> <p>NEW SECTION. Sec. 2.A new section is added to chapter 49.60 RCW to read as follows:</p> <p>PROTECTING CITIZEN'S CONSTITUTIONAL AND CIVIL RIGHTS. Neither the State of Washington, nor its political subdivisions, shall deny any right expressly guaranteed by the Constitution of the State of Washington or the Constitution of the United States of America. Persons who commit acts of violence against the person or property of others should be prosecuted and appropriately punished in order to protect law-abiding citizens and to ensure the guarantee of equal justice for all.</p> <p>NEW SECTION. Sec. 3.A new section is added to chapter 49.60 RCW to read as follows:</p> <p>ENSURING EQUAL PROTECTION OF THE LAW. The people find that equal protection of the law, not special rights, is a fundamental principle of constitutional government and is essential to the well-being and perpetuation of a free society.</p> <p>The people further find that there is a legitimate and compelling state interest in ensuring equal protection of the law for all citizens and in preventing special rights based on any homosexual, bisexual, transsexual, or transvestite status, preference, orientation, conduct, act, practice, or relationship.</p> <p>The people further find that there is a legitimate and compelling state interest in ensuring that the rights of parents to control the education of their children and that the sincerely-held values and beliefs of citizens regarding homosexuality, bisexuality, transsexuality, or transvestism are not denigrated or denied by the public schools and that homosexuality, bisexuality, transsexuality, or transvestism are not presented, promoted or</p>

	<p>approved as positive, healthy or appropriate behavior.</p> <p>The people further find that "the duty of all teachers" as required in RCW 28A.405.030 "to endeavor to impress on the minds of their pupils the principles of morality, truth, justice, temperance, humanity and patriotism" and "to teach them to avoid idleness, profanity and falsehood" is an indispensable prerequisite for providing a sound education, maintaining a virtuous and ethical society, and guaranteeing the rights of all citizens.</p> <p>NEW SECTION. Sec. 4. A new section is added to chapter 49.60 RCW to read as follows:</p> <p>PROHIBITING SPECIAL RIGHTS FOR HOMOSEXUALS. Neither the State of Washington, nor its political subdivisions, including counties, cities, towns, and school districts, shall by any means or instrumentality, enact or enforce a policy whereby any homosexual, bisexual, transsexual, or transvestite status, preference, orientation, conduct, act, practice, or relationship shall be a basis for a person to maintain any special classification or privilege; minority status; quota preference; affirmative action right; legal standing; public benefit; marital, spousal, parental, familial or domestic privilege, advantage, entitlement, benefit, position, or status; claim of discrimination; or special right or protection.</p> <p>A school, through any employee, volunteer, guest, or other means or instrumentality, shall not present, promote or approve homosexuality, bisexuality, transsexuality, or transvestism, or any such conduct, act, practice, or relationship, as a positive, healthy, or appropriate behavior or lifestyle. As used in this section, "school" means any common school of the [S]tate of Washington.</p> <p>NEW SECTION. Sec. 5. CONSTRUCTION CLAUSE. The provisions of this act are to be liberally construed to effectuate the policies and purposes of this act. In the event of conflict between this act and any other provision of law, the provisions of this act shall govern.</p> <p>NEW SECTION. Sec. 6. SEVERABILITY CLAUSE. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.</p> <p>NEW SECTION. Sec. 7. EMERGENCY CLAUSE. This act is necessary for the immediate preservation of the public peace, health, morals, or safety, or the support of the state government and its existing public institutions, and shall take effect immediately.</p>
<p>1994 WASHINGTON (2) Initiative 610</p>	<p>A Legislative Act by the People of the State of Washington.</p> <p>AN ACT relating to how homosexuality will be viewed in law and in the public policy of the State of Washington. In this Act, homosexuality is defined as sexual desire for a person of the same gender, as determined by the individual's willingness to be openly self-identified with those desires, or sexual activity with individuals of the same gender.</p> <p>Be it Enacted by the People of the State of Washington</p>

	<p>New Section 1: THE MINORITY STATUS AND CHILD PROTECTION ACT This act shall be known and cited as The Minority Status and Child Protection Act.</p> <p>New Section Section 2: A new section is added to chapter 49.60 RCW to read as follows: THE SPECIAL RIGHT OF MINORITY STATUS BASED ON HOMOSEXUALITY PROHIBITED.</p> <p>The People find that inappropriate sexual behavior does not form an appropriate basis upon which to construct a minority or class status relating to civil rights. To identify oneself as a person who participates in or who expresses openly a desire for inappropriate sexual behavior, such as homosexuality, fails to constitute a legitimate minority classification.</p> <p>The People establish that objection to homosexuality based upon one's convictions is a Right of Conscience and shall not be considered discrimination relating to civil rights by any unit, branch department or agency of state or local government.</p> <p>The People further establish that in the State of Washington, including all political subdivisions and units of state and local government, minority status shall not apply to homosexuality; therefore, affirmative action, quotas, special class status or special classifications such as "sexual orientation," "sexual preference," "domestic partnerships" or similar designations shall not be established on the basis of homosexuality.</p> <p>No public funds shall be expended in a manner that has the purpose or effect of promoting or expressing approval of homosexuality. This provision shall not limit the availability in public libraries of books and materials written for adults which address homosexuality, provided access to such materials is limited to adults and meets local standards as established through the existing library review process.</p> <p>With regard to public employees, no agency, department or political subdivision of the State of Washington shall forbid generally the consideration of private lawful sexual behaviors as non-job related factors, provided that such consideration does not violate the provisions and purposes of this Act and that such factors do not disrupt the workplace.</p> <p>New Section Section 3: A new section is added to chapter 28A.150 RCW to read as follows: THE PUBLIC EDUCATIONAL SYSTEM SHALL NOT PROMOTE OR EXPRESS APPROVAL OF HOMOSEXUALITY. The People establish that no person representing the state educational system as an employee, student, volunteer or guest shall undertake any activity that would in any manner advise, instruct, teach or promote to any child, student or employee that homosexuality is a positive or healthy lifestyle, or an acceptable or approved condition or behavior. The educational system is to be in full compliance with chapter 49.60 RCW.</p> <p>New Section Section 4:A new section is added to chapter 26.33 RCW to read as follows: FOSTER PARENT STATUS AND ADOPTION BY PERSONS PARTICIPATING IN HOMOSEXUALITY PROHIBITED. The People find that there is a compelling state interest in placement of minor children, where at all possible, in sound, married, male-female households and that such children must never be placed in households where homosexuality is present in any</p>
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	<p>manner whatsoever. Any person participating in homosexuality shall not be an adoptive, foster or placement parent. The People further establish that, upon the dissolution of a marriage in which one of the natural parents or other legal classification of parent is participating in homosexuality, the minor child, wherever legally possible, will be placed in the custody of the parent not participating in homosexuality. Where both parents are unqualified, custody shall be awarded to the next closest natural relative; such as, grandparents, brothers or sisters, aunts or uncles and so forth. All consideration is to the well being of the minor child and it is the policy of the State of Washington that sound natural family relationships are the most important initial consideration that will maintain that well being. Where this is not possible, an adoptive or foster parent situation is to be ensured. Every appropriate court and government agency in the State of Washington shall enforce the provisions of this section and, at all placement or custody proceedings, shall enter and maintain a written finding that the prospective custodial, foster or placement parent does not participate in homosexuality.</p> <p>New Section Section 5: A new section is added to chapter 26.04 RCW to read as follows: MARRIAGE BETWEEN PERSONS OF THE SAME GENDER PROHIBITED AND NATURAL GENDER DEFINED. The People establish that same-gender marriages and domestic partnerships are hereby declared to be against public policy and shall not be legally recognized in any manner by any agency, department or political subdivision of the State of Washington. The State of Washington recognizes that the gender that is established at the conception of all persons is the only and natural gender of that person for the duration of their life. Any physical alternations to the human body do not affect the natural gender, known at birth or before, of any resident in the State of Washington. Any same-gender marriage or gender alteration obtained or recognized outside the State of Washington shall not constitute a valid or legal marriage or gender within the State of Washington.</p> <p>New Section Section 6: A new section is added to chapter 49.60 RCW to read as follows: ALL CONSTITUTIONAL RIGHTS PROTECTED FOR EVERY CITIZEN In the State of Washington and its political subdivisions, no Unit, agency, or department of government shall deny to private persons business licenses, permits or services otherwise due under existing statutes, nor deprive, nullify, or diminish the holding or exercise of any rights guaranteed by the Constitution of the State of Washington or the Constitution of the United States of America.</p> <p>New Section Section 7: SEVERABILITY AND CONSTRUCTION CLAUSE The PEOPLE INTEND that, if any part of this enactment be declared unconstitutional by a court of competent jurisdiction, the remaining parts shall survive in full force and effect. This enactment shall in all parts be self-executing. In the event that a conflict arises between this legislation and any other provision of law, the policies and purposes of this Act shall govern.</p> <p>New Section Section 8: LEGAL STANDING Any person residing in the State of Washington or non-profit entity doing business in this state has standing to bring suit to enforce the provisions and policies of this Act.</p>
<p>1995 MAINE</p>	<p>To the 118th Legislature of the State of Maine: In accordance with Section 18 of Article IV, Part Third of the Constitution of the State of Maine, the undersigned electors of the State of Maine, qualified to vote for Governor, residing in Maine, whose names have been certified, hereby respectfully propose to the Legislature for its consideration the following entitled bill:</p> <p>AN ACT TO LIMIT PROTECTED CLASSES UNDER THE MAINE HUMAN RIGHTS ACT The full text of this act is printed below on this petition. The question on the ballot will read as follows: Do you favor the changes in Maine</p>

	<p>law concerning the limitation of protected status to the existing classifications of race, color, sex, physical or mental disability, religion, age, ancestry, national origin, familial status, and marital status proposed by citizen petition?</p> <p>Be it enacted by the People of the State of Maine: 5 M.R.S.A. Section 4552-A is enacted to read: Section 4552-A -- Limitation of protected class status. Notwithstanding any provision of this chapter or any other provision of law, protected classes or suspect classifications under state or local human rights laws, rules, regulations, ordinances, or policies, shall be limited to race, color, sex, physical or mental disability, religion, age, ancestry, national origin, familial status, and marital status. Any provision of State or local law, rule, regulation, ordinance or policy inconsistent with the preceding sentence is hereby void and enforceable. This section shall not limit the power of the Legislature to add to the list of protected classes or suspect classifications enumerated in this section through future legislation.</p>
<p>1996 OREGON</p>	<p><u>1996 : THE MINORITY STATUS AND CHILD PROTECTION ACT OF 1996</u></p> <p>AN ACT The People of the State of Oregon do enact as follows: The Constitution of the State of Oregon is amended by creating a new section to be added to and made a part of Article 1. The new section shall be known as "The Minority Status and Child Protection Act of 1996," and will read as follows:</p> <p>SECTION 41: MINORITY STATUS BASED ON SEXUAL BEHAVIOR PROHIBITED</p> <p>1. Minority status shall not be based on sexual behavior or desires; therefore,</p> <p>(a) Children, students and employees shall not be advised, instructed or taught by any government agency, department or political subdivision that a person's sexual behavior is the legal or social equivalent to existing minority civil rights classifications.</p> <p>(b) The People find that to be morally opposed to certain sexual behaviors such as homosexuality, when based upon a person's convictions, is a Right of Conscience in accord with Article 1 Section 2 and 3 of this Constitution. Such objection produced by one's moral standards and values is therefore not discrimination relating to civil rights, nor shall it be considered so by any unit of state or local government; therefore,</p> <p>(1) Public funds shall not be expended in a manner that has the purpose or effect of expressing approval of homosexuality.</p> <p>(2) Marital status shall not be recognized or spousal benefits awarded on the basis of homosexuality.</p> <p>2. Though subsection one is established and in effect, no licenses, permits, services or benefits shall be denied any person otherwise due under existing statute; nor shall the holding or exercise of any rights guaranteed by the Constitution of the State of Oregon or of the United States of America be deprived, nullified or diminished.</p> <p>3. Though subsection one is established and in effect, with regard to public employees, it shall be generally considered that a person's private lawful sexual behavior is a non-job related factor, provided such consideration does not violate any provision of this Act or of the Constitution of the United States.</p>

	<p>4. Though subsection one is established and in effect, books or literature in public libraries which promote or express approval of homosexuality shall be kept from minors; access made available only under parental supervision. Such material must meet local community standards established through the existing library review process.</p> <p>5. The term minority status shall refer to any class or category of individuals created in the law as a special civil rights classification such as race, religion, gender, national origin, etc.</p> <p>6. The PEOPLE INTEND that if any part of this enactment be found unconstitutional, the remain parts shall survive in full force and effect. This Act shall be in all parts self- executing. For the purpose of this Act, every Oregon resident and non-profit entity doing business in the State of Oregon has standing.</p>
<p>1998 MAINE Question 1 referendum</p>	<p>Do you want to reject the law passed by the Legislature and signed by the Governor that would ban discrimination based on sexual orientation with respect to jobs, housing, public accommodations and credit?</p> <p>This legislation amends the Maine Human Rights Act to make it unlawful to discriminate against individuals based on their sexual orientation in decisions regarding employment, housing, access to public accommodations and the extension of credit. Religious organizations are exempt from this new provision. This legislation was approved by the Legislature and signed into law by the Governor in May, 1997. Petitioners subsequently collected a sufficient number of signatures of registered voters to refer the legislation to the people for approval or disapproval at a statewide election. Its effect has been suspended pending the outcome of the election. A "YES" vote is in favor of the people's veto and disapproves the legislation. A "NO" vote is in opposition to the people's veto and approves the legislation.</p>
<p>2000 OREGON Measure 9</p>	<p>Measure 9: Proposed by initiative petition to be voted on at the General Election, November 7, 2000.</p> <p>BE IT ENACTED BY THE PEOPLE OF THE STATE OF OREGON:</p> <p>Section 1. ORS 336.067 is amended to read (new section): (e) Sexual Orientation as it relates to homosexuality and bisexuality, is a divisive subject matter not necessary to the instruction of students in public schools. Notwithstanding any other law or rule, the instruction of behaviors relating to homosexuality and bisexuality shall not be presented in a public school in a manner which encourages, promotes or sanctions such behaviors.</p> <p>Section 2. ORS 659.155 is amended to read (new section): (1) Any public elementary or secondary school determined by the Superintendent of Public Instruction or any community college determined by the Commissioner for Community College Services to be in noncompliance with provisions of ORS 336.067 (e) or ORS 659.150 and this section shall be subject to appropriate sanctions, which may include withholding of all or part of state funding, as established by rule of the State Board of Education.</p>
<p>2000 MAINE Question 6 Referendum</p>	<p>Do you favor ratifying the action of the 119th Legislature whereby it passed an act extending to all citizens regardless of their sexual orientation the same basic rights to protection against discrimination now guaranteed to citizens on the basis of race, color, religion, sex or national origin in the areas of employment, housing, public accommodation and credit and where the act expressly states that nothing in the act confers legislative approval of, or special rights to, any person or group of persons?</p>

2005 MAINE
Question 1 Referendum

Question 1: People's Veto (Defeated)

Do you want to reject the new law that would protect people from discrimination in employment, housing, education, public accommodations and credit based on their sexual orientation?

TABLE 15-C: LOCAL (CITY AND COUNTY) BALLOT MEASURES⁴⁹

<u>Year</u>	<u>Location</u>	<u>Form</u>	<u>Purpose and Scope</u>	<u>Outcome⁵⁰</u>	<u>Developments/ Related Cases</u>
1974	Boulder, CO	R	REPEAL. Placed on the ballot by the Boulder city council after passage of a LGBT rights ordinance met with public outcry.	Passed	
1977	Miami-Dade County, FL	R	REPEAL. Repeal of county LGBT rights ordinance.	Passed	
1978	Wichita, KS	R	REPEAL. Repeal of city LGBT rights ordinance.	Passed	
1978	St. Paul, MN	R	REPEAL. Repeal of city LGBT rights ordinance.	Passed	
1978	Eugene, OR	R	REPEAL. Repeal of city LGBT rights ordinance.	Passed	
1978	Seattle, WA	R	REPEAL. Repeal of city LGBT rights ordinance – Initiative 13 would have repealed city ordinances protecting employment and housing rights for gays and lesbians.	Failed	
1980	Santa Clara County, CA	R	REPEAL. Repeal of county LGBT rights ordinance.	Passed	
1980	San Jose, CA	R	REPEAL. Repeal of city LGBT rights ordinance.	Passed	
1982	Austin, TX	R	REPEAL. Repeal of gay rights in housing – Proposed amendment to city’s Fair Housing Ordinance would have legalized housing discrimination on the basis of sexual orientation.	Failed	
1984	Duluth, MN		REPEAL. Repeal of city LGBT rights ordinance	Passed	
1985	Houston, TX	R	REPEAL. Repeal of city g LGBT rights ordinance passed in 1984 by the Houston city council, prohibiting discrimination based on sexual orientation in city hiring, promotion, and contracting.	Passed	

⁴⁹ The list is representative and is not intended to be taken as a complete or exhaustive list of such measures. It focuses on efforts to repeal or block employment discrimination legislation, including domestic partner benefits legislation, and does not include efforts to repeal or block the extension of marriage or civil unions to same-sex couples.

⁵⁰ Unless otherwise expressly noted in the table, “Outcome” designates the success (“Passed”) or failure (“Failed”) of the anti-gay repeal/blocking or otherwise discriminatory measure. In some cases due to the wording of the ballot measure, “Outcome” will differ from the electoral result. For example, if a ballot referendum asked voters to “repeal” an LGBT non-discrimination ordinance, a vote to repeal would be designated “Passed” and a defeat of the repeal would be designated “Failed”. In contrast, if a referendum asks voters whether they want to “enact” an LGBT non-discrimination ordinance, a vote against the ordinance would be designated “Passed” and a vote to enact the ordinance would be designated “Failed”, unless expressly noted otherwise.

1985	King County, WA	R	REPEAL. Repeal of county LGBT rights ordinance	DNQ	
1986	Davis, CA		REPEAL. Repeal of city LGBT rights ordinance	Failed	
1988	St. Paul, MN		LGBT RIGHTS LAW. Initiative to bar citizens from repealing LGBT gay rights ordinance by initiative.	Passed* * LGBT rights law rejected.	
1989	Irvine, CA	R	REPEAL. Repeal of city LGBT rights ordinance.	Passed	
1989	Athens, OH		REPEAL. Repeal of city LGBT rights ordinance.	Passed	
1989	Tacoma, WA	R	REPEAL. Repeal of city LGBT rights ordinance.	Passed	
1990	Wooster, OH		REPEAL. Repeal of fair housing ordinance that included sexual orientation protection.	Passed	
1990	Seattle, WA	R	REPEAL. Repeal of domestic partner benefits. Initiative 35: In 1989, the Seattle City Council extended sick and funeral leave benefits to the domestic partners of city employees. Initiative 35 sought to overturn the measure.	Failed	
1991	Concord, CA	I	BLOCKING. REPEAL. Concord Measure M sought to prevent the local government from passing any law involving sexual orientation. Measure M also sought to repeal an existing law prohibiting discrimination against gay people and people with AIDS.	Passed	Subsequently overturned as unconstitutional in <i>Bay Area Network of Gay & Lesbian Educators v. City of Concord.</i>
1991	Riverside, CA	I	BLOCKING. REPEAL, The measure sought to repeal existing ordinances prohibiting discrimination based on AIDS and sexual orientation and to forbid any future laws protecting people on either of those grounds.	JDQ	The Riverside City Council voted to keep the measure off the ballot, and a Riverside Superior Court judge and a California appellate court agreed that the measure violated the constitutional guarantee of equal protection: <i>Citizens for Responsible Behavior v. Superior Court</i> , 1 Cal. App. 4th

					1013, 1031 (1991).
1991	San Francisco, CA	R	REPEAL. Repeal ordinance providing for domestic partner registration.	Failed	
1991	Denver, CO		REPEAL. Repeal of city LGBT rights ordinance.	Failed	
1991	St. Paul, MN	R	REPEAL. Repeal of city LGBT rights ordinance.	Failed	
1992	Tampa, FL	R	REPEAL. Repeal of city LGBT rights ordinance.	Passed	The 1992 referendum was voided for invalid signatures; it passed again in 1993.
1992	Portland, ME	R	REPEAL. Repeal of city LGBT rights ordinance.	Failed	
1992	Corvallis, OR	I	BLOCKING. Part of OCA campaign to enact local ordinances barring governments from passing any legislation recognizing LGBT classes or granting any protected status.	Failed	
1992	Springfield, OR	I	BLOCKING. Part of OCA campaign to enact local ordinances barring governments from passing any legislation recognizing LGBT classes or granting any protected status.	Passed	
1993	Anchorage, AK	R	REPEAL. Repeal of an ordinance passed by the Anchorage Municipal Assembly which prohibited discrimination in public employment on the basis of an individual's sexual orientation.	JDQ	Ordered removed from the ballot because the referendum petition presented the ordinance in a biased and partisan light, in violation of regulations. The title of the referendum petition "Petition to Repeal A 'Special Homosexual Ordinance'" was found to be partisan and potentially prejudicial. <i>Faipeas v. Municipality of Anchorage</i> , , 860 P.2d 1214 (Alaska 1993).
1993	Tampa, FL	R	REPEAL. Repeal of city LGBT rights ordinance.	Passed	The 1992 referendum was voided; it Passed again in 1993.

1993	Lewiston, ME	R	REPEAL AND BLOCKING . Repeal and blocking: Repeal of LGBT rights ordinance – a “clone” of Cincinnati measure (Issue 3, below).	Passed	
1993	Portsmouth, NH	R	REPEAL. Non-binding referendum to reject an ordinance banning discrimination based on sexual orientation.	Passed	
1993	Cincinnati, OH	I	<p>REPEAL AND BLOCKING.</p> <p>REPEAL. “Issue 3” City Charter Amendment whose purpose was to repeal two city ordinances, the "Equal Employment Opportunity Ordinance" and “Human Rights Ordinance”, which gave LGBT individuals protection from discrimination in housing, employment and public accommodation. Nearly identical to Colorado Measure 2, it also banned future protections based on sexual orientation.</p> <p>BLOCKING. “<i>NO SPECIAL CLASS STATUS MAY BE GRANTED BASED UPON SEXUAL ORIENTATION, CONDUCT OR RELATIONSHIPS.</i>” The City of Cincinnati and its various Boards and Commissions may not enact, adopt, enforce or administer any ordinance, regulation, rule or policy which provides that homosexual, lesbian, or bisexual orientation, status, conduct, or relationship constitutes, entitles, or otherwise provides a person with the basis to have any claim of minority or protected status...”</p>	Passed	Sixth Circuit upheld amendment; appealed to the U.S. Supreme Court, which remanded for reconsideration after its decision striking down very similar Colorado Measure 2 in <i>Romer v. Evans</i> . On remand the Sixth Circuit upheld the law.
1993	Canby, OR	I	<p>BLOCKING. STIGMATIZING / CENSORING</p> <p>Part of OCA campaign to enact local ordinances or charter amendments barring governments from passing any legislation recognizing LGBT classes or granting any protected status. All Oregon local measures have the following pattern:</p> <p>BLOCKING. City or county prohibited from extending any protections based on sexual orientation:</p> <p>(a) The city or county of -----, including its council and elected or appointed officers, shall not make, pass, adopt, or enforce any ordinance, rule, regulation, policy or</p>	Passed	

			<p>resolution that extends minority status, affirmative action, quotas, special class status, or any similar concepts, based on homosexuality or which establishes any categorical provision such as "sexual orientation", "sexual preference", or any similar provision which includes homosexuality.</p> <p>STIGMATIZING/CENSORING. Prohibited use of any government funds to “express approval” of LGBT status: (b) City funds shall not be expended to promote homosexuality or express approval of homosexual behavior.</p>		
1993	Cornelius, OR	I	BLOCKING. Part of OCA campaign to enact local ordinances barring governments from passing any legislation recognizing LGBT classes or granting any protected status.	Passed	
1993	Creswell, OR	I	BLOCKING. Part of OCA campaign to enact local ordinances barring governments from passing any legislation recognizing LGBT classes or granting any protected status.	Passed	
1993	Douglas County, OR	I	BLOCKING. Part of OCA campaign to enact local ordinances barring governments from passing any legislation recognizing LGBT classes or granting any protected status.	Passed	
1993	Estacada, OR	I	BLOCKING. Part of OCA campaign to enact local ordinances barring governments from passing any legislation recognizing LGBT classes or granting any protected status.	Passed	
1993	Jackson County, OR	I	BLOCKING. Part of OCA campaign to enact local ordinances barring governments from passing any legislation recognizing LGBT classes or granting any protected status.	Passed	
1993	Junction City, OR	I	BLOCKING. Part of OCA campaign to enact local ordinances barring governments from passing any legislation recognizing LGBT classes or granting any protected status.	Passed	The 1993 results were thrown out due to voting irregularities; passed again in 1994
1993	Josephine City, OR	I	BLOCKING. Part of OCA campaign to enact local ordinances barring governments from passing any legislation recognizing LGBT classes or granting any protected status.	Passed	
1993	Keizer, OR	I	BLOCKING. Part of OCA campaign to enact local	Passed	

			ordinances barring governments from passing any legislation recognizing LGBT classes or granting any protected status.		
1993	Klamath County, OR	I	BLOCKING. Part of OCA campaign to enact local ordinances barring governments from passing any legislation recognizing LGBT classes or granting any protected status.	Passed	
1993	Lebanon, OR	I	BLOCKING. Part of OCA campaign to enact local ordinances barring governments from passing any legislation recognizing LGBT classes or granting any protected status.	Passed	
1993	Linn County, OR	I	BLOCKING. Part of OCA campaign to enact local ordinances barring governments from passing any legislation recognizing LGBT classes or granting any protected status.	Passed	
1993	Medford, OR	I	BLOCKING. Part of OCA campaign to enact local ordinances barring governments from passing any legislation recognizing LGBT classes or granting any protected status.	Passed	
1993	Molalla, OR	I	BLOCKING. Part of OCA campaign to enact local ordinances barring governments from passing any legislation recognizing LGBT classes or granting any protected status.	Passed	
1993	Oregon City, OR	I	BLOCKING. Part of OCA campaign to enact local ordinances barring governments from passing any legislation recognizing LGBT classes or granting any protected status.	Passed	
1993	Sweet Home, OR	I	BLOCKING. Part of OCA campaign to enact local ordinances barring governments from passing any legislation recognizing LGBT classes or granting any protected status.	Passed	
1994	Alachua County, FL(1)	R	REPEAL. Repeal an ordinance that granted gay people protection from discrimination in housing and employment	Passed	
1994	Alachua County, FL (2)	I	BLOCKING.: Alachua County Amendment 1 banned the Board of County Commissioners from adopting any future ordinance that would create classifications based on sexual orientation or sexual preference.	Passed, overturned	The initiative was subsequently overturned in <i>Morris v. Hill</i> , where the court found “Amendment 1 is indistinguishable from the amendment struck

					down in <i>Romer</i> , the Colorado amendment that the Supreme Court rejected in <i>Romer v. Evans</i> last May as a violation of the Constitution's equal protection clause.”
1994	Springfield, MO	R	REPEAL. Repeal inclusion of gays in hate crimes law.	Passed	
1994	Albany, OR	I	BLOCKING. Part of OCA campaign to enact local ordinances barring governments from passing any legislation recognizing LGBT classes or granting any protected status.	Passed	
1994	Cottage Grove, OR	I	BLOCKING. Part of OCA campaign to enact local ordinances barring governments from passing any legislation recognizing LGBT classes or granting any protected status.	Passed	
1994	Grants Pass, OR	I	BLOCKING. Part of OCA campaign to enact local ordinances barring governments from passing any legislation recognizing LGBT classes or granting any protected status.	Passed	
1994	Gresham, OR	I	BLOCKING. Part of OCA campaign to enact local ordinances barring governments from passing any legislation recognizing LGBT classes or granting any protected status.	Failed	Gresham required a 60% supermajority for passage.
1994	Junction City, OR	I	BLOCKING. Part of OCA campaign to enact local ordinances barring governments from passing any legislation recognizing LGBT classes or granting any protected status.	Passed	The 1993 results were thrown out due to voting irregularities; passed again in 1994
1994	Lake County, OR	I	BLOCKING. Part of OCA campaign to enact local ordinances barring governments from passing any legislation recognizing LGBT classes or granting any protected status.	Passed	
1994	Marion County, OR	I	BLOCKING. Part of OCA campaign to enact local ordinances barring governments from passing any legislation recognizing LGBT classes or granting any protected status.	Passed	
1994	Oakridge, OR	I	BLOCKING. Part of OCA campaign to enact local ordinances barring governments from passing any legislation recognizing LGBT classes or granting any protected status.	Passed	

1994	Roseburg, OR	I	BLOCKING. Part of OCA campaign to enact local ordinances barring governments from passing any legislation recognizing LGBT classes or granting any protected status.	Passed	
1994	Turner, OR	I	BLOCKING. Part of OCA campaign to enact local ordinances barring governments from passing any legislation recognizing LGBT classes or granting any protected status.	Passed	
1994	Venetta, OR	I	BLOCKING. Part of OCA campaign to enact local ordinances barring governments from passing any legislation recognizing LGBT classes or granting any protected status.	Passed	
1994	Austin, TX	R	REPEAL. Repeal of domestic partner benefits Proposition 22:	Passed	
1995	West Palm Beach, FL	R	REPEAL. Repeal of city LGBT rights ordinance.	Failed	
1996	Broward County., FL	R	REPEAL. Repeal of ban on discrimination against gays and lesbians in housing, public accommodations and employment, passed by the County Commission in 1995.	DNQ	
1996	Lansing, MI	R	REPEAL. Repeal of city's LGBT rights ordinance (two separate initiatives, both passed).	Passed	
1998	Fort Collins, CO	R	REPEAL. Repeal of unanimously approved City Council measure extending the City's "Human Rights Code" to cover discrimination in employment, housing and public accommodations on the basis of sexual orientation. Known as Ordinance 22	Passed* * defeated City Council LGBT rights measure	
1998	Fayetteville, AR	R	REPEAL. Repeal of Resolution 51-98, the Fayetteville Human Dignity Resolution, which would have added the categories of sexual orientation and familial status to the City of Fayetteville's non-discrimination policy for public employees. Approved by the city council but vetoed by the mayor; the city council, in a rare move, overrode the mayor's veto, effectively enacting the resolution as law.	Passed	
1998	Ogunquit, ME	R	LGBT RIGHTS LAW. Referendum Question 4: In response to the repeal of Maine's statewide civil rights law banning discrimination on the basis of sexual orientation, activists with Concerned Citizens of Ogunquit gathered enough signatures to have a human rights ordinance modeled after the former statewide non-discrimination bill placed on the ballot. he amendment	Passed* * i.e., defeated LGBT rights law	

			would have amended the Ogunquit Municipal Code to ban discrimination on the basis of sexual orientation in the areas of employment, housing, public accommodations, and the extension of credit.		
1999	South Portland, ME	R	LGBT RIGHTS LAW. In response to the repeal of Maine's statewide civil rights law banning discrimination on the basis of sexual orientation, the South Portland City Council decided to put the issue of reinstating anti-discrimination protections directly to the voters. The ordinance prohibits acts of discrimination in employment, housing, public accommodations, or the extension of credit.	Failed* * i.e., pro-LGBT anti-discrimination ordinance was enacted	
1999	Falmouth, ME	I	REPEAL AND BLOCKING. Repeal of ordinance unanimously adopted by the Town Council prohibiting discrimination based on sexual orientation in the areas of employment, housing, credit, education and public accommodation and amendment of the town's charter to prevent the town from making any "ordinance, policy or regulation regarding sexual orientation." If passed, the measure would have nullified the existing non-discrimination ordinance as well as preventing the further enactment of protective legislation.	Failed	
1999	Spokane, WA	R	REPEAL. Repeal of civil rights ordinance adopted by Spokane City Council which banned discrimination based on sexual orientation.	Failed	
2000	Ferndale, MI	R	REPEAL. Repeal of gay rights ordinance adopted by the City Council in 1999 that made it illegal to discriminate against anyone regarding employment, housing, public accommodations, and public services on the basis of race; color; religion; gender; age; height or weight; marital status; sexual orientation; familial status; national origin; or physical or mental disability.	Passed	
2000	Royal Oak, MI	I	REPEAL AND BLOCKING. Part of a campaign by the Michigan chapter of Mississippi-based American Family Association which tried to get ballot initiatives in several Michigan towns that would have repealed all local laws outlawing discrimination based on sexual orientation and would have prohibited local voters from adopting such laws.	DNQ	
2000	Grand Rapids, MI	I	REPEAL AND BLOCKING. Part of a campaign by the Michigan chapter of Mississippi-based American	DNQ	

			Family Association which tried to get ballot initiatives in several Michigan towns that would have repealed all local laws outlawing discrimination based on sexual orientation and would have prohibited local voters from adopting such laws.		
2000	Traverse City, MI	I	REPEAL AND BLOCKING. Part of a campaign by the Michigan chapter of Mississippi-based American Family Association which tried to get ballot initiatives in several Michigan towns that would have repealed all local laws outlawing discrimination based on sexual orientation and would have prohibited local voters from adopting such laws.	DNQ	
2000	Grand Ledge, MI	I	REPEAL AND BLOCKING. Part of a campaign by the Michigan chapter of Mississippi-based American Family Association which tried to get ballot initiatives in several Michigan towns that would have repealed all local laws outlawing discrimination based on sexual orientation and would have prohibited local voters from adopting such laws.	DNQ	
2000	Kalamazoo, MI	I	REPEAL. Repeal of domestic partner benefits.	DNQ	
2001	Kalamazoo, MI	I	REPEAL AND BLOCKING. OVERTLY DISCRIMINATORY. Charter Amendment to repeal previously adopted ordinances granting protections on the basis of sexual orientation and to block the city from adopting future protections based on those classifications. Entitled "Adoption of Special Class Status Based on Sexual Orientation, Conduct, or Relationship Prohibited." Used the 1993 Cincinnati ballot measure language (see above).	Failed	
2001	Traverse City, MI	I	REPEAL AND BLOCKING. Amendment to nullify city commission resolution opposing discrimination for a number of categories, including sexual orientation, and to prohibit any city body from adopting policies or rules to protect gay, lesbian and bisexual people from discrimination. Used the 1993 Cincinnati ballot measure language (see above).	Failed	
2001	Huntington Woods, MI	R	REPEAL. Referendum to uphold or reject the Human Rights Ordinance unanimously passed by the city commission, which included protections based on sexual orientation	Failed* *LGBT rights law upheld	

2001	Houston, TX	I	BLOCKING. Charter Amendment to prohibit the city from granting same-sex domestic partner employment and health care benefits and “to address other issues” relating to sexual orientation and employment.	Passed	
2002	Ypsilanti, MI	I	REPEAL AND BLOCKING. Charter Amendment to repeal 1998 inclusive non-discrimination ordinance that protects people based on a variety of characteristics, including religion, age, race and sexual orientation. The proposed charter amendment would have removed protections, but only for gay, lesbian and bisexual people. It would have amended the city charter and nullified any ordinance (past present or future) that afforded protected or minority status to people based on sexual orientation. Measure was similar to 1993 Cincinnati measure (see above).	Failed	
2002	Miami-Dade County, FL	R	REPEAL. Repeal of the county's LGBT rights ordinance;	Failed	
2002	Tacoma, WA	I	REPEAL. Initiative 1 would have amended Tacoma’s municipal code to remove provisions barring discrimination on the basis of sexual orientation or gender identity.	Failed	
2002	Westbrook, ME	R	REPEAL. Referendum to overturn a LGBT rights ordinance that was passed by the City Council the previous summer.	Failed	
2005	Topeka, KS	I	REPEAL AND BLOCKING. To overturn existing non-discrimination ordinances and bar Topeka from recognizing sexual orientation as a protected class for ten years.	Failed	
2006	Ferndale, MI	I	LGBT RIGHTS LAW. Proposed gay rights/human rights ordinance barring discrimination in housing, employment, and public accommodation, placed on ballot by unanimous vote of the city council.	Failed* *LGBT rights law passed	
2006	Corvallis, OR	I	LGBT RIGHTS LAW. Vote to amend the city charter to provide equal protection and non-discrimination for all, inclusive of sexual orientation and gender identity or expression.	Failed *LGBT rights law passed	
2009	Gainesville, FL	I	REPEAL AND BLOCKING. Charter Amendment 1 - would have removed LGBT people from the city’s anti-discrimination ordinance, prohibited enacting protections	Failed	

			for any groups not enumerated in the State Civil Rights Act (which does not include sexual orientation or gender identity) and repealed existing protections against discrimination in housing, employment, public accommodation, and credit extension services.		
2009	Kalamazoo, MI		REPEAL. Repeal of ordinance approved by unanimous Kalamazoo City Commission vote to expand legal protections for LGBT people.	TBD	Vote expected November, 2009

EXHIBIT 15-D: TEXT OF SELECTED LOCAL (CITY AND COUNTY) BALLOT MEASURES

LOCALE	TEXT OF MEASURE
<p>1993 Cincinnati, OH</p>	<p>CINCINNATI CHARTER AMENDMENT</p> <p>TEXT: Be it resolved by the people of Cincinnati that a new Article XII be added to the Charter of the City of Cincinnati to prohibit the City from granting special class status based upon sexual orientation, conduct or relationships, to read as follows:</p> <p>ARTICLE XII</p> <p>NO SPECIAL CLASS STATUS MAY BE GRANTED BASED UPON SEXUAL ORIENTATION, CONDUCT OR RELATIONSHIPS.</p> <p>The City of Cincinnati and its various Boards and Commissions may not enact, adopt, enforce or administer any ordinance, regulation, rule or policy which provides that homosexual, lesbian, or bisexual orientation, status, conduct, or relationship constitutes, entitles, or otherwise provides a person with the basis to have any claim of minority or protected status, quota preference or other preferential treatment. This provision of the City Charter shall in all respects be self-executing. Any ordinance, regulation, rule or policy enacted before this amendment is adopted that violates the foregoing prohibition shall be null and void and of no force or effect.</p>
<p>1993 Anchorage, AK</p>	<p>Referendum – Ordered removed from ballot due to biased and partisan presentation of the petition gathering signatures for the referendum:</p> <p>Should AO 92-116(S), which adds sexual orientation to the list of protected classes for the purpose of public employment or municipal contractors, remain law? Yes [] No []</p>
<p>1993 / 1994 OR Cities and Counties</p>	<p><u>1993 – Form of Measure supplied by Oregon Citizen’s Alliance, and filed in 24 cities and 8 counties in Oregon</u></p> <p>An Act: Be it enacted by the People of the City or County of -----:</p> <p>Paragraph 1: The charter of the city or county of ----- is amended by adding a new Section ----- as follows:</p> <p>(a) The city or county of -----, including its council and elected or appointed officers, shall not make, pass, adopt, or enforce any ordinance, rule, regulation, policy or resolution that extends minority status, affirmative action, quotas, special class status, or any similar concepts, based on homosexuality or which establishes any categorical provision such as "sexual orientation", "sexual preference", or any similar provision which includes homosexuality.</p> <p>(b) City funds shall not be expended to promote homosexuality or express approval of homosexual behavior.</p> <p>(c) This Section shall not be construed to deny any citizen, based on perceived or actual private lawful sexual practices, any city</p>

	<p>services, licenses, or approvals otherwise due or available.</p> <p>(d) This Section shall not be construed to limit public libraries from providing materials for adults which address homosexuality.</p> <p>(e) Subsection (a) of this Section shall not nullify or be construed to nullify any city, state, or federal civil rights protections based on race, religion, color, sex, marital status, familial status, national origin, age or disability. Neither shall Subsection (a) be construed to abrogate, abridge, impede, or otherwise diminish the holding, enjoyment, or exercise of any rights guaranteed to citizens by the Constitution of the State of Oregon or the Constitution of the United States.</p> <p>(f) Subsection (a) of this Section shall not be construed to forbid the adoption of provisions prohibiting employment decisions based on factors not directly related to employment. If such a provision is adopted, it is the intent of the People that lawful private sexual behavior, or rumor, perception, or knowledge of a person's lawful private sexual behavior, are factors not directly related to employment. If such a provision is adopted, it is the intent of the People that personal expression, conversation or any other free expression concerning private lawful sexual behavior shall also be considered factors not directly related to employment, unless such actions disrupt the workplace.</p> <p>(g) This Section shall be an explicit and necessary restriction and limitation upon the authority of the Council.</p> <p>(h) It shall be considered that it is the intent of the People in enacting this Section that if any part thereof is held unconstitutional by a court of competent jurisdiction, the remaining parts shall be held in full force and effect. This Section shall be in all parts self-executing.</p>
1994 Austin, TX	<p>Proposition 22 – repealing grant of employee benefits to domestic partners:</p> <p>"Shall the City Charter of the City of Austin be amended to provide that City employee benefits shall be as provided in the approved "Personnel Policies"; provided such City Employee benefits shall in no case be extended to any persons other than an employee's parents, spouse, children (including step-children, children for whom a court ordered guardianship or conservatorship has been assigned, qualified children placed pending adoption and eligible grandchildren),sisters, brothers, grandparents, and the parents and grandparents of an employee's spouse; except as otherwise required by state or federal law and the term spouse as defined in the "Personnel Policies" shall mean the husband or wife of the employee?</p>
1998 Fayetteville, AK	<p>Fayetteville Resolution 51-98, the Fayetteville Human Dignity Resolution (repealed by voters)</p> <p>The City of Fayetteville shall model for the community and encourage all other institution, organizations and businesses in the City to conduct their institutional behavior in a manner that promotes the values represented by the spirit of the resolution. The City shall therefore continue to insure that all qualified applicants for all City positions have equal access to such employment opportunities regardless of race, sex, national origin, age, ancestry, familial status, sexual orientation or disability."</p>
2001 Kalamazoo, MI	<p>Ballot question: Shall the Kalamazoo City Charter be amended by the addition of a new section entitled Adoption of Special Class Status Based on Sexual Orientation, Conduct, or Relationship Prohibited, which shall provide that no special class status shall be granted based upon sexual orientation, conduct or relationships, and that the City of Kalamazoo and its various boards and commissions shall not adopt and enforce any ordinance or regulation which will afford protected status based on sexual orientation,</p>

	conduct or relationships, and that any ordinance or regulation enacted before this amendment that violates this provision shall be null and void?
2001 Houston, TX	Proposition 2 Shall the charter of the city of Houston be amended to deny health care and other employment benefits to same-sex domestic partners of city employees and to address other matters of city employment and contracting practices based on sexual orientation?
2002 Miami-Dade County, FL	Shall County Ordinance 98-170, entitled "Ordinance amending Articles I, II, III and IV of Chapter 11A of the Code of Miami-Dade County to prohibit discrimination based on sexual orientation in housing, credit and finance, public accommodations, and employment; amending Article VI relating to the office of Fair Employment Practices to require Miami-Dade County to provide equal employment opportunity without regard to sexual orientation," be repealed?
2002 Tacoma, WA	Ballot Summary: Initiative No. 1 amends Tacoma's anti-discrimination law. Initiative No. 1 removes those provisions of the Tacoma Municipal Code which prohibit discrimination in employment, housing, public accommodation, and lending based on sexual orientation or gender identity. A yes vote enacts the Initiative. A no vote defeats the Initiative. Should this Initiative become law?
2005 Topeka, KS	CITY OF TOPEKA QUESTION SHALL THE FOLLOWING BE ADOPTED? The City of Topeka and its various Boards and Commissions may not enact, adopt, enforce or administer any ordinance, regulation, rule or policy which provides that homosexual, lesbian or bisexual orientation or gender identity or expression; status, conduct or relationship; constitutes, entitles, or otherwise provides a person with the basis to have any claim of minority or protected status, quota preference, or other preferential treatment. This provision of the City Code shall in all respects be self-executing. Any ordinance, regulation, rule or policy enacted before this provision is adopted that violates the foregoing prohibition shall be null and void and of no force or effect.
2009 Gainesville, FL	CITY OF GAINESVILLE CHARTER AMENDMENT 1 Amendment to City Charter Prohibiting the City from Providing Certain Civil Rights SHALL THE CITY CHARTER BE AMENDED TO PROHIBIT THE ADOPTION OR ENFORCEMENT OF ORDINANCES, REGULATIONS, RULES OR POLICIES THAT PROVIDE PROTECTED STATUS, PREFERENCES OR DISCRIMINATION CLAIMS BASED ON CLASSIFICATIONS, CHARACTERISTICS OR ORIENTATIONS NOT RECOGNIZED BY THE FLORIDA CIVIL RIGHTS ACT? THE ACT RECOGNIZES RACE, COLOR, CREED, RELIGION, GENDER, NATIONAL ORIGIN, AGE, HANDICAP, MARITAL AND FAMILY STATUS. ADDITIONALLY THIS AMENDMENT VOIDS EXISTING ORDINANCES CONCERNING SEXUAL ORIENTATION, GENDER IDENTITY, AND OTHER ORDINANCES INCONSISTENT WITH THIS AMENDMENT.