



Why Civil Unions Are Not Enough

The 1,138 federal benefits and protections of marriage are only available to couples that are allowed to legally marry. These include Social Security survivor and spousal benefits, the ability to file a joint tax return, immigration rights, and coverage under the Family and Medical Leave Act. To date, civil unions are not “portable,” meaning that when a couple moves to another state, none of the benefits, rights or responsibilities coming from civil unions move with them. While the federal government is unlikely to recognize same-sex marriages in the short run, a future President and Congress more supportive of equality may move to treat married same-sex couples equally under federal policy. Under the current legal framework—which is based on *marital* status—the only way to extend federal protections associated with marriage to couples who have entered civil unions would be to amend more than 1,000 separate laws and regulations.

CATEGORY	RIGHTS & RESPONSIBILITIES	MARRIAGE	CIVIL UNIONS
Social Security & Related Programs	Social Security—survivor benefits; spousal benefits	Yes	No
	Workers’ compensation and dependency benefits	Yes	No
	Public assistance benefits—federal housing; food stamp programs	Yes	No
Employment Benefits & Related Laws	Spousal insurance benefits through one’s employer	Yes	No
	Unpaid leave in order to care for a sick spouse under federal Family & Medical Leave Act, most state FMLAs	Yes	No
	Wages and retirement benefits for deceased spouse	Yes	No
Federal Civilian, Military Service, & Veteran’s Benefits	Veterans’ benefits—dependency and indemnity compensation; monthly pension; medical care	Yes	No
	Federal civilian employee and military benefits—health insurance; survivor benefits; pension benefits	Yes	No
Medical, Health, & Illness Benefits	Medicare—spousal benefits	Yes	No
	Medicaid—spend-down protection	Yes	No
	Automatic medical decision-making power and hospital visitation rights	Yes	No
	Protections for families of crime victims	Yes	No
Estate & Taxation Benefits	Ability to file joint income tax returns with the IRS	Yes	No
	Unlimited exemptions from federal gift and estate taxes on transfers to spouse	Yes	No
	Inheritance of a share of spouse’s estate	Yes	No
	Automatic financial decision-making power on spouse’s behalf	Yes	No
Immigration, Naturalization, & Aliens	Petition for spouse to immigrate to the US	Yes	No
	Family reunification for asylum seekers	Yes	No
Trade, Commerce, & Intellectual Property Rights	Ability to file jointly for bankruptcy protection	Yes	No
	Renewal and/or termination rights of copyrighted work of deceased partner	Yes	No
Other Legal Benefits & Protections	Marital communication privilege—right not to testify against one’s spouse	Yes	No
	Recognition and guaranteed provision of rights in other jurisdictions	Yes	No
	Coverage under federal law prohibiting discrimination based on legal relationship status	Yes	No