

While most of the nation is shifting toward the acceptance of same-sex relationships, the state of Texas remains firmly entrenched in denying same-sex couples any recognition. The clearest example of this is the amendment to the state's constitution that declares that the state of Texas only recognizes marriage as being between a man and a woman. Although a federal judge has struck down this prohibition as unconstitutional, the U.S. Fifth Circuit Court of Appeals in New Orleans upheld the ban, signaling the need for action by the U.S. Supreme Court because other circuit courts had struck down such bans. Texas goes further than its constitution to deny same-sex couples recognition; for example, it bars them from adopting children and excludes them from inheritance law. Texas's constitutional ban is the most restrictive toward same-sex couples in the U.S.

As the federal and state governments increasingly clash over the rights of same-sex couples, the city of Houston has entered the fray. Houston recently elected the state's first openly gay mayor and became the first city to extend employment benefits to same-sex couples working for the city. This means that employees of the city who have been married in a state where same-sex marriage is allowed will now be allowed to add their partners to their health insurance and dental plan and as beneficiaries on retirement benefits. Houston mayor Annise Parker announced this decision in late 2013. She said

the policy was based on the legal advice of Houston's city attorney, David Feldman, after a recent federal court overturned parts of the Defense of Marriage Act (DOMA), which allows states to decide whether or not same-sex marriages are legally recognized within their borders. Conservative groups in the state immediately launched a legal challenge to the policy. While Parker moved to have the case tried in federal courts, Greg Abbott, as attorney general, filed a brief requesting the case remain in state courts where it could be tried according to the state's laws. Interestingly, in 2001, Houston voters had amended the city charter to only provide benefits to legal spouses of employees. As DOMA continues to face challenges in federal courts, questions regarding same-sex marriage and the benefits allowed to same-sex partners in Houston and the rest of the state remain in limbo.

- ★ What arguments exist for local government having authority over same-sex benefits?
- ★ Does government—at any level—have a responsibility to provide equal access to all people on benefits and other matters? Explain your answer.
- ★ To what extent is the federal constitution relevant in the question of same-sex benefits? To what extent is the state constitution relevant?