

# **Sexual Orientation**

# **Sodomy – A History**

**First considered under Church Law, becomes part of English criminal law in 1533 as capital offense**

**Only includes anal sex and bestiality until late 19<sup>th</sup> Century, not applied to women**

**1610: Virginia institutes first American sodomy law, capital punishment**

**1955: Model Penal Code delists sodomy**

**1961: Illinois decriminalizes sodomy**

# ***Bowers v. Hardwick* (1986)**

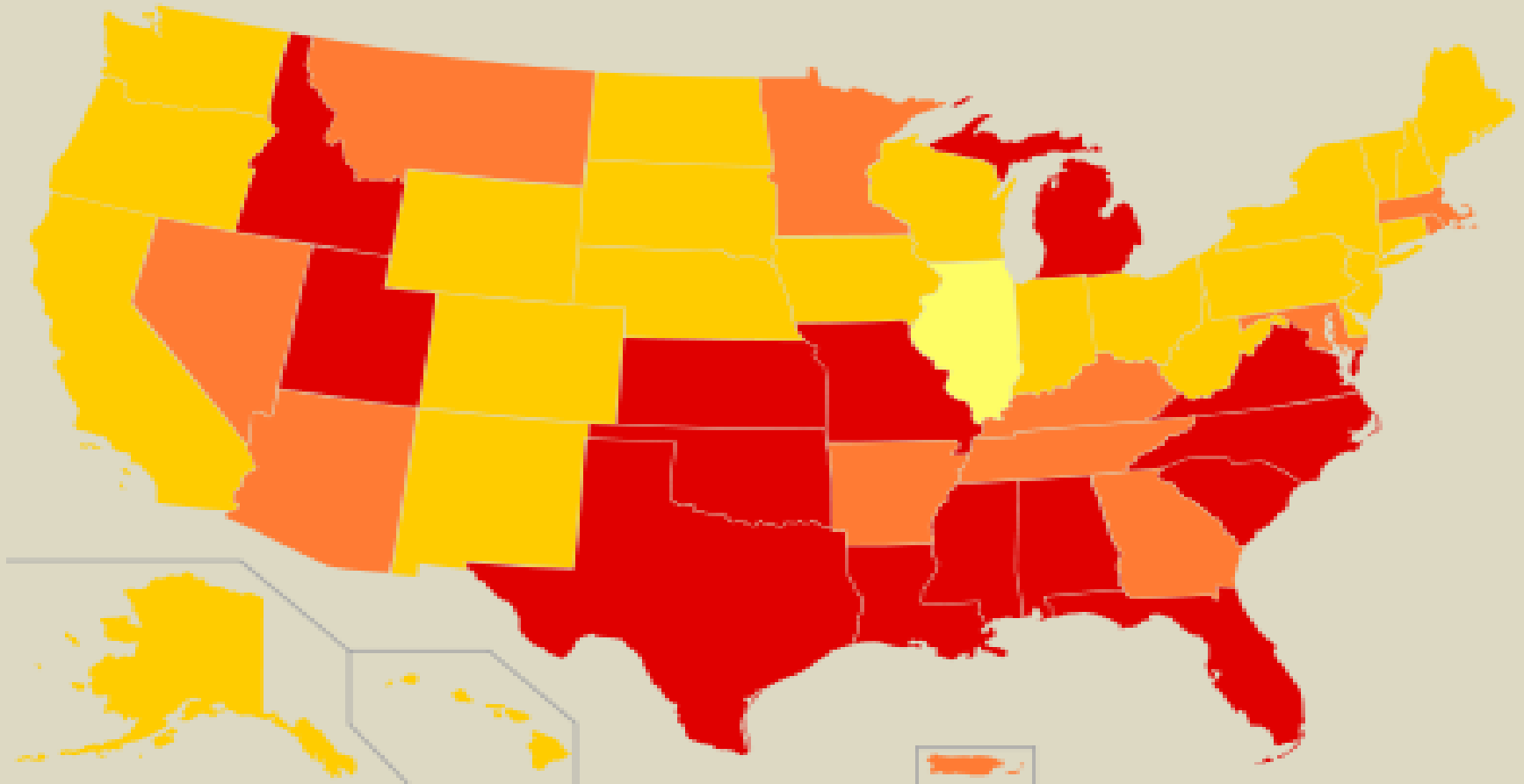
**Georgia law criminalized sodomy  
without regard to gender or marriage**

**Hardwick arrested for private,  
consensual homosexual sodomy**

**Supreme Court majority recasts  
question as whether there is “a  
fundamental right [for] homosexuals  
to engage in sodomy”**

# 36 States Decriminalized Sodomy before *Lawrence v. Texas*

*Yellow <1970, Orange 1970-89, Peach 1990-2002*

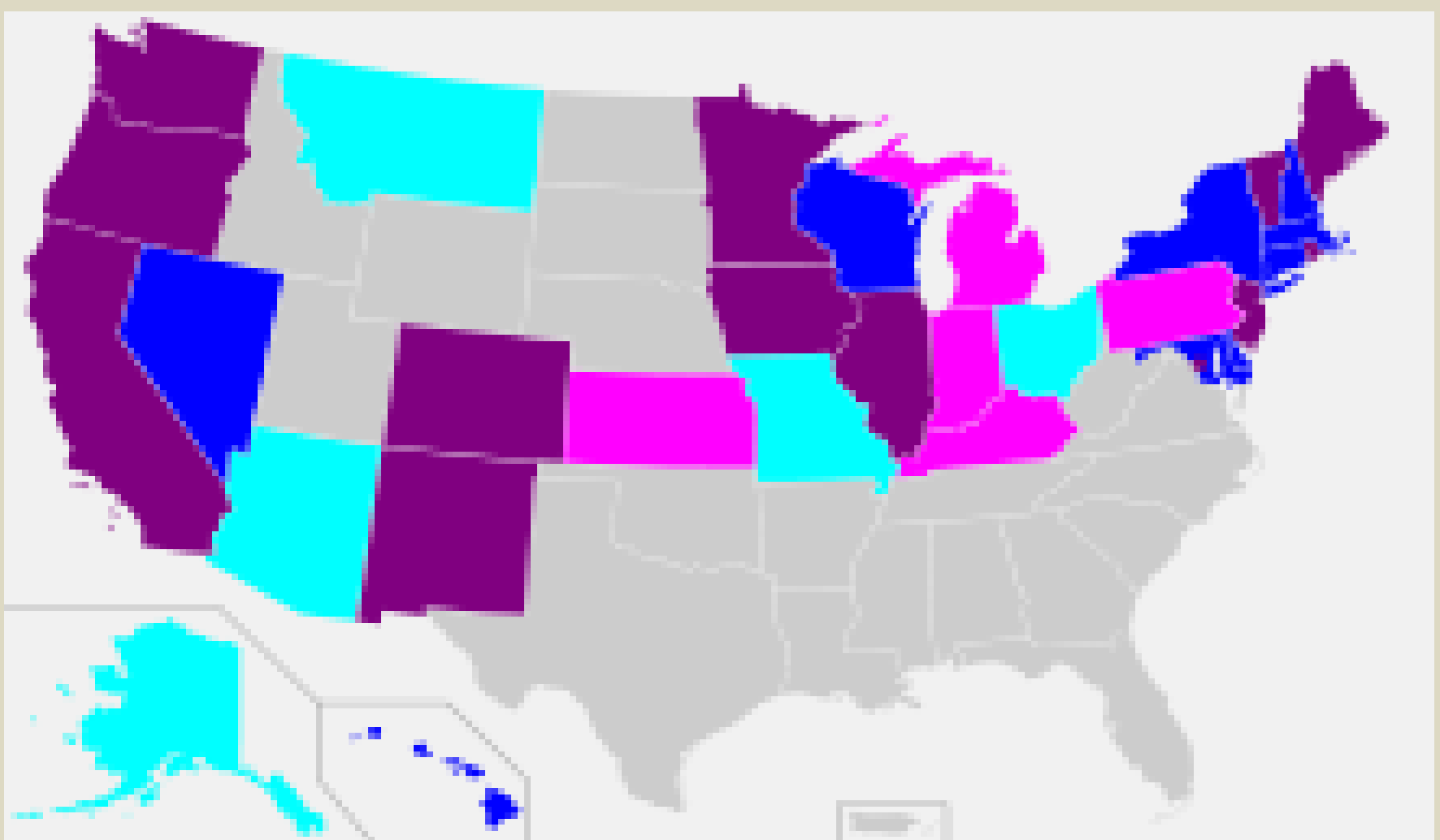


# History of Gay Rights

- 1869:** First use of "homosexuality" in print
- 1969:** Stonewall riots in response to police raid of gay bar
- 1973:** American Psychiatric Association removes homosexuality from list of mental disorders.
- 1982:** Wisconsin is first state to prohibit employment and housing discrimination
- 2007:** Federal bill passes House, but stalls and dies in Senate

# 21 States have Anti-Discrimination Laws

All Employers: Dk Blue=Sexual Orientation, Plum=SO + Gender ID; State Employment: Lt Blue= SO, Pink SO+GI



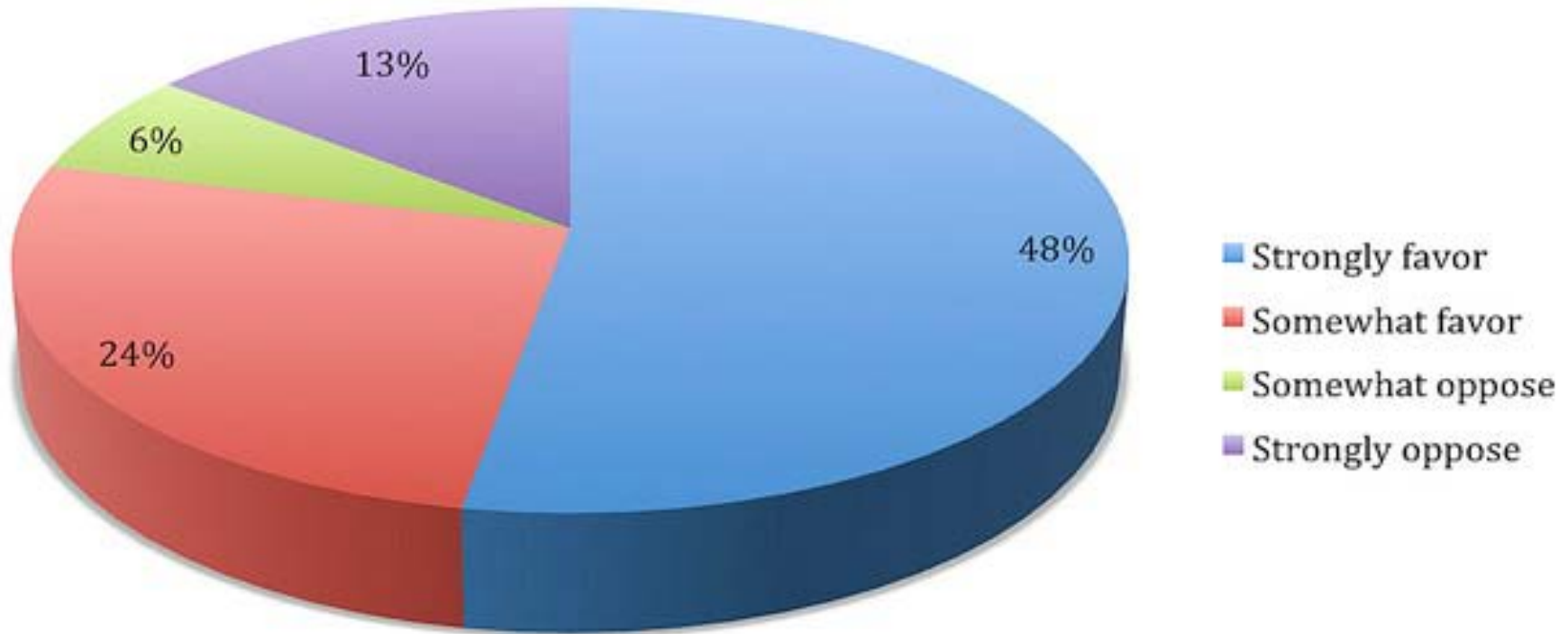
## ***Romer v. Evans* (1996)**

**Amendment to the CO state constitution would have prevented any municipality, county, or state agency from prohibiting discrimination on the basis of sexual orientation**

**Aspen, Boulder, Denver, the major state universities, insurance code, etc prohibited such discrimination**

# Utahns' Support for Anti-Discrimination Law for Sexual Orientation, 2011

Do you favor or oppose the legislature adopting a statewide anti-discrimination statute that makes it a crime to discriminate against gays and lesbians in employment and housing?



Survey conducted Feb. 16-19  
600 registered Utah voters  
Margin of error +/- 4%



# Same Sex Marriage - Hawaii

**1993:** Hawaii Supreme Court finds state's refusal to grant same-sex couples marriage licenses discriminatory

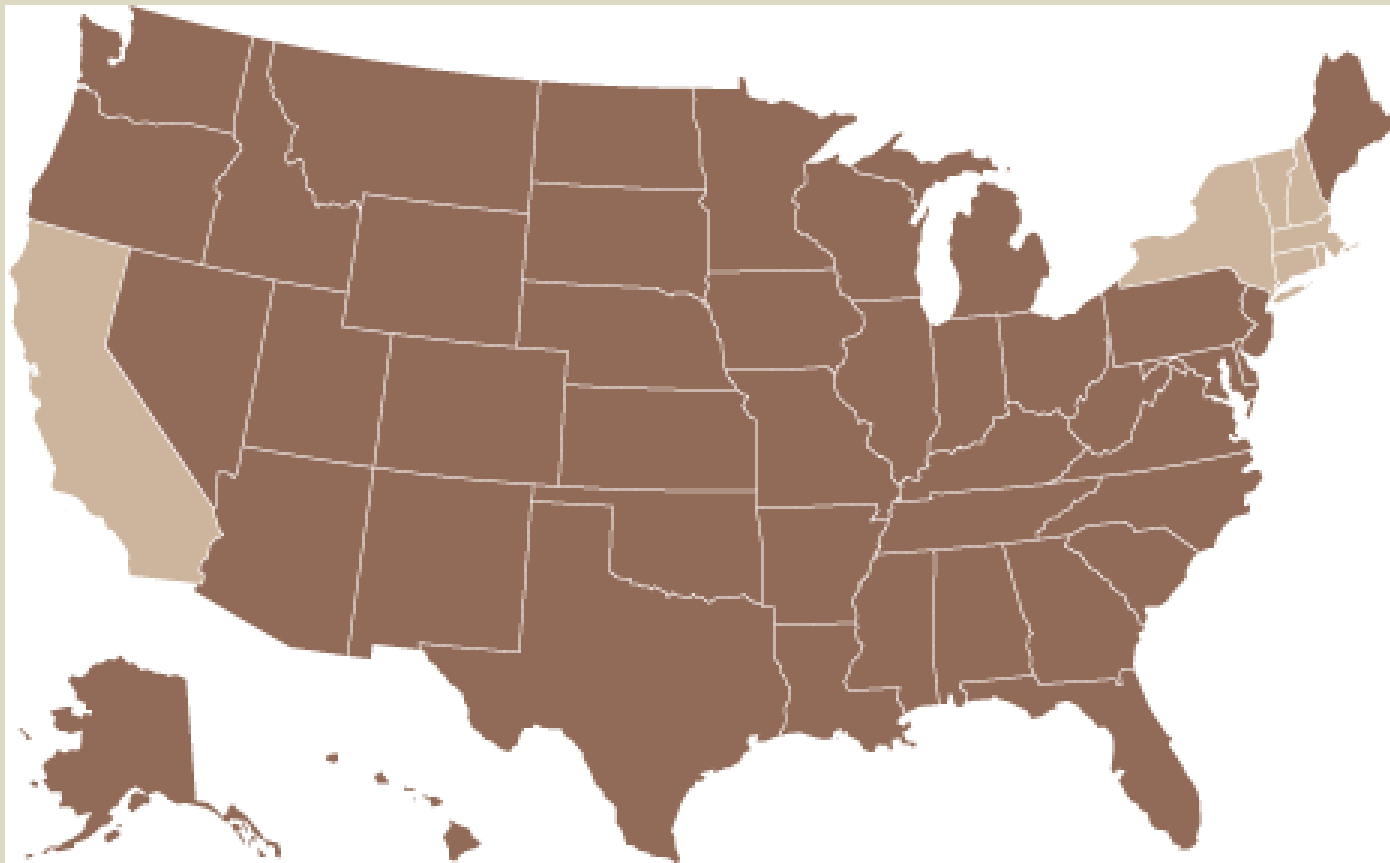
**1996:** Hawaii state district judge finds insufficient justification to deny SSM, but stays enforcement pending appeal

**1997:** HI creates limited domestic partnerships

**1998:** Hawaii's residents ratify constitutional amendment allowing legislature to restrict marriage to opposite-sex couples

**Feb. 2011:** HI enacts same-sex civil unions equivalent to SSM

# Support for SSM 1994-1996



25%

support same-sex marriage

A majority supports same-sex marriage in **0 states.**

12%

30%

40%

50%

60%

66%

Outlined states allow same-sex marriage

# Same Sex Marriage Timeline

**1996:** Defense of Marriage Act

**2000:** Vermont recognizes civil unions of gay couples as “entitled to the same benefits, privileges, and responsibilities as spouses.”

**2003:** *Goodridge v. Massachusetts*

**2004:** Voters in 13 states add anti-SSM amendments to state constitutions

**2008:** CT; **2009:** IA, ME (repealed), VT

**2010:** DC, NH

# Defense of Marriage Act (1996)

**First time definition of marriage at federal level:**

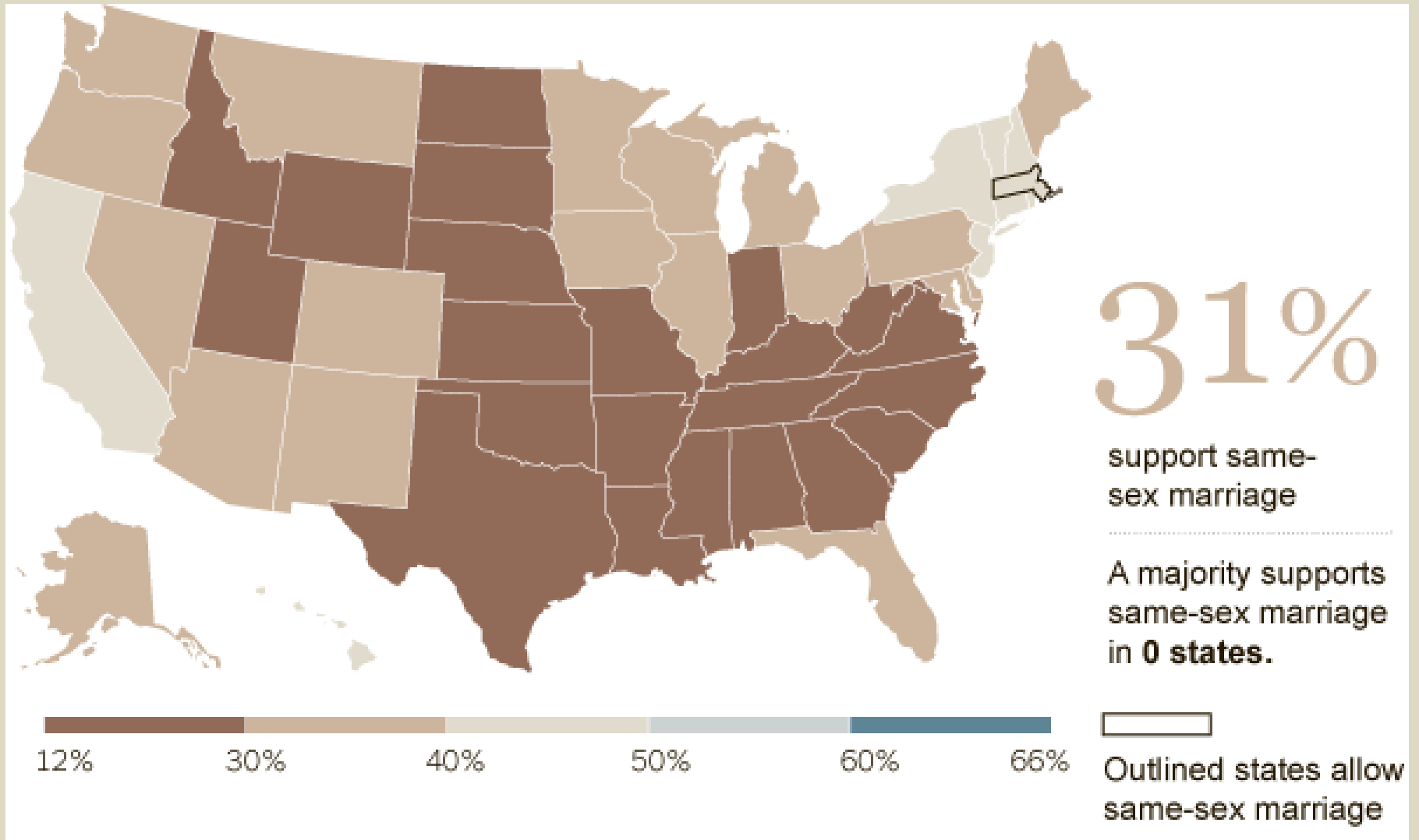
**“In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the word ‘marriage’ means only a legal union between one man and one woman as husband and wife, and the word ‘spouse’ refers only to a person of the opposite sex who is a husband or a wife.”**

# Defense of Marriage Act (1996)

**Restricts “spread” of state recognition through Full Faith and Credit Clause:**

**"No State, territory, or possession of the United States, or Indian tribe, shall be required to give effect to any public act, record, or judicial proceeding of any other State, territory, possession, or tribe respecting a relationship between persons of the same sex that is treated as a marriage under the laws of such other State, territory, possession, or tribe, or a right or claim arising from such relationship."**

# Support for SSM 2003





# ***Perry v. Schwarzenegger (2010)***

**2000:** CA voters pass anti-SSM constitutional amendment

**2003:** CA Domestic Partnership law amended to include almost all rights of married couples, critics believe it violates 2000 amendment

**2005, 2007:** Schwarzenegger vetos SSM bills passed by CA House and Senate, cites 2000 constitutional amendment



# ***Perry v. Schwarzenegger (2010)***

**May 15, 2008:** California Supreme Court rules in favor of SSM

SF, LA, Alameda, and Sonoma County officials issue marriage licenses, 18,000 couples marry before court stops it

**Nov. 4, 2008:** Voters pass Prop 8 52%-48%

**May 26, 2009:** CA Sup Ct upholds Prop 8, but let's current marriages stand

**May 27, 2009:** Perry et al file in federal court

# ***Gill v. Office of Personnel Management (July, 2010)***

**Nixon appointee District Judge Tauro (DC)  
rules DOMA unconstitutional, finding that**

**“DOMA fails to pass constitutional muster  
even under the highly deferential rational  
basis test ... this court is convinced that  
‘there exists no fairly conceivable set of  
facts that could ground a rational  
relationship’ between DOMA and a  
legitimate government objective.”**

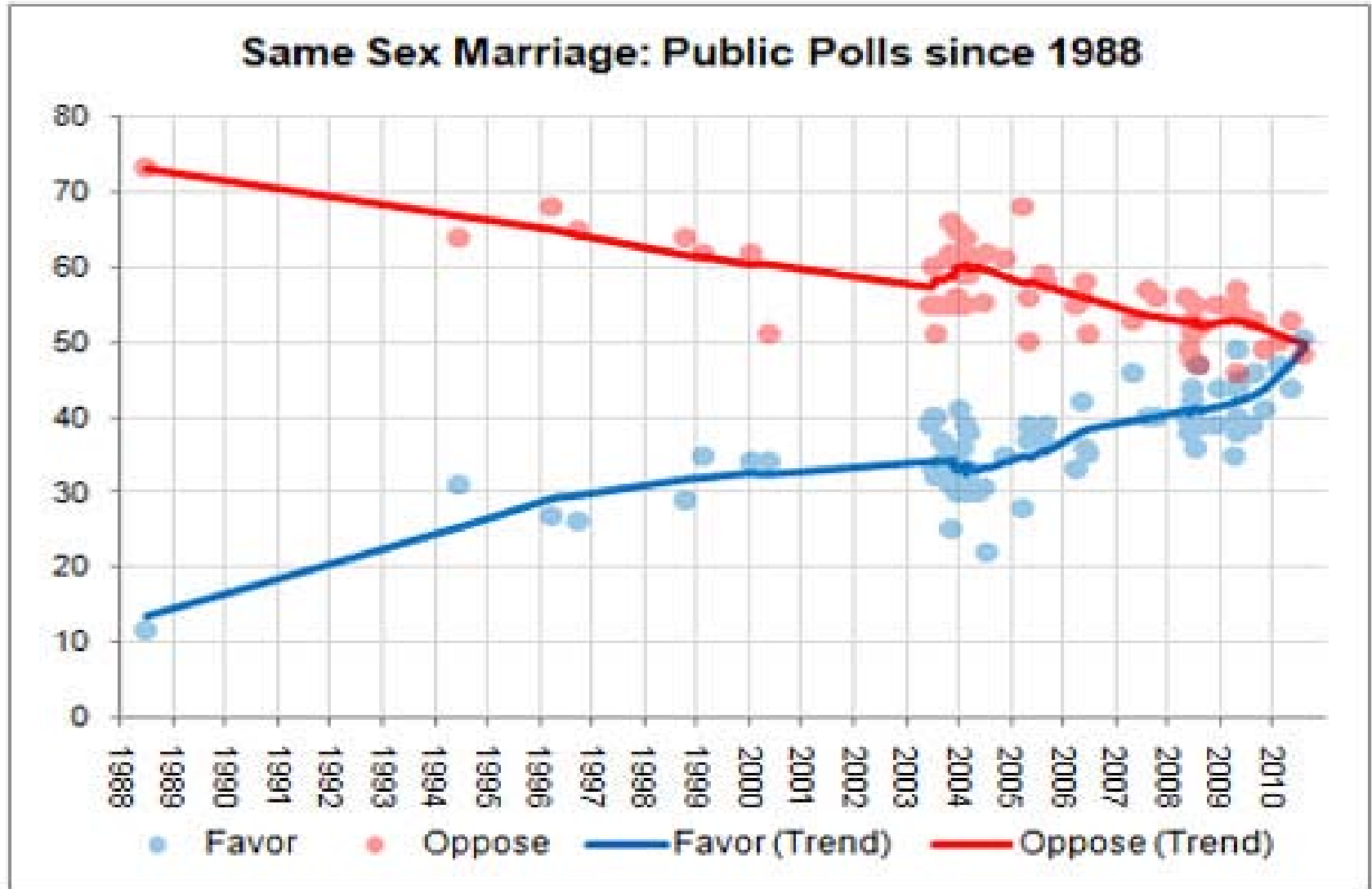
# ***MA v. U.S. Dep't of Health and Human Services* (July, 2010)**

**Judge Tauro (DC) found:**

**“That DOMA plainly intrudes on a core area of state sovereignty—the ability to define the marital status of its citizens—also convinces this court that the statute violates the Tenth Amendment.”**

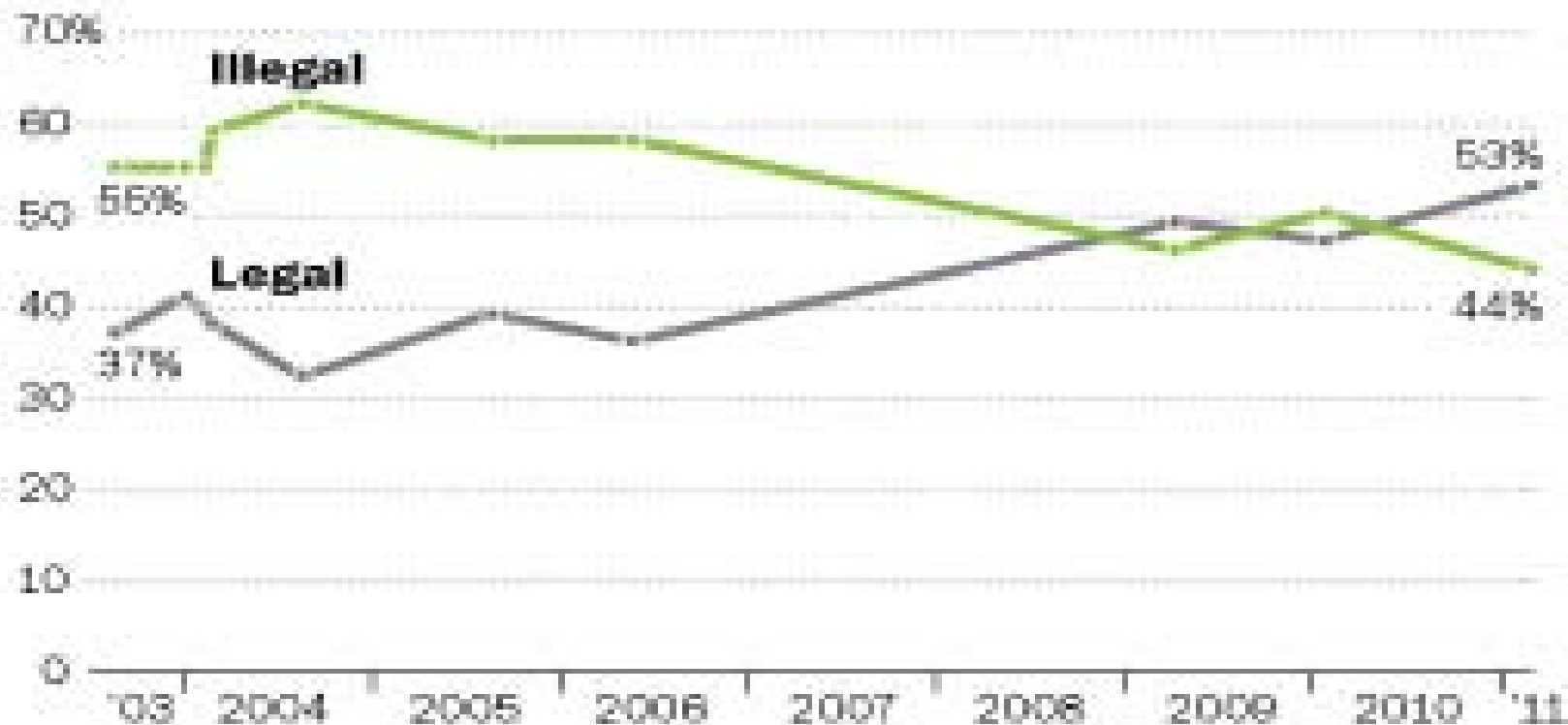
**Case did not involve question of state recognition of other states' actions**

# Support for SSM over time



## Slim majority support for gay marriage

**Q:** Do you think it should be illegal or legal for gay and lesbian couples to get married?



**SOURCE:** This Washington Post-ABC News poll was conducted by telephone March 10 to 13 among a random national sample of 1,005 adults, including users of both conventional and cellular phones. The results from the full curves have a margin of sampling error of plus or minus 3.5 percentage points. Sampling, data collection and tabulation by TNS of Harrisburg, Pa. Because of rounding, not all percentages total 100.

Complete data from the poll can be found at [www.washingtonpost.com/polls](http://www.washingtonpost.com/polls)

# Changed Support for Same Sex Marriage

	2010	2011	Change
All	47%	53%	+6
Men	42	53	+11
Women	52	53	+1
White, College Educated	55	65	+10
White, No College	41	46	+5
No religion	68	81	+13
White Catholics	55	63	+8
White Evangelical Protestants	21	25	+4
Democrats	60	64	+4
Republicans	27	31	+4

# Support for SSM by Age

## Wash. Post/ABC Poll

Age	2011	2005	Change
18-29	68	57	+11
30-39	65	42	+23
40-49	52	35	+17
50-64	45	37	+6
65+	33	18	+15

# Estimated Support for SSM by State

