

# Tools for Selecting an Attorney

Many of the life planning documents discussed in this toolkit require an attorney. But finding the right attorney who will support your rights as a lesbian, gay, bisexual, transgender person or person living with HIV can sometimes be a confusing or intimidating process. We've put together a series of questions to help guide your search. These questions are intended to start a conversation with potential legal advisors and should be adapted to your particular circumstances. Note that some questions may be answered on the attorney's website before your visit or by an introductory presentation by the attorney's office. Keep in mind that you may have to gear your expectations to the community you live in, because many places do not have attorneys familiar with issues faced by LGBT people or people living with HIV. In other words, you may be limited to finding a lawyer with a willingness to learn about the issues.

*Some resources for attorneys in any state who are willing to learn include: Estate Planning for Same-Sex Couples by Joan M. Burda, published by the American Bar Association; Making It Legal: A Guide to Same-Sex Marriage, Domestic Partnerships & Civil Unions by Frederick Hertz with Emily Doskow, a resource for lawyers and non-lawyers alike published by Nolo; A Legal Guide for Lesbian and Gay Couples by Denis Clifford, Emily Doskow and Frederick Hertz (Nolo). Transgender Family Law: A Guide to Effective Advocacy.*

## FIRST STEPS

Consult the following resources to locate attorneys in your area:

- Lambda Legal's Help Desk, 866-542-8336 or [www.lambdalegal.org/help](http://www.lambdalegal.org/help) (for legal information on LGBT and HIV-related issues or help identifying an LGBT/HIV-friendly attorney in your area)
- The National LGBT Bar Association's list of state affiliates (for referrals to local LGBT bar associations)
- friends and professional colleagues. Other LGBT families are likely to have similar issues and may have already worked with local attorneys.
- your local LGBT center or community organization or HIV/AIDS service organization
- [www.lawhelp.org](http://www.lawhelp.org) (for referrals to legal aid and public interest law offices in your area)
- Findlegalhelp.org, the American Bar Association's referral site to local legal resources and attorneys, including free or reduced-fee services
- your local state or city Bar Association

## ASK YOUR PROSPECTIVE ATTORNEY: ATTORNEY'S BACKGROUND AND EXPERIENCE

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How many years have you been in practice?

How much of your practice is devoted to drafting wills and trusts?

What is your experience with documents like health care proxies, living wills and financial powers of attorney?

Have you represented clients whose estate or financial planning is more complex because of their sexual orientation, gender identity or HIV status, and if so, how often? What were the challenges?

Would you be comfortable putting me in touch with other LGBT clients you have represented?

If you've not had that experience, would you be willing to obtain the necessary background to handle such challenges?

Have you represented heterosexual clients whose estate planning posed additional challenges because they were in a committed lifetime relationship but not married?

For a same-sex couple whose relationship is not honored under state law, or an unmarried different-sex couple, what strategies do you suggest to ensure visitation rights if one member of the couple is in the emergency room?

What are your strategies for funeral decision-making?

What are your strategies concerning taxation of joint property or bank accounts?

Do you have any personal doubts about the right to equal treatment based on sexual orientation, gender identity or HIV status?

Would anyone in your office who might be involved in the work for me have similar doubts?

Are you willing to accept help (for example, consultations, articles, lists of cases) from organizations that have expertise about the legal rights of LGBT people or people living with HIV?

Are you aware of recent changes at the federal and state levels concerning the recognition of same-sex relationships and the impact of those changes?

## KEEPING ME INFORMED

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How will we stay in touch as the work for me proceeds?

When and where can you best be reached?

Will you provide me with regular updates about the work?

Do you prefer to answer questions over the phone, by email or letter, or in person?

How long do you expect the work to take?

Can you give me an outside deadline?

## ATTORNEYS' FEES AND COSTS

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Is there an initial consultation fee?

How do you bill for your services?

If by the hour, what are the hourly rates for you and others who would do work for me?

What other costs might be involved?

Will you bill periodically as the work progresses?

Will you supply itemized bills?

What do you estimate will be my total attorneys' fees and costs?