

# Take the **POWER** — Plan Your **LIFE.**

It is easier for most of us to imagine the good times than the bad: One day you'll be retired, your health will be good, you will have enough money in the bank, your loved ones will surround you, and you will get to put your feet up and relax.

But dreaming of a happy ending doesn't make it happen, and life doesn't always go the way we wish it would. That's why Lambda Legal is launching a new life planning project to help lesbians, gay men, bisexuals, transgender people and people with HIV plan for good times and protect themselves against hard times.

"Anyone who lived through the AIDS epidemic in the gay community has a story about someone who lost a lover or partner — and then lost a home or savings or the right to make the most basic choices about the funeral or burial of their loved one," says Kevin Cathcart, Executive Director of Lambda Legal. "We don't need to see tragedy on top of tragedy. We want people to get the

information they need to better protect themselves."

Everyone is vulnerable to life's risks, but LGBT people and people living with HIV face extra dangers because of the discrimination they confront. Same-sex couples are excluded in all states but Massachusetts from civil marriage. These couples are also excluded, no matter where they live, from federal programs like Social Security benefits for surviving partners. In fact, the United States General Accounting Office reported 1,138 federal rights, protections and benefits that come with marriage. That means heterosexual married couples automatically receive these rights and protections, while same-sex couples do not.

Lambda Legal fights discriminatory laws and actions, but by the time we take a case, serious harm has often already been done. LGBT people and people living with HIV can take the power themselves — by using all the tools available under the law to protect themselves and their loved ones.

## LEARNING FROM EXPERIENCE

In recent history, Lambda Legal has stepped in to help in many situations where LGBT and HIV-affected individuals and couples were not protected with legal documents and were treated unfairly under the law. In a sad and well-known case in the 1980s, Karen Thompson had to fight in court for eight years to gain legal guardianship of her lesbian partner, Sharon Kowalski, who was left paralyzed following an automobile accident.

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Kowalski's father sought and initially gained guardianship of his daughter after the accident, denying the importance of the relationship the women shared. The couple did not have the

necessary documents, and the laws did not immediately protect them.

In 1991, a Minnesota Court of Appeals finally awarded guardianship to Thompson. Thompson's drawn-out battle to provide care for her life partner was the first of its kind in the courts — and drove home the importance of same-sex couples drawing up proper legal documents, such as a medical power of attorney and documents appointing a guardian, for protection in times of crisis.

People living with HIV should likewise be able to make important decisions about their lives without fear of discrimination or legal battles. Unfortunately, discrimination can

still create enormous barriers to adequate care. When Cecil Little, a Louisiana man living with HIV, suffered a stroke and two aneurisms in 2003, he fell into a coma and had to go on life support. His family rallied around his hospital bed. When he finally came out of his coma, beating the odds and his doctors' assertions that he wouldn't live, his sister and mother began making plans for his long-term care. Six nursing homes, all of which initially accepted him into their care, eventually retracted their offers when learning of Cecil's HIV status. Cecil's sister contacted Lambda Legal and filed a discrimination complaint. Finally, one of the homes agreed to admit Cecil into its care.

Cecil's struggle shows how prejudices and stigma still surround HIV within nursing homes, hospitals and other health care facilities, making it all the more important to prepare documents that give your wishes legal force. This does not apply only to people with living with HIV. Everyone should have a health care proxy (also known as a medical power of attorney), living will and other relevant documents stored in an easy-to-find location in your home so that your loved ones can immediately access them in an emergency.

Same-sex couples with children face special risks because often the law does not

automatically recognize the legal rights of both parents, which invites discrimination against either or both parents based on their sexual orientation. In 2004, Becki Hamilton and Kim Brennan, an Indiana couple who had agreed to the state's request to foster a child and consider adopting her, successfully adopted by order of a judge. But another judge who supervised foster care placements ruled that the adoption was invalid. Lambda Legal helped to appeal the ruling and secured a victory at the Indiana Court of Appeals confirming the legality of the adoption. Becki and Kim's story demonstrates how discriminatory rulings about LGBT and HIV-affected families are being successfully challenged, one by one. But that success depends on everyone taking power together. Lambda Legal was able to successfully protect the adoption because Becki and Kim had taken the necessary legal steps. They took the power; Lambda Legal backed them up.

## LIFE — ASSEMBLY REQUIRED

Taking the power to plan your life and build economic and family security is not as hard as it may seem. The first step is to create a "blueprint." Then you can choose the "power tools" to help construct a solid foundation.

When you create your blueprint, decide who and what is most important to you, assess the laws and opportunities available in the state in which you live and begin making detailed plans.

Then use your power tools: write a will, designate a health care agent, sign a living will, name someone to have financial power of attorney. If you are in a relationship and own a home, examine real estate ownership agreements to protect you and your loved ones. If you are a couple who has children, and one of you lacks a legal parental tie, find out if you can do a second-parent adoption in your state. Consider whether you need life or disability insurance and designate your loved ones as your beneficiaries if you can.

Find out about any retirement benefits and designate your loved ones as beneficiaries if you can. Decide how you wish to be remembered and make your wishes clear in writing.

If these legal tools seem complicated, help is available. Many actions require the advice of an attorney or tax experts. But it's all easier when you have the information you need ahead of time. Lambda Legal's new toolkit "Take the Power! — Tools for Life and Financial Planning" will be available in

print and on our website ([www.lambdalegal.org](http://www.lambdalegal.org)). Information about state laws can also be found on our website or by calling our Help Desk (866-542-8336).

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## LIVING OUR LIVES, LEAVING A LEGACY

At Lambda Legal, we use both litigation and education as tools to protect and empower LGBT people and people living with HIV. You can take the power to control your life, your resources and the security of your family by using the laws we have — even as we fight hard for marriage equality and other equal treatment under other state and federal laws.

"We want good laws that people can use, and we want to make sure people know how to use the laws that we have," says Leslie Gabel-Brett, Lambda Legal's Director of Education and Public Affairs. "That's what this new toolkit is all about — information is power." **L**