



# Collateral Damage

How the Defense of Marriage Act Harms the Troops and Undermines the U.S. Military

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# Introduction and summary

In 2010 President Barack Obama signed the Don't Ask, Don't Tell Repeal Act, creating a path to allowing gay and lesbian service members to serve openly for the first time. Although this was a monumental achievement for our troops and for our country, gay and lesbian service members continue to face discrimination within the U.S. armed services. The Defense of Marriage Act, or DOMA, is a law that, for the purposes of the federal government, defines marriage as the union between one man and one woman.<sup>3</sup> Despite same-sex marriage now being legal in nine states and the District of Columbia, the law prevents the federal government—and the military as a part of the federal government—from recognizing same-sex marriages. The Defense of Marriage Act governs who can be counted as a spouse in all aspects of federal policy, including enrollment in important military-benefits programs.

The United States has a moral obligation to care for its military members and their families. Congress has passed hundreds of laws intended to improve the quality of life of service members, veterans, and their families, which not only compensates military members for their sacrifices but also enables the armed forces to achieve high levels of mission readiness and effectiveness. Adequate compensation for military members and their families is necessary to the well-being of the entire force and is a critical component of our national security.

The Defense of Marriage Act was enacted before gays and lesbians were permitted to serve openly in the military and before same-sex marriages were legal in the United States. When Congress passed the Defense of Marriage Act, it was not confronted with the fact that the law would force the military to deny support and benefits to legally wedded same-sex spouses. But that is the current reality. On average, 70 percent of an active-duty service member's compensation comes in the form of benefits and allowances.<sup>4</sup> Withholding the portion of these benefits that are intended to care for the spouse of a military member inflicts significant financial burdens on military families headed by same-sex spouses. Denying gay and lesbian service members and their families the benefits that years of experience have shown are essential to the

Without adequate compensation, the nation would be unable to sustain the all-volunteer force, in the size and with the skill sets needed to support the missions called for in the national security strategy. — U.S. Department of Defense, 2012<sup>2</sup>

proper functioning of our armed forces is counterproductive to the effort to recruit and retain these service members.

The Defense of Marriage Act neither defends marriage nor contributes to the actual defense of our country. Service members should never be forced to choose between continuing their service to our country and ensuring the financial stability and well-being of their families. In fact, it is our responsibility as Americans to ensure that our military families are rewarded for their many sacrifices—not burdened by additional sacrifices when they return from duty. Unfortunately, the Defense of Marriage Act forces the military to subject a subset of personnel to heavy financial burdens by withholding benefits even as their service remains paramount to the freedom, security, and prosperity of our country. Moreover, the Defense of Marriage Act compromises the efforts of Congress and military leaders to recruit, retain, develop, and honor our men and women in uniform. By preventing the military from recognizing the legal marriages of same-sex military couples, the Defense of Marriage Act contradicts numerous military initiatives and represents an injustice against the brave Americans responsible for defending us all.

## Impact of the Defense of Marriage Act on gay and lesbian service members by the numbers

Nearly 100 laws provide a military spouse with support or benefit of some kind.<sup>5</sup>

70 percent of an active-duty service member's compensation comes in the form of allowances and benefits—separate from base pay, which provides the other 30 percent of compensation.<sup>6</sup>

### Housing

18 percent to 23 percent: the average increase in Basic Allowance for Housing at the “with dependent” rate.<sup>7</sup>

\$417,000: the maximum home loan amount from the U.S. Department of Veterans Affairs for a legally recognized surviving spouse.<sup>8</sup>

### Health care

\$0: the cost of out-of-pocket expenses for a service member with an opposite-sex partner to extend military health insurance and health care to eligible dependents.<sup>9</sup>

\$5,615: the average cost a military family headed by a same-sex couple will pay out of pocket to obtain health insurance—because same-sex spouses are not eligible for military health insurance.<sup>10</sup>

### Employment and education

27,000: the number of military spouses hired by 129 businesses through the Military Spouse Employment Partnership, a program unavailable to same-sex military spouses.<sup>11</sup>

\$18,077: amount of tuition coverage per year that a service member may transfer to a legally recognized spouse under the G.I. Bill.<sup>12</sup>

\$987: the monthly allowance for education and job training for legally recognized spouses of deceased service members.<sup>13</sup>

### Honoring families of the fallen

\$564 to \$1,884: amount of additional disability compensation awarded annually if a wounded warrior is supporting a legally recognized spouse.<sup>14</sup>

\$1,215: monthly allowance for Dependency and Indemnity Compensation, which goes to the surviving opposite-sex spouse of a service member who died while on active duty.<sup>15</sup>

\$8,219: annual income limit that the federal government ensures no surviving military spouse will fall below—if their marriage is legally recognized by the federal government.<sup>16</sup>

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### Center for American Progress



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## About OutServe-SLDN

OutServe-SLDN is the association of actively serving gay, lesbian, bisexual, and transgender military personnel with more than 50 chapters and 6,000 members around the world. The organization works to support a professional network of gay, lesbian, bisexual, and transgender military personnel and to create an environment of respect in the military with regard to sexual orientation and gender identity. It is a nonpartisan, nonprofit, legal services and policy organization dedicated to bringing about full equality to America’s military and ending all forms of discrimination and harassment of military personnel on the basis of sexual orientation and gender identity. OutServe-SLDN provides free and direct legal assistance to service members and veterans affected by the repealed Don’t Ask, Don’t Tell law and the prior regulatory ban on open service, as well as those currently serving who may experience harassment or discrimination. For more information, visit [www.outserve-sldn.org](http://www.outserve-sldn.org).

