

# The other side of equality: Lesbian Divorce

By [Erika Star](#) on April 1, 2014

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Hopeless and hopeful romantics alike can agree that with legal marriage rights, civil unions, and domestic partnerships comes the reality that some couples must face divorce. Now that nearly a decade has passed since Massachusetts first legalized same-sex marriages, the same-sex divorce rate is seeing a boom. When compared with the comprehensive equality debates regarding gay marriage, there has been a complete lack of discussion surrounding divorce, recently coming to a head when a lesbian couple, The Richmonds, **were denied a divorce in Alabama** because the state doesn't recognize their marriage.

The first gay divorces took place in Boston in the months after the legalization of same-sex marriages in 2004, and gay marriages first made the census in 2010. Gay divorces are more common than you might think. The only thing harder than finding a foothold in marriage equality might be finding common ground with the legal hassle surrounding its dissolution or dissecting such a distressing topic when all we want to do is celebrate our victories. I talked to three recent divorcees to get some insight into the uneven struggles associated with the divorce process and how it seems left out of the conversation regarding marriage equality.



Linda married her partner in Massachusetts on July 1, 2005, a year after it became legal in the state, to avoid any surprise repeals. Having already been together for six years, they were married for an additional eight before getting divorced in 2013.

Michele was in a long-term relationship with a woman from 1994 to 2009. They got married in Connecticut on November 15, 2008, 3 days after the state passed the law allowing same-sex couples to marry. The relationship ended in divorce the following November.

Kayce and her partner's Malibu ceremony was a public affair that landed them on blogs, in magazines, and on the front page of The Huffington Post this past June when Prop 8/DOMA was overturned. Unfortunately, the photo was outdated, and the couple had already been divorced for nearly three years.

Divorce, however, was not something that had figured into their original plans. While riding the wave of the optimism that comes with every overturned proposition, it's easy to look past the equality gaps, but being denied the opportunity to divorce shows that gay couples are still denied fundamental rights associated with their vows.

"We were so excited to finally be able to marry that we did not even contemplate divorce," Michele admitted. "There was no such thing as 'gay divorce.' At the time, those thoughts never crossed my mind. The discussion was not happening in my circle of friends; it was only about marriage equality."



"I had read about gay couples being prevented from divorcing in some states," Linda said, "but within Massachusetts, there had been several articles on some who married the first year and sometime later became divorced. In those articles, there was a clear picture of being treated the same as heterosexual couples in the state. Until I started doing the research, I really didn't know much about how the divorce process worked."

"'Gay marriage' didn't translate to 'gay divorce' in my mind at the time," Kayce added. "Now an activist and voice in the community for LGBT rights, I'm very outspoken with the fact that equality truly means equality."

The process is different for every couple, straight or gay, and difficulty is dependent on several factors. In the case of The Richmonds, after getting married legally in Iowa, they currently live in a state that doesn't recognize their marriage, much less a divorce. Couples in same-sex marriages can obtain a divorce in jurisdictions that recognize their marriage, with a few exceptions. There are currently two cases pending before the Texas Supreme Court.

In 2009, Texas trial courts granted a same-sex divorce to a Dallas couple married in Massachusetts. The Attorney General challenged the court's jurisdiction, and the court was ordered to reinstate the marriage. The couple has since filed a petition, docketed as [In re Marriage of J.B. and H.B.](#)



In Austin, another same-sex couple married in Massachusetts filed for divorce, and the district court granted the divorce. In the case, [Texas v. Naylor](#), the Attorney General attempted to intervene, but the state was declared to have no right to intervene, and the divorce stood.

Arizona and Wyoming also prove to be exceptions to the rule. While neither of the states recognizes same-sex marriages, they both allow divorce proceedings of same-sex couples. Delaware and Minnesota have recently legalized same-sex marriage and allow for divorce proceedings in cases where a same-sex couple married in the state can file for divorce even if neither party resides in a state that recognizes their marriage.

After getting married in Connecticut, Michele had moved to New Jersey while her then-wife stayed behind in CT. "We were lucky that she still lived there and would be the one to file because one of us still had to be a resident of the state for the divorce to be granted," she said. "We were not aware– in any way–of the divorce

laws for same-sex couples regarding residency and waiting periods. We learned as we went along. Heterosexual couples do not have to contend with the same residency laws as same-sex couples do, which is one example of the way that 'equality' is not fully achieved in this process."

The solution seems simple enough, moving to one of the states that recognize their union, but most states require potential divorcees to fulfill a residency requirement before the government can grant a divorce. In Alabama, the requirement is six months for heterosexual couples. Unfortunately, Alabama continues to reject recognizing same-sex marriages. The Alabama Marriage Protection Act, which passed in 1998, upholds the traditional view that "marriage is inherently a unique relationship between a man and a woman."

The Richmonds would have to uproot their lives and move back to Iowa to fulfill the residency requirement, which is one year. If they didn't want to wait that long, they could also move to any of the other states that recognize their marriage, with residency requirements anywhere from 90 days to one year; Illinois' 90-day requirement taking effect after June 1, and Vermont not allowing any divorce for marriages shorter than a year.

After proving our commitment to the institution of marriage by chasing and finding success with marriage equality, we have even further to go to find true similarity with heterosexual marriage. And while couples are still struggling to maneuver the archaic system, same-sex divorcees are riding the learning curve, still proud of how far we've come and remaining staunch in the need for further equality.

"I have witnessed friends and family members going through some difficult divorces," Michele said. "We witnessed the legal difficulties and the financial hardship that they experienced as a result."



Linda knows a few couples currently in the process of separating. "One couple was together 16 years and have two children," she said. "They were legally married in June of 2005, two weeks before us. Their split is not as "easy" as there are children involved. The other couple, married in New York in October 2013, is trying to understand the complexities of divorcing in Massachusetts where they reside."

Kayce has noticed same-sex couples choosing alternative routes within traditional marriage saying, "I'm seeing a lot of peers that are now getting engaged do things much differently because they've had the time to watch others go through the divorce process."

Even with the hurdles, struggles, and turmoil presented to same-sex couples, the community remains unwavering in its desire to find equality.

"Times really have evolved so positively for the LGBT community," Linda said. "I am soon to be 48, and with many in my age group, we have seen things improve over time, and it has been great to watch."

"I am grateful for the right to marry, as I did it again in 2013 when it became legal in New Jersey," Michele said. "The difference is, my current wife and I had many long discussions about divorce before we said our vows. It was part of 'the discussion,' whereas, the first time, it was not even a thought in my mind. We are much more informed of the laws surrounding divorce."

Just short of comparing every relationship to a unique snowflake, the variations of same-sex unions are innumerable. Divorce is just another one of those dimensions and is as much a part of the fight for equality as

marriage. It seems obvious that a couple granted the right to marry should also be given the opportunity to divorce without fear of being denied, but that isn't the case quite yet. As a child of divorced parents with a personal track record that'd make **Liza Minnelli** groan, I feel the fight for equality will not be successful until we're allowed to divorce without additional grief. Call me a hopeless romantic.

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