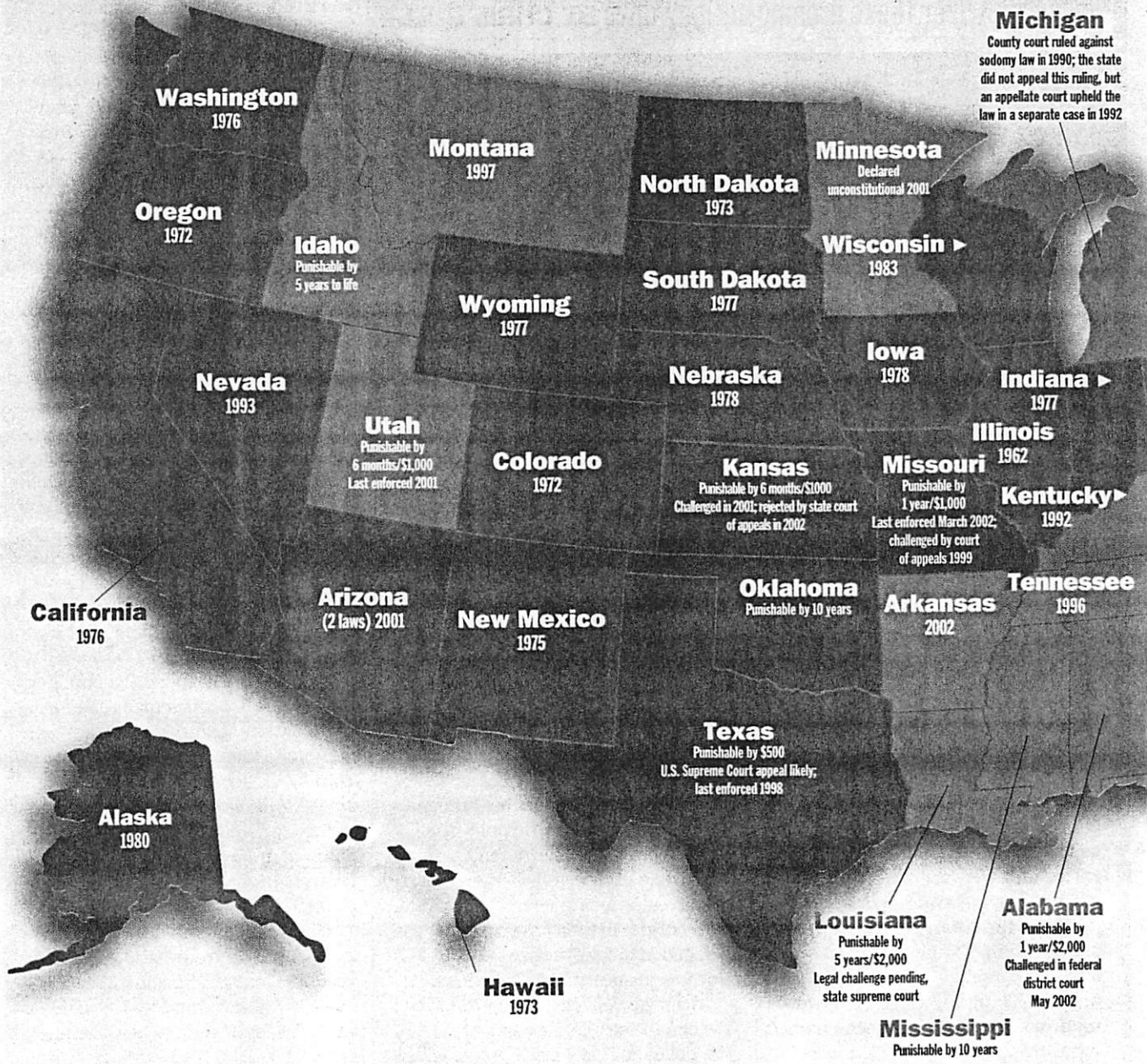


Are you breaking the law?

Where does your state stand on sodomy laws? BY JEREMY QUITTNER



Michigan
County court ruled against sodomy law in 1990; the state did not appeal this ruling, but an appellate court upheld the law in a separate case in 1992

Most gay men and lesbians consider sodomy laws relics from an era long gone—and for the most part they are. Although laws are still on the books in 15 states, officials in most of those states can't say when the laws were last enforced. That doesn't mean they won't be enforced, however, as gay legal experts are quick to point out. In fact, six men were arrested in March on charges of violating Missouri's same-sex sodomy law. Presented here is a map of the nation's sodomy laws, including the penalties you can face if you are caught breaking those laws.



1998 while having consensual sex in a private home, is the perfect test case for federal Supreme Court review, says Susan Sommer, supervising attorney at Lambda. If the court grants review and overturns the Texas law, it could knock out every remaining sodomy law in the nation. Sommer says that trying to read the leanings of the nation's highest court is "guesswork" but insists, "We wouldn't be considering [the appeal] if we didn't think we had a good shot at winning this one."

If the current political climate is any indication, Sommer may well be right. Existing sodomy laws are often dismissed as relics of the jurisprudential past. Even antigay conservatives have denounced the laws as affronts to individual liberty.

And the prosecutor in the Jefferson County case, Bob Wilkins, came close to apologizing for invoking the statute. However, he told the *St. Louis Post-Dispatch* that the action was needed to stop the "open and notorious activities at Award Video."

Despite the growing discomfort with the laws, they are proving extraordinarily difficult to overturn. "My sense is that the real frontal confrontations of these laws have come to a virtual standstill in the remaining states," says David J. Garrow, author of *Liberty and Sexuality: The Right to Privacy and the Making of Roe v. Wade*. "As is the case with abortion-funding litigation, the states where advocates of reform have a good chance have been pretty much worked over. What's left are states with the most hesitant judiciaries and legislatures."

Missouri is a case in point. The statewide gay rights group PROMO was founded in 1986 specifically to fight the same-sex sodomy law. Jeff Wunrow, PROMO's executive director, says his group has until recently

received little help from the legislature. "It got to the point where we stopped filing repeal legislation because it was not going anywhere," he says. "It's a hard case, partly because the other side always points out that it's rarely enforced."

"We were also losing the battle of sound bites," Wunrow adds. "We keep talking about getting police out of the bedroom, but then legislators who support that argument get phone calls asking how they can support anal sex. These are issues they don't want to talk about."

Even so, Wunrow remains optimistic. Term limits will force a major realignment of the state legislature in November, and the influence of conservatives is on the wane.

And in February openly gay state representative Tim Van Zandt circulated a letter to legislators enumerating the states that have repealed similar laws in the past few years and calling on his colleagues to do the same. Thirty-three of the state's 162 representatives signed the letter. "Time will tell if this strategy will be effective or not, but given the amount of turnover this year, it seems worth the effort to try," Wunrow says.

Paradoxically, the adult-theater arrests may come to represent the demise of the law in the courts. Should the men be found guilty and their appeal reach the Missouri supreme court, four of the seven state supreme court judges seem sympathetic to a challenge based on the state constitution, Lieberman says. "Of course, you can never say for sure how judges will rule on any case, but the facts of this case show how unfair the law is—how it targets one group of people over another," she says. "We couldn't have invented a more striking example of why this law is so wrong." ■