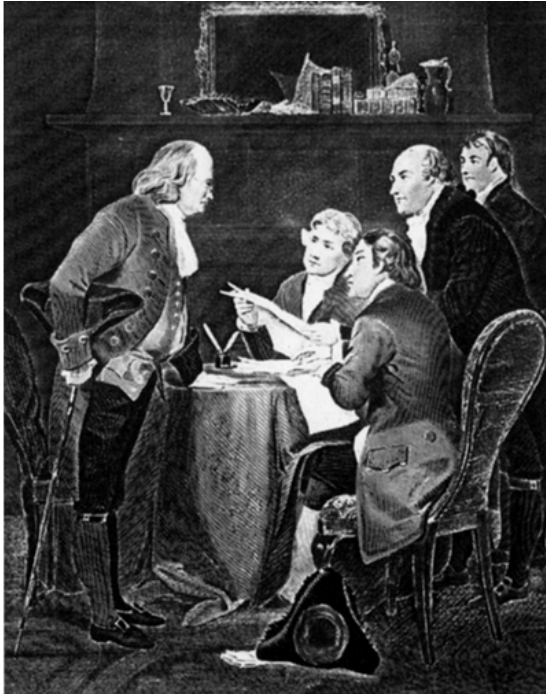


# **Core Documents: The Protection of Individual Rights**

## **Standard 6.4: Core Documents: The Protection of Individual Rights**

*Compare core documents associated with the protection of individual rights, including the Bill of Rights, the 14th Amendment, and Article 1 of the Massachusetts Constitution. (Massachusetts Curriculum Framework for History and Social Studies) [8.T7.4]*



[Drafting the Declaration of Independence](#), copy of 1857 engraving by Alonzo Chappel, Public Domain {{PD-US}}  
The Committee in the picture: Franklin, Jefferson, Adams, Livingston, and Sherman (1776)

## **FOCUS QUESTION: How are Individual Rights Expressed in the Core Documents of American Democracy?**

The individual rights of Americans are set forth in core documents, including the **Bill of Rights**, the **14th Amendment**, and **Article 1 of the Massachusetts Constitution**. Each of these documents serve as foundations for our democracy and have been influenced and shaped by historical pressures by the government, political groups, and the courts. Standard 6.4 offers an opportunity to investigate what these core documents promise all citizens while also uncovering the long road to marriage equality in our society.

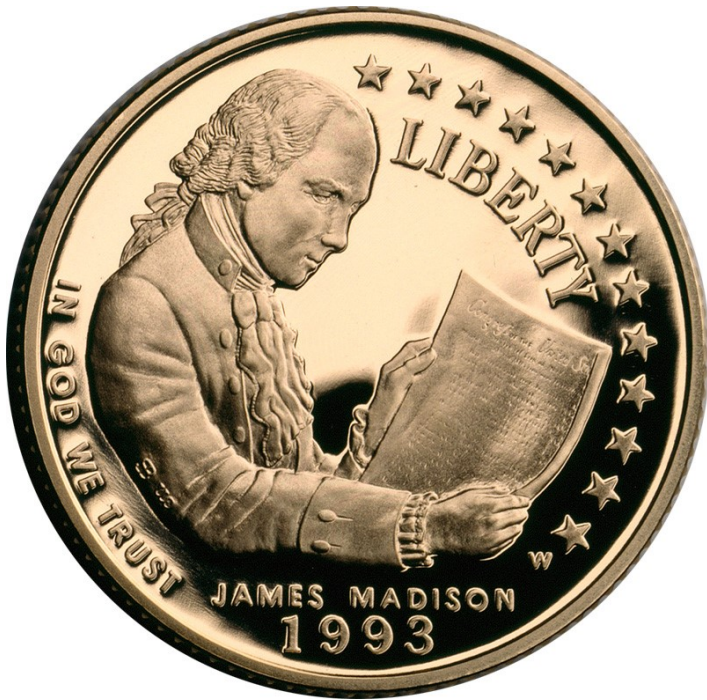
## Modules for this Standard Include:

1. [INVESTIGATE: The Bill of Rights, the 14th Amendment, and Article I of the Massachusetts Constitution](#)
2. [UNCOVER: Marriage Equality Court Cases](#)
3. [ENGAGE: When Should You Go to Small Claims Court?](#)

# 1. INVESTIGATE: The Bill of Rights, the 14th Amendment, and Article I of the Massachusetts Constitution

## Bill of Rights

The first 10 Amendments of the United States Constitution is known as **The Bill of Rights**. It was proposed in 1789 and ratified by the states in 1791. Written by James Madison along with Thomas Jefferson, Alexander Hamilton, and the other authors of the Constitution, it is a fundamental document of American freedom.



[James Madison Bill of Rights \\$5 commemorative gold coin](#). United States Mint, Public Domain

The Bill of Rights makes clear what Thomas Jefferson meant by the phrase “inalienable rights” in the Declaration of Independence. People’s rights exist “prior to government and thus cannot be rescinded by it.” As a statement and a symbol of freedom and legal protection for every individual, the Bill of Rights “lies at the heart of American conceptions of individual liberty, limited government, and the rule of law” (Santow, nd., pp. 2-3).

The Bill of Rights is explored more fully in Topic 2, Standard 5 in this book.

## The 14th Amendment

The 14th Amendment is explored in Topic 4, Standard 4 in this book.

## Massachusetts Constitution, Article I

The [Massachusetts Constitution](#), including Article I, was drafted by John Adams, the second President of the United States. Written in 1787, it was adopted in 1789. The Massachusetts Constitution is the world’s oldest functioning Constitution and it served as a model for the United States Constitution. Article I set forth many of the rights that would later be included in the Bill of Rights (“[Why Study the Massachusetts Constitution,](#)” from John Adams & the Massachusetts Constitution, MassGov.)

Article I of the Massachusetts Constitution focuses on the rights of people (see Table 6.4).

Table 6.4 Original and Modified Annulled Text of Massachusetts Constitution Article I

<b>Original Text of Massachusetts Constitution Article I</b>	<b>Modified Text of Massachusetts Constitution Article I</b>
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All men are born free and equal, and have certain natural, essential, and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness. [Annulled by Amendments, Art. [CVI](#).]

[Article I of Part the First of the Massachusetts Constitution](#) is hereby annulled and the following is adopted:  
All people are born free and equal and have certain natural, essential and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing and protecting property; in fine, that of seeking and obtaining their safety and happiness. Equality under the law shall not be denied or abridged because of sex, race, color, creed or national origin.

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## Suggested Learning Activities

- **Compare and Contrast**

- Explore the original and modified versions of Article I of the Massachusetts Constitution (see Table 6.4).
- Looking at the modified text, which wording change has had (or will have) the most impact on your life?

- **Discuss**

- Do you believe that all U.S. citizens have the rights, freedom, and equality as promised in the government's core documents in today's society? Why or why not?

## Online Resources for the Massachusetts Constitution

- Visit the [Massachusetts State Constitution](#)
- *resourcesforhistoryteachers* wiki pages:
  - [Articles of the Constitution and the Bill of Rights](#)
  - [The Bill of Rights](#)

- [Founding American Political Documents](#)

## 2. UNCOVER: Marriage Equality Court Cases

**Marriage equality**, as established by the 2015 landmark [Obergefell v. Hodges](#) Supreme Court decision, means that same-sex couples can be lawfully married in all 50 states.



[Rainbow White House](#). The White House, Public Domain

In the *Obergefell* case, the court held that the 14th Amendment requires states to license marriages between two people of the same sex and to recognize such marriages as legal when performed in another state. The decision resulted from decades of legal action,

political controversy, and changes in societal attitudes toward gay, lesbian, and transgender people.

The first major same-sex marriage court case took place in Hawaii in 1993. The trial judge in the case [Baehr v. Miike \(originally Baehr v. Lewin\)](#) ruled that denying marriage licenses to same-sex couples was a form of discrimination and therefore unjustified. This first-ever ruling in favor of gay marriage was later overturned by the Hawaii Supreme Court, but a legal foundation for the freedom to marry movement was set. The decision also produced a widespread anti-gay backlash, including the passage of the 1996 Defense of Marriage Act. For more information, read [Baehr v. Lewin and the Long Road to Marriage Equality](#).

Passed by Congress in 1996, the [Defense of Marriage Act \(DOMA\)](#) defined marriage as a relationship between a man and a woman and prevented the federal government from recognizing marriages by same-sex couples even if these were considered legal in their home state. DOMA was overturned by the Supreme Court in [U.S. v Windsor \(2013\)](#) which held that the law deprived same-sex couples of their 5th Amendment rights for equal protection under federal law.

In 2004, **Massachusetts became the first state to legalize gay marriage**, following the state's Supreme Court decision, [Goodridge v. Massachusetts Department of Public Health](#) (2003). On May 17, 2004, Marcia Kadish and Tanya McCloskey of Malden, Massachusetts became the first legally married same-sex couple in the United States.



## Suggested Learning Activities

- **Construct a Timeline**
  - Explore the online resources for marriage equality court cases (listed below).
  - Then, construct a timeline of the history of marriage equality using [Timeline JS](#), [Tiki Toki](#), or [Sutori](#).
- **Analyze a Primary Source**
  - Read excerpts from the oral history source [Unheard Voices: Stories of LGBT History](#) from GLSEN.
  - Consider: What do the writers say about their experiences as gay and lesbian individuals?
  - Discuss: How might the wording of the core Government documents protecting individual rights be amended to better protect LGBT individuals in the United States?

## Online Resources for Marriage Equality Court Cases

- [The Gay Rights Controversy](#) from the University of Missouri Kansas City. This site includes an updated map of states recognizing marriage for same-sex couples.
- [Defense of Marriage Act at the Clinton Presidential Library](#)
- [The Goodridges reflect on the passing of Goodridge v. Massachusetts Department of Public Health, 10 years later](#)
- [The Long Road to Marriage Equality](#), a New York Times opinion piece that gives an overview of the history of LGBTQ+ rights in the United States, and discusses the Lavender Scare.
- [Marriage Equality: Different Strategies for Attaining Equal Rights](#), Teaching Tolerance
- [First Comes Love, Then Comes Marriage \(Equality\): Welcoming Diverse Families in the Elementary Classroom](#), *Social Studies and the Young Learner* (2018)

### 3. ENGAGE: When Should You Go to Small Claims Court?

In Massachusetts, [Small Claims Court](#) is a place where people go to settle financial disputes of \$7000 or less (the amount differs by state). Popularly known as “the people’s court” or “the money court,” small claims typically involve disputes about back-owed rent, unpaid bills, damaged property, professional malpractice, product liabilities or inadequate services ([Small Claims Court](#), Massachusetts Government, 2020).

Criminal offenses, traffic tickets, and divorce proceedings are not settled in these courts. Anyone 18 or over can file a claim. There is no jury; the case is heard and decided by a judge or a magistrate.

As an example, in [A Guide to Small Claims Court Cases](#), written by Legal Aid of North Carolina, there are two cases, one where you are the **plaintiff** (the person who starts the lawsuit) and the other where you are the **defendant** (the one being sued).

Plaintiff	Defendant
A repairman came to fix your refrigerator and in the process knocked a hole in your kitchen wall. The repair shop won't pay for the damages, so you sue the shop for your loss.	A finance company sues you for money it claims you owe on a loan.

Small claims courts have their origins in a longstanding American belief in **individualism** and an “image of the simple, **lawyerless court** where ordinary people can represent themselves and deal with their own affairs” (Steele, 1981, p. 302).

There are many advantages to small claims court. Court proceedings do not involve costly legal paperwork. You can speak for yourself without paying for an attorney to represent you (although many people consult with an attorney beforehand). The process is less formal than criminal court and the issue is usually resolved quickly.

Learn about the steps in the small claims court process from [“What](#)

[Do I Need to Know about Filing a Small Claims Court Case?](#) by the Massachusetts Law Reform Institute.

However, going to court involves time off from work or school - a potential burden for many people. There are court fees to be paid. Also, it is not easy to collect money even if you win in court. The other party may delay or even fail to pay, setting in motion a lengthy process to gain the funds owed.

Given these disadvantages, many people prefer to try and settle disputes outside of court through negotiations between the parties or using a formal mediation process.

## Suggested Learning Activity

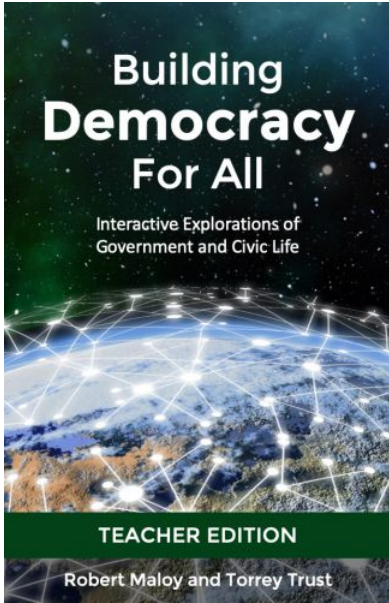
- **Defend Your Position**

- Larry's landlord refuses to return his damage deposit of \$850 when Larry moves out of his apartment, even though the apartment is in excellent condition. Larry wants his money back, but doesn't want to hire a lawyer. (This example is from [Judges in the Classroom](#) "Claim Your Jurisdiction Game" from the state of Washington Court System).
- Take on the role of Larry's landlord or Larry and then defend your position in a small claims court role play.

## Standard 6.4 Conclusion

The concept of individual rights is essential to democracy in this country. **INVESTIGATE** explored three key documents that set forth the rights of the individual - the Bill of Rights, the 14th Amendment, and Article 1 of the Massachusetts Constitution. **UNCOVER** examined the history of marriage equality court cases. **ENGAGE** asked when

should an individual consider going to small claims court to settle a dispute.



Maloy, R. W. & Trust, T. (2020). *Building Democracy for All: Interactive Explorations of Government and Civic Life*. EdTech Books. Retrieved from <https://edtechbooks.org/democracy>