Case Background

Throughout history, society has passed laws restricting sexual activity. Laws regarding incest, adultery, and prostitution exist in all 50 states today. Historically, state laws dealing with sexual activity included prohibitions on sodomy. These laws were based in English common law. The growing acceptance of homosexual lifestyles in America led to challenges of sodomy laws. Most states forbade gay sex until the 1960s.

Griswold v. Connecticut (1965), Eisenstadt v. Baird (1972), and Roe v. Wade (1973) were cases which sought to define a right to privacy with regard to reproductive choices. Reproductive decisions involve sexual activity between consenting adults, and the Court ruled in 1965 that the Bill of Rights protected a zone of privacy in America’s bedrooms. The challenge, therefore, became how to define the limits of Americans’ rights to privacy with regard to sex.

In 1986, the Supreme Court refused to recognize a “fundamental right of homosexuals to engage in sodomy” in the case of Bowers v. Hardwick. The Court declined to extend the protections afforded under Griswold and Eisenstadt, and upheld the power of the states to limit sexual activity. The Court was asked to revisit its decision seventeen years later. In Lawrence v. Texas, John Lawrence challenged a Texas state law banning certain sexual acts between people of the same sex. He claimed the law violated privacy and due process rights protected by the Constitution.