

Senator Bachmann introduced--

S.F. No. 1691: Referred to the Committee on Judiciary.

1 A bill for an act

2 proposing an amendment to the Minnesota Constitution
3 by adding a section to article XIII; recognizing as
4 marriage only a union between one man and one woman.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

6 Section 1. [CONSTITUTIONAL AMENDMENT PROPOSED.]

7 An amendment to the Minnesota Constitution is proposed to
8 the people. If the amendment is adopted, a section shall be
9 added to article XIII, to read:

10 Sec. 13. Only the union of one man and one woman shall be
11 valid or recognized as a marriage in Minnesota. Any other
12 relationship shall not be recognized as a marriage or its legal
13 equivalent.

14 Sec. 2. [QUESTION.]

15 The proposed amendment shall be submitted to the people at
16 the 2006 general election. The question submitted shall be:

17 "Shall the Minnesota Constitution be amended to provide
18 that marriage or its legal equivalent is limited to only the
19 union of one man and one woman?

20 Yes

21 No"

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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-FOURTH SESSION

HOUSE FILE NO. 6

January 6, 2005

Authored by Severson; Holberg; Johnson, J.; Gazelka; Erickson and others
The bill was read for the first time and referred to the Committee on Civil Law and Elections

March 21, 2005

Committee Recommendation and Adoption of Report:
To Pass and re-referred to the Committee on Ways and Means

March 29, 2005

Committee Recommendation and Adoption of Report:
To Pass as Amended and re-referred to the Committee on Rules and Legislative Administration

March 30, 2005

Committee Recommendation and Adoption of Report:
To Pass as Amended
Read Second Time

A bill for an act

2 proposing an amendment to the Minnesota Constitution
3 by adding a section to article XIII; recognizing as
4 marriage only a union between one man and one woman.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

6 Section 1. [CONSTITUTIONAL AMENDMENT PROPOSED.]

7 An amendment to the Minnesota Constitution is proposed to
8 the people. If the amendment is adopted, a section shall be
9 added to article XIII, to read:

10 Sec. 13. Only a union of one man and one woman shall be
11 valid or recognized as a marriage in Minnesota. Any other
12 relationship shall not be recognized as a marriage or its legal
13 equivalent by the state or any of its political subdivisions.

14 Sec. 2. [QUESTION.]

15 The proposed amendment shall be submitted to the people at
16 the 2006 general election. The question submitted shall be:

17 "Shall the Minnesota Constitution be amended to provide
18 that the state and its political subdivisions shall recognize
19 marriage or its legal equivalent as limited to only the union of
20 one man and one woman?

21 Yes

22 No"

1.1 Senator moves to amend H.F. No. 6 as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. **CONSTITUTIONAL AMENDMENT PROPOSED.**

1.4 An amendment to the Minnesota Constitution is proposed to the people. If the
1.5 amendment is adopted, a section shall be added to article VI, to read:

1.6 Sec. 14. The judicial branch has no jurisdiction under this constitution to define
1.7 marriage. The legislature has the sole power to define marriage.

1.8 Sec. 2. **SUBMISSION TO VOTERS.**

1.9 The proposed amendment must be submitted to the people at the 2006 general
1.10 election. The question submitted must be:

1.11 "Shall the Minnesota Constitution be amended to provide that the judicial branch
1.12 has no jurisdiction under the Minnesota Constitution to define marriage and that only the
1.13 legislature has this power?

1.14 Yes
1.15 No"

1.16 "

1.17 Delete the title and insert:

"

1.18 A bill for an act
1.19 proposing an amendment to the Minnesota Constitution by adding a section to
1.20 article VI; restricting the power of the judicial branch to define marriage.

1.22 "

REPORT OF VOTE IN COMMITTEE

Pursuant to Rule 12.10, upon the request of three members, a roll call was taken on SF. No. 1691-A2 amendment

There were 5 yeas and 4 nays

Those who voted in the affirmative were:

Senators Betzold, Hann, Limmer,
Newville, Ortman

Those who voted in the negative were:

Senators Chaudhary, Marty, Rest,
Skoglund

CHOOSE A, B, C, OR D:

- A.** The bill passed the committee. **OR**
The bill did not pass the committee.
- B.** The Newville (name of author) amendment
was adopted. **OR**
was not adopted.
- C.** The _____ (name of senator) motion
prevailed. **OR**
did not prevail.
- D.** The _____
(other reason for roll call vote and outcome).

Senate Judiciary Committee

Roll Call Vote

BILL: SF/HF SF 11691 / HF 6

AZ amendment

Member	AYE	NAY
Senator Betzold	✓	
Senator Chaudhary		✓
Senator Hann	✓	
Senator Limmer	✓	
Senator Marty		✓
Senator Neuville	✓	
Senator Ortman	✓	
Senator Rest		✓
Senator Skoglund		✓
Total	<u>5</u>	<u>4</u>

The Motion:
✓ PASSED
 _____ DID NOT PASS

REPORT OF VOTE IN COMMITTEE

Pursuant to Rule 12.10, upon the request of three members, a roll call was taken on SF. No. 6

There were 4 yeas and 5 nays

Those who voted in the affirmative were:

Senators Hann, Limmer, Neuville,
Ortman

Those who voted in the negative were:

Senators Betzold, Chaudhary, Marty,
Rest, Shoglund

CHOOSE **A, B, C, OR D:**

A. The bill passed the committee. **OR**

The bill did not pass the committee.

B. The _____ (name of author) amendment was adopted. **OR** was not adopted.

C. The _____ (name of senator) motion prevailed. **OR** did not prevail.

D. The _____ (other reason for roll call vote and outcome).

Senate Judiciary Committee

Roll Call Vote

BILL: SF/HF SF 1691/H FL6

Member	AYE	NAY
Senator Betzold		<input checked="" type="checkbox"/>
Senator Chaudhary		<input checked="" type="checkbox"/>
Senator Hann	<input checked="" type="checkbox"/>	
Senator Limmer	<input checked="" type="checkbox"/>	
Senator Marty		<input checked="" type="checkbox"/>
Senator Neuville	<input checked="" type="checkbox"/>	
Senator Ortman	<input checked="" type="checkbox"/>	
Senator Rest		<input checked="" type="checkbox"/>
Senator Skoglund		<input checked="" type="checkbox"/>

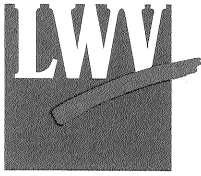
Total

8 5

The Motion:

PASSED

DID NOT PASS



LEAGUE OF
WOMEN VOTERS®
MINNESOTA

550 RICE STREET ST. PAUL, MN 55103 PHONE (651) 224- 5445 FAX (651) 290-2145 www.lwvmin.org

**Testimony Re: SF1691
Presented to the Senate Judiciary Committee
April 4, 2006**

Mr. Chairman and members of the committee:

Good afternoon. My name is Helen Palmer and I am president of the League of Women Voters of Minnesota. Thank you very much for allowing me to speak today regarding Senate File 1691.

The League of Women Voters of Minnesota believes that this bill, which proposes an amendment to the Minnesota Constitution on same-sex marriage, amounts to an assault on a minority group. While the League of Women Voters has no position on marriage, we do have a strong position in support of equal opportunity in public services for all people. The proposed amendment's language barring recognition of a "legal equivalent" of marriage appears designed to prevent same-sex partners from having the responsibilities and protections of a civil union.

Furthermore, we believe that this highly divisive amendment is dangerous and unnecessary. It is dangerous because it sets apart a minority group and specifically denies to them the civil rights of the majority. In fact, this proposal is of special concern because it would turn constitutional history on its head by requiring Minnesota to restrict, rather than guarantee, the civil rights of a portion of its citizens.

The proposed amendment is unnecessary because the State Supreme Court ruled unanimously in 1971 that there is no right to same-sex marriage contained in the state Constitution. And although the League of Women Voters does not agree with the action, the Legislature has already acted to make same-sex marriage illegal in Minnesota.

The fundamental rights of any minority should not be subject to the vagaries of the majority. In this representative democracy we depend on and expect our elected officials to make informed decisions and to safeguard the civil rights of *all* our citizens.

The Minnesota Constitution is a remarkable document: it is about rights and liberties, and its spirit is honorable and generous. Alterations to it should be rare and deeply considered, and made with the good of all the people in mind. The amendment proposed in SF 1691 does not belong in our Constitution, and the League of Women Voters of Minnesota urges you to reject it.

Thank you very much for your attention.

The Effects of Marriage, Civil Union and Domestic Partnership Statutes and Amendments on the Legal, Financial and Psychosocial Health and Well-Being of Children

An Analysis for the AAP Board of Directors
July 2005

Prepared under the direction of:

Committee on Adolescence (COA)
Committee on Early Childhood, Adoption and Dependent Care (COECADC)
Committee on Federal Government Affairs (COFGA)
Committee on Psychosocial Aspects of Child and Family Health (COPACFH)
Committee on State Government Affairs (COSGA)
Section on Adoption and Foster Care (SOAFC)

Staff author:

Jim Pawelski, Director, Division of State Government Affairs

American Academy of Pediatrics

DEDICATED TO THE HEALTH OF ALL CHILDREN™



Introduction

In response to Resolution #8SA, adopted and ranked third in the Top Ten by voting members of the 2004 Annual Leadership Forum, the AAP Board of Directors commissioned the attached analysis of the effects of marriage and civil union amendments on the legal, financial and psychosocial health and well-being of children. Representatives from the Committee on Psychosocial Aspects of Child and Family Health (COPACFH), the Committee on Early Childhood, Adoption and Dependent Care (COECADC), the Committee on Adolescence (COA), the Committee on State Government Affairs (COSGA), the Committee on Federal Government Affairs (COFGA), and the Section on Adoption and Foster Care (SOAFC) contributed to development of this document.

Recognition of the family as the principal caregiver and the center of strength and support for children is at the heart of the Academy's philosophy. In developing this analysis, the involved committee and section representatives held before them this philosophy and the reality that our gay and lesbian patients, to whom the Academy has formally offered affirmation and support, grow up to be gay and lesbian adults. Because many pediatricians are fortunate to care for two or more generations of a family, we are likely to encounter and remain involved with our patients, regardless of sexual orientation or gender identity, as they mature and mark the milestones of establishing a committed partnership with another adult, deciding to raise a family, and entrusting the health and well-being of their own children to us.

As such, this analysis fully explores the unique and complex challenges that same-gender couples and their children face due to their exclusion from civil marriage. The committees and section involved in compiling this analysis believe that the depth and breadth of these challenges are unknown to the general public and perhaps even to many pediatricians. It is our hope that this document will assist with making important and timely advocacy decisions regarding pending and future federal and state civil marriage amendments and other significant public policy initiatives that prohibit these families from the same rights, benefits and protections that the law affords to all other families in our country.

*Jane Meschan Foy, MD, FAAP
Chairperson, Committee on Psychosocial Aspects of Child and Family Health
(2000-2005)*

Overview

Demographics

In 1990, The US Census Bureau began allowing individuals to describe another same-gender household member with whom the respondent had a relationship as an "unmarried partner." By comparing the gender of the household members who identified themselves as unmarried partners, the Bureau was able to identify unmarried couples made up of two men or two women. The 1990 count of same-gender unmarried partner couples was 145,130.¹

Census 2000 also collected data on unmarried partner households of the same and opposite genders. A special report on this topic from the Bureau indicated the number of same-gender unmarried partner households to be 594,691 in 2000.²

Numerous demographers report that this number, while significant, is likely to be a considerable undercount of the actual number of same-gender partner households in the US. Several factors explain this undercount. For confidentiality reasons, some couples may have preferred not to identify the nature of their relationship on a government survey. Some couples may define their relationship as something other than "husband/wife" or "unmarried partner." Other couples may consider themselves married according to a more broad interpretation of the social construct of civil marriage. However, for the purposes of 2000 report, following the enactment of the federal Defense of Marriage Act (DOMA) in 1996, the Bureau was required to invalidate any responses that designated a same-gender individual as a "spouse" and assign those responses to the same-sex "unmarried partner" category.³ Research indicates that the Bureau missed at least 16 to 19 percent of all gay or lesbian couples in the 2000 count.⁴

Despite the likelihood of an undercount and the legal restrictions on the Bureau resulting from the enactment of DOMA, Census 2000 represents the most comprehensive source of data on same-gender partnered households to date, allowing demographers to analyze data at the national, state, city/town, and community level.⁵

Specific Census 2000 findings include:

- Same-gender couples live in 99.3% of all US counties
- Same-gender couples are raising children in at least 96% of all US counties
- Nearly one-quarter of all same-gender couples are raising children
- Nationwide, 34.3% of lesbian couples are raising children and 22.3% of gay male couples are raising children (compared with 45.6% of married heterosexual and 43.1% of unmarried heterosexual couples raising children)
- **Vermont** has the largest aggregation of same gender-couples (approximately 1% of all households) followed by **California, Washington, Massachusetts, and Oregon**
- The South has the highest percentage of same-gender couples who are parents – 36.1% of lesbian couples and 23.9% of gay couples are raising children
- The second highest percentage is seen in the Midwest where 34.7% of lesbian couples and 22.9% of gay couples are parenting children
- 33.1% of lesbian couples and 21.1% of gay couples are parents in the West
- In the Northeast, 32.6% of lesbian couples and 21.7% of gay couples are raising children

- The states with the highest percentages of lesbian couples raising children are **Mississippi** (43.8%), **South Dakota** and **Utah** (each with 42.3%), and **Texas** (40.9%)
- The states with the highest percentages of gay male couples raising children are **Alaska** (36%), **South Dakota** (33%), **Mississippi** (31%) and **Idaho** and **Utah** (each with 30%)
- **Los Angeles County, California, Cook County, Illinois** and **Harris County, Texas** have the greatest numbers of same-gender partnered parents raising children
- 6% of same-gender couples are raising children who have been adopted compared with 5.1% of heterosexual married couples and 2.6% of unmarried heterosexual couples who are raising children who have been adopted⁶
- 8% of same-gender parents are raising children with special health care needs, compared to 8.3% of heterosexual unmarried parents and 5.8% of heterosexual married parents
- 41.1% of same-gender partners raising children have been together for 5 years or longer while just 19.9% of heterosexual unmarried couples have stayed together for that duration

An estimated 6 to 14 million children have a gay or lesbian parent.⁷ And, between 8 and 10 million children are being raised in gay and lesbian partnered households.⁸ Two-thirds of these children live in the 42 states where second parent adoption is not guaranteed, or perhaps specifically forbidden by statute or state appellate court rulings.⁹

Public Policy

Census 2000 and related demographic research makes it clear that parenting by same-gender couples is an established and growing part of the diverse structure of families in the United States. However, public policy, which often has as its aim the protection and promotion of family stability and security, is established without consideration for same-gender parents and their children. Often public policy actually places these families at a disadvantage, as it does heterosexual unmarried parents, single parents, and extended family caregivers.

Public policy designed to promote the family as the basic building block of society has at its core the protection of the needs of children's health and well-being. Children's wellness relies in large part on a complex blend of their own legal rights and the rights derived, under law, from their parents. However, children of same-gender parents often experience economic, legal, and familial insecurity as a result of the absence of legal recognition of their bonds to their non-biological parents. Current public policy trends, with notable exceptions, favor limiting or prohibiting the availability of civil marriage and according rights and protections to same-gender couples.

While some states and jurisdictions have recognized civil unions and domestic partnership arrangements, these legal constructs do not carry the same rights, benefits and protections that are conferred by civil marriage. In 2004 the United States General Accounting Office (GAO) identified a total of 1,138 federal statutory provisions classified to the United States Code in which marital status is a factor in determining or receiving rights, benefits and protections.¹⁰

(See [Table 1](#) for a comparison of civil marriage, civil union, and domestic partner laws.)

Table 1

Comparison of civil marriage, civil union and domestic partnership laws¹¹

Type of Legally Binding Relationship	Portability	Federal Applicability	Availability	Benefits Provided
Civil Marriage	Persons married in one state are considered married in all other states.	Conferral of 1,138 rights, benefits and protections conferred to married couples.	Available in all states to heterosexual couples. Also available to same-gender couples in Massachusetts .	1,138 federal benefits in the areas of Social Security, employment, health care, taxation, Family Leave, immigration and naturalization, trade, commerce and intellectual property, and the judicial system. Federal benefits are not granted to same-gender couples married in Massachusetts because the federal government does not recognize this state law. Numerous state-based benefits that vary by location.
Civil Union	Currently, Vermont is the only state with an active civil union law. Connecticut's new civil union law becomes effective October 1, 2005. To date, in large part due to state DOMA and other related laws, Vermont's civil unions have not been recognized by other states.	No federal rights, benefits, or protections.	Available in Vermont to same-gender couples only. Available beginning in October 2005 in Connecticut to same-gender couples only.	Both the Vermont and Connecticut civil union laws grant same-gender partners the same benefits, protections and responsibilities under respective state law as are granted to spouses in a marriage
Domestic Partnership	Since domestic partnership laws are generally state-, community- or employer-specific, they are not thought to have portability beyond the partners' state, community, or place of employment.	No federal rights, benefits, or protections.	California, the District of Columbia, Hawaii, Maine, and New Jersey currently have domestic partnership laws that confer limited protections, such as hospital visitation and inheritance rights, upon same-gender couples who register with the state. Some states have recognized domestic partners of state employees but a number of these have ended this recognition following passage of state DOMA laws and/or constitutional marriage amendments. A number of other cities and counties as well as employers also recognize domestic partner relationships.	

With the exception of those states and other jurisdictions mentioned in the preceding table, and a small number of municipalities, same-gender couples and their children are not afforded legal recognition or protection under the law. In fact, public policy makers at all levels of government have moved to enact legislation to prohibit any type of legal recognition of same-gender partnerships and parenting. In addition, state constitutional amendments prohibiting same-gender civil marriage, civil union and domestic partnership have established de facto blanket prohibitions on prospective legislation favorable to same-gender couples and their children, thereby restricting their access to the political process itself.

State Perspective – Marriage

Defense of Marriage Acts

Since the enactment of the federal Defense of Marriage Act in 1996, 37 states have enacted similar laws. With the exception of the provision regarding public policy, all of the measures replicate the federal DOMA. These laws generally contain at least one of the four following provisions.¹²

1. Defining marriage as a legal union between a man and a woman
 2. Prohibiting recognition of same-gender marriages that are granted in other states
 3. Declaring same-gender marriage a violation of public policy
 4. Defining "spouse" as only a person of the opposite gender who is legally married as a wife or husband
- **Alabama, Arkansas, Georgia, Kentucky, Michigan, Missouri, and Pennsylvania** have laws that define marriage as a legal union between a man and woman, prohibit recognition of same-gender marriages granted by other states, and declare same-gender marriage to be a violation of the state's public policy. (**Missouri's** Supreme Court subsequently overturned that state's 1996 law, leading to a constitutional amendment banning same-gender marriage.)
 - **Alaska, Florida, Indiana, Nebraska, South Dakota, and West Virginia** define marriage as a legal union between a man and woman and prohibit recognition of same-gender marriages granted by other states.
 - **Idaho, Louisiana, Montana, and South Carolina** prohibit recognition of same-gender marriages granted by other states and declare same-gender marriages a violation of the state's public policy.
 - **Colorado, Kansas, and Tennessee** laws define marriage as a legal union between a man and a woman and declare same-gender marriage a violation of the state's public policy.
 - **North Dakota** law defines marriage as a legal union between a man and a woman and "spouse" as only a person of the opposite-gender who is legally married as a wife or husband. (**Florida, North Dakota, and Texas** are the only states that have adopted the federal DOMA definition of "spouse" as only a person of the opposite-gender who is legally married as a wife or husband.)
 - **Arizona, Delaware, Illinois, Maine, Mississippi, North Carolina, Oklahoma, Texas, Utah, and Virginia** laws prohibit the recognition of same-gender marriages granted by other states.
 - **California, Hawaii, Iowa, Minnesota, Nevada, and Washington** laws define marriage as a legal union between a man and woman.

Additional Measures

A number of states have taken other measures, not necessarily linked to the federal DOMA movement, to prohibit same-gender marriage.

- **Maryland, New Hampshire** and **Wyoming** have laws to prohibit same-gender marriage that predate the federal DOMA.
- An **Ohio** statute, replicated with a state constitutional amendment, prohibits same-gender marriage, civil unions, and domestic partnerships.
- In 1971, the **Wisconsin** Supreme Court issued a ruling that only heterosexual marriages are legal.
- In 2000, the **Vermont** High Court allowed the legislature to enact a statute prohibiting same-gender marriage providing it also enacted a law allowing civil unions for same-gender couples.

On November 18, 2003, the **Massachusetts** Supreme Judicial Court ruled that prohibiting same-gender couples from civil marriage was unconstitutional. Following the ruling, the state senate requested from the court an advisory opinion on the constitutionality of a proposed law that would ban same-gender civil marriage but would create civil unions as a parallel institution with all the same state benefits, protections, rights and responsibilities as civil marriage. On February 4, 2004, the court answered, "segregating same-sex unions from opposite-sex unions cannot possibly be held rationally to advance or preserve" the governmental aim of encouraging "stable adult relationships for the good of the individual and of the community, especially its children." As a result of the ruling, **Massachusetts** began issuing marriage licenses to same-gender couples on May 20, 2004. It is important to note that the **Massachusetts** marriage law is not recognized by the federal government and does not entitle same-gender married couples any federal rights, benefits or protections.

A small number of states are considering legislation to legalize same-gender marriage and/or civil unions.

- The **Connecticut** legislature enacted a civil union law that becomes effective in October 2005.
- **Maryland** Governor Robert Ehrlich, Jr. vetoed a domestic partnership registry approved by the state legislature in April.
- Bills allowing for same-gender civil marriage were introduced in **California, Maine,** and **Rhode Island** however they did not advance. The failed **California** measure was reintroduced and approved by the state's senate judiciary committee on July 12, 2005. The bill still needs approval by a second committee before moving to the full senate.

Constitutional Amendments

To date, 18 states have amended their constitutions to address (in most cases to prohibit) marriage by persons of the same gender. A number of these states already had enacted DOMA-like laws. Efforts to amend the constitutions of these states were undertaken in an effort to prohibit state judges from overturning these statutory bans on the grounds that they violate state constitutions.

- In **Alaska, Hawaii, Mississippi, Missouri, Montana, Nevada, and Oregon** marriage for same-gender couples is prohibited by the state constitutions.
- Constitutional amendments banning same-gender marriage, civil unions, and domestic partnerships and related benefits been adopted in **Arkansas, Georgia, Kansas, Kentucky, Louisiana, Michigan, Nebraska** (*see information below about recent striking down of this amendment*), **North Dakota, Ohio, Oklahoma, and Utah**. Some of these constitutional amendments also ban civil unions and domestic partnerships and related benefits for opposite-gender couples.

This year, states continued to consider constitutional amendments to prohibit same-gender marriage and other legal forms of relationship recognition.

- Marriage ban amendments were approved this year by legislators in **Alabama, South Carolina, South Dakota, Tennessee, and Texas** and await consideration by the voters of those states. The first up for consideration is in **Texas** in November 2005. The remaining states' measures will appear on ballots in 2006.
- Measures are slated for second votes by the **Massachusetts** and **Wisconsin** legislatures in 2005.
- Measures were approved by legislators in **Indiana** and **Virginia** and must be voted on again during the states' 2006 legislative sessions.
- Marriage ban proposals in **Arizona, California, Colorado, Connecticut, Idaho, Iowa, Maryland, Maine, New Mexico, Oklahoma, and Washington State** were defeated or died in the legislatures.

Legal challenges, interpretation questions and scope of applicability of the amendments signal a growing trend in the public policy arena.

On May 12, 2005, a federal judge struck down **Nebraska's** constitutional ban on same-gender marriage. Judge Joseph F. Bataillon ruled that the ban violated the US Constitution because it went "far beyond merely defining marriage as between a man and a woman," noting that the "broad proscriptions could also interfere with or prevent arrangements between potential adoptive or foster parents and children, related persons living together, and people sharing custody of children as well as gay individuals." The ruling also stated that the amendment "imposes significant burdens on both the expressive and intimate associational rights" of gay men and lesbians "and creates a significant barrier to the plaintiff's right to petition or to participate in the political process."¹³ Judge Bataillon's ruling has been touted by opponents of same-gender civil marriage as an example of the need for a federal amendment to prohibit civil marriage, civil union, and domestic partnership for gays and lesbians.

In April of 2005, **Michigan's** Attorney General Mike Cox issued a binding opinion instructing local governments, government entities and public employers (such as school boards and university systems) to cease providing benefits for same-gender partners in future contracts in compliance with the state's 2004 marriage amendment. Challenges to the opinion are underway.¹⁴

Ohio's 2004 marriage amendment, regarded as the most restrictive in the nation, reads, "Only a union between one man and one woman may be a marriage valid in or recognized by this state and its political subdivisions. This state and its political subdivisions shall not create or recognize a legal status for relationships of unmarried individuals that intends to approximate the design, qualities, significance or effect of marriage." As a result, judges

around the state have begun to dismiss or reduce charges in domestic violence cases, because **Ohio's** domestic violence law recognizes the relationship between an unmarried offender and victim as one "approximating the significance or effect of marriage," thereby representing a direct conflict with the amendment's prohibition against such recognition, thus rendering it unenforceable.¹⁵

State Perspective – Adoption

Although gay and lesbian adults in many states have adopted children, county-level judges ultimately make final adoption decisions and their opinions may vary. Similarly, some have been open to second-parent public adoptions but not adoption of a child from an agency.

- Gay and lesbian parents have adopted children at least within certain areas of **Alaska, California, Colorado, Connecticut, Delaware, District of Columbia, Illinois, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Tennessee, Vermont, Washington, and Wisconsin.**
- Some states, including **California, Connecticut, Illinois, Massachusetts, New Jersey, New Mexico, New York, Oregon, Vermont,** and the **District of Columbia,** allow same-gender couples to jointly petition to adopt, also known as co-parent adoption.
- **Florida** is the only state that explicitly prohibits adoption by gay and lesbian individuals and same-gender couples.
- **Mississippi** prohibits same-gender couples from adoption and second-parent adoption.
- **Utah** forbids adoption by any unmarried cohabiting couple, thereby excluding all same-gender couples.
- State court rulings in **Colorado, Nebraska, Ohio, and Wisconsin** have disallowed second-parent adoption.

Federal Perspective

Federal Defense of Marriage Act

In 1996, the US Congress enacted the Defense of Marriage Act. The Act prohibits federal recognition of same-gender marriage and allows states to do the same. As noted above, since 1996, many states have enacted related measures. States have traditionally recognized marriages granted in other states, even those that may not be in compliance with the marriage laws of that particular state, because of the "full faith and credit clause"¹⁶ of the United States Constitution. This clause is primarily intended to provide for the continuity between states and enforcement across state lines of non-federal laws, civil claims and court rulings.

Constitutional Amendment Proposals

Marriage has traditionally been viewed as a matter of state concern and regulation in the United States. The Constitution does not mention marriage at any point. However, in 2003, proposals to prohibit same-gender marriage by amending the Constitution were introduced into Congress by Representative Marilyn Musgrave (R-CO) and Senator Wayne Allard (R-

CO). In 2004, the Senate measure was killed after a procedural vote to move the measure to the Senate floor for final consideration failed, 48-50, 12 short of the 60 votes required by Senate rules. Despite the measure's defeat in the Senate, the House of Representatives also scheduled it for a vote. The vote tally, 227 for and 186 against, fell short of the 290 votes needed for approval.

During the 2004 hearings on this measure, Ellen Perrin, MD, FAAP provided written testimony entitled "Marriage Rights for Same-Sex Couples and the Well-Being of Children" to the US Senate Subcommittee on the Constitution and Jill Joseph, MD, FAAP testified in opposition to the federal marriage amendment before the US House of Representatives Subcommittee on the Constitution.¹⁷

In 2005, two Senate Joint Resolutions¹⁸ and one House Joint Resolution¹⁹ were introduced. All three measures would establish a new amendment to the US Constitution, often referred to as the 'federal marriage amendment,' that defines marriage as the union of one man and one woman, thereby prohibiting same-gender couples from marrying. President Bush has frequently stated his support for such an amendment.

Hearings on these bills have been held. Kathleen Moltz, MD, FAAP testified in opposition to the amendment proposals before the US Senate Judiciary Committee Subcommittee on the Constitution, Civil Rights, and Property Rights.²⁰

An amendment to the US Constitution requires a two-thirds vote of approval by the US House and Senate and ratification by three-quarters of the states for passage.

Legal and Financial Effects on Same-Gender Couples and Their Families

Civil marriage is a legal mechanism by which societal recognition and support is given to couples and families. It provides a context for legal, financial and psychosocial well-being, an endorsement of interdependent care, and a form of public respect for personal bonds.

Opponents of same-gender civil marriage often note that the legal recognition afforded by civil marriage for same-gender couples is unnecessary, suggesting that all of the rights and protections that are needed can be obtained by drawing up legal agreements with an attorney. In reality, same-gender partners can only secure a small number of very basic agreements, such as power of attorney, naming the survivor in one's will (at the risk of paying an inheritance tax which does not apply to heterosexual married couples), and protecting assets in a trust. Even these agreements, however, only represent the 'best guesses' of the legal community in terms of what will withstand challenges from extended family members of the couple. Such challenges are not rare given the lack of societal understanding and acceptance of homosexuality and same-gender partnerships. Moreover, legal agreements cannot win for the couple and their children access to those rights, benefits, and protections afforded by the federal and state governments to heterosexual married couples.

As noted earlier, the US General Accounting Office (GAO) has identified a total of 1,138 federal statutory provisions classified to the United States Code in which marital status is a factor in determining or receiving rights, benefits and protections. In addition, there are numerous state-based programs, benefits, rights, and protections that are based on marital status.

For same-gender couples and their children, enactment of marriage amendments halts even the hope of attaining many legal and financial rights, benefits and protections such as:

- Legal recognition of the couple's commitment to and responsibility for one another
- Automatic legal recognition of joint parenting rights when a child is born or adopted
- Automatic legal recognition of a child's relationship to both parents
- Joint or co-parent adoption (in most states)
- Second-parent adoption (in most states)
- Foster parenting (in some states)
- Eligibility for public housing and housing subsidies
- Ability to own a home as 'tenants by the entirety' (in some states)
- Protection of 'marital home' from creditors (in some states)
- Automatic financial decision making authority on behalf of one's partner
- Access to employer-based health insurance and other benefits for nonbiological/not jointly adopted children (where access to employer based insurance is granted it is considered a taxable benefit by the IRS, which is not the case for married heterosexual couples)
- Access to spouse benefits under Medicare and certain Medicaid benefits (heterosexual spouses are considered essential to individuals receiving Medicaid benefits and are therefore eligible for medical assistance themselves – family coverage programs would deny coverage to same-gender partners and nonbiological/not jointly adopted children)
- Ability to enroll nonbiological/not jointly adopted children in public and medical assistance programs
- Ability of both parents to consent to medical care or authorize emergency medical treatment for nonbiological/not jointly adopted children
- Ability to make medical decisions for an incapacitated or ailing partner
- Recognition as 'next of kin' for the purpose of visiting partner or nonbiological/not jointly adopted child in hospitals or other facilities
- Ability to take advantage of the federal Family Medical Leave Act to care for a sick partner or nonbiological/not jointly adopted children
- Ability to obtain life insurance (due to findings of "no insurable interest" in one's partner or nonbiological/not jointly adopted child)
- Ability to obtain joint homeowner and automobile insurance policies and take advantage of family discounts
- Recognition as an authority in educational settings to register a child for school, to be involved in child's education plan and to provide consent on waivers and sign permission forms
- Ability to travel with a child if it will require proof of being a legal parent
- Access to spousal benefits of worker's compensation
- Ability to file joint tax returns and take advantage of family-related deductions
- Privilege afforded to married heterosexual couples that protects one spouse from testifying against another in court
- Immigration and residency privileges for partners and children from other countries
- Protections and compensation for families of crime victims (state and federal programs)

- Access to the courts for a legally structured means of dissolution of the relationship (divorce is not recognized since marriage is not recognized)
- Visitation rights and/or custody of children following the dissolution of a partnership
- Children's rights to financial support from and ongoing relationships with both parents should the partnership be dissolved
- Legal standing of one partner if a child is removed from the 'legal' parent and home by child protective services
- Domestic violence protections such as restraining orders
- Automatic, tax and penalty-free inheritance from a deceased partner or parent of shared assets, property or personal items by the surviving partner and nonbiological/not jointly adopted children
- Children's right to maintain a relationship with a nonbiological/not jointly adopting parent in the event of the death of the other parent
- Surviving parent's right to maintain custody of and care for nonbiological/not jointly adopted children
- Social Security survivor benefits for a surviving partner and children upon the death of one partner
- Exemptions from property tax increases in the event of the death of a partner (offered in some states to surviving spouses)
- Automatic access to pensions and other retirement accounts by surviving partner
- Access to deceased partner's veteran's benefits
- Ability to roll deceased partner's 401(k) funds into an IRA without paying up to 70% of it in taxes and penalties
- Right to sue for wrongful death of a deceased partner

In addition to enabling same-gender partners to better provide for the legal and financial security of their families, the Congressional Budget Office determined in 2004 that allowing civil marriage for same-gender couples would have a positive effect on the federal budget.²¹ The CBO found that allowing same-gender couples to marry would increase federal income tax revenues by \$400 million annually to the end of 2010, due in large part to the 'marriage penalty tax.' Although Social Security payments and spending on insurance coverage for partners of federal workers would rise over time, other expenditures like Medicaid and SSI would decrease. The net result would be a savings of nearly \$1 billion per year. The Williams Project, a think tank at the UCLA School of Law dedicated to the field of sexual orientation law and public policy, had similar findings on the federal budget and for the state budgets of **California** and **Connecticut**.²²

Enacting laws to prohibit civil marriage for same-gender couples and their families will not make them cease to exist. It will, however, weaken their ability to provide the best possible legal and financial benefits and protections to support their healthy and successful development.

Psychosocial Effects on Same-Gender Couples and Their Families

Due to the complex nature of the issues involved in this sociopolitical debate, psychosocial effects can be multifaceted. These effects can be observed at the personal, couple, parental, child, family, and even community levels.

As children, many gays and lesbians experience considerable isolation, peer rejection, ridicule, harassment, and/or depression at some time. Approximately 47% of gay and lesbian teens have seriously considered suicide and 36% have actually attempted suicide.²³ Others experience rejection by their families, homelessness, maltreatment in school and violence against them. As adults, gay and lesbian people continue to experience social marginalization, discrimination, and hate crime violence.

Strident nationwide debate over same-gender marriage, related political and religious condemnation of homosexuality, and a growing acquiescence of intolerant rhetoric serves to create an even more unstable climate for gays and lesbians in our society. The lack of societal tolerance, acceptance or support that gay and lesbian individuals experience can and does affect their psychosocial and physical health and safety.

Indeed, the US Department of Justice, in its 1997 publication, *A Policymaker's Guide to Hate Crimes* noted, "A host of factors may create a climate in which people, motivated by their biases, take criminal action. Such factors include poor or uncertain economic conditions, racial stereotypes in films and on television, hate-filled discourse on talk shows or in political advertisements, the use of racial code language such as "welfare mothers" and "inner city thugs," and an individual's personal experiences with members of particular minority groups."²⁴

Similarly, children whose parents are of the same-gender may experience social marginalization and become the objects of ridicule and harassment by other children and even adults who do not understand or who disapprove of gay and lesbian parenting. Children experiencing this type of treatment may not know how to seek, or where to find, support. Although same-gender couples are raising children in 96% of all the counties in the United States, support services and trusted individuals are not available in all of these areas. Efforts to prohibit the establishment of student groups known as "gay-straight alliances" in various school districts and states serves only to worsen an already difficult situation. The overall effects can be compounded by the rhetoric surrounding the same-gender marriage debate.

As noted earlier, children who are raised by married parents benefit from the legal recognition, rights, benefits, and protections granted to their parents. These rights, benefits and protections can help to support and foster good parenting.

[NOTE: Portions of the following 12 paragraphs are excerpts from the AAP Technical Report: *Coparent or Second-Parent Adoption by Same-Sex Parents* by Ellen C. Perrin, MD and Committee on Psychosocial Aspects of Child and Family Health; *Pediatrics* Vol. 109 No. 2 February 2002, pp. 341-344. Updated information has been added and endnote numbers have been changed for internal consistency.]

Parenting Attitudes and Behavior, Personality, and Adjustment of Parents

Discriminatory practices are based on the assumption that lesbian mothers and gay fathers are different from heterosexual parents in ways that are important to their children's well-being. Empirical evidence reveals in contrast that gay fathers have substantial evidence of nurturance and investment in their paternal role and no differences from heterosexual fathers in providing appropriate recreation or encouraging autonomy.²⁵ Gay fathers have been described to adhere to strict disciplinary guidelines, to place greater emphasis on guidance and the development of cognitive skills, and to be involved in their children's activities.²⁶ Overall, there are more similarities than differences in the parenting styles and attitudes of gay and nongay fathers.

Similarly, few differences have been found in the research from the last two decades comparing lesbian and heterosexual mothers' self-esteem, psychologic adjustment, and attitudes toward child rearing.^{27,28} Lesbian mothers fall within the range of normal psychologic functioning on interviews and psychologic assessments and report scores on standardized measures of self-esteem, anxiety, depression, and parenting stress indistinguishable from those reported by heterosexual mothers.²⁹

Lesbian mothers strongly endorse child-centered attitudes and commitment to their maternal roles³⁰ and have been shown to be more concerned with providing male role models for their children than are divorced heterosexual mothers.³¹ Lesbian and heterosexual mothers describe themselves similarly in marital and maternal interests, current lifestyles, and child-rearing practices.³¹ They report similar role conflicts, social support networks, and coping strategies.^{32,33}

Children's Gender Identity and Sexual Orientation

The gender identity of preadolescent children raised by lesbian mothers has been found consistently to be in line with their biologic sex. None of the more than 300 children studied to date has shown evidence of gender identity confusion, wished to be the other sex, or consistently engaged in cross-gender behavior. No differences have been found in the toy, game, activity, dress, or friendship preferences of boys or girls who had lesbian mothers, compared with those who had heterosexual mothers.

No differences have been found in the gender identity, social roles, or sexual orientation of adults who had a divorced homosexual parent (or parents), whether male or female, compared with those who had divorced heterosexual parents.^{34,35,36,37} Similar proportions of young adults who had homosexual parents and those who had heterosexual parents have reported feelings of attraction toward someone of the same sex.³⁸ Compared with young adults who had heterosexual mothers, men and women who had lesbian mothers were slightly more likely to consider the possibility of having a same-sex partner, and more of them had been involved in at least a brief relationship with someone of the same sex,²⁹ but in each group similar proportions of adult men and women identified themselves as homosexual. A more recent study reports no significant differences in gender development for either boys or girls according to the mother's sexual orientation.³⁹ Using data from a national sample of adolescents, no difference was found based on whether the parents were the same or different genders in the proportion of adolescents who reported having had sexual intercourse, nor in the number who reported having a 'romantic relationship' within the past 18 months. So few adolescents in either group reported same-sex attractions or same-sex romantic relationships that a statistical comparison was not possible.⁴⁰ A long term follow-up of adolescents raised by single lesbian mothers after divorce reveals similarly that their gender role orientation (level of masculinity or femininity) was similar to those who were raised by a single heterosexual mother after divorce or by a heterosexual couple, except that boys from single mother and lesbian mother families scored higher on the scale of femininity, though they did not differ on the score of masculinity.⁴¹

Children's Emotional and Social Development

Because most children whose parents are gay or lesbian have experienced the divorce of their biologic parents, their subsequent psychologic development has to be understood in that context. Whether they are subsequently raised by one or two separated parents and whether a stepparent has joined either of the biologic parents are important factors for children but are

rarely addressed in research assessing outcomes for children who have a lesbian or gay parent.

The considerable research literature that has accumulated addressing this issue has generally revealed that children of divorced lesbian mothers grow up in ways that are very similar to children of divorced heterosexual mothers. Several studies comparing children who have a lesbian mother with children who have a heterosexual mother have failed to document any differences between such groups on personality measures, measures of peer group relationships, self-esteem, behavioral difficulties, academic success, or warmth and quality of family relationships.^{28,30,32,33,38,42} Children's self-esteem has been shown to be higher among adolescents whose mothers (of any sexual orientation) were in a new partnered relationship after divorce, compared with those whose mothers remained single, and among those who found out at a younger age that their parent was homosexual, compared with those who found out when they were older.⁴³

Prevalent heterosexism and stigmatization might lead to teasing and embarrassment for children about their parent's sexual orientation or their family constellation and restrict their ability to form and maintain friendships. Adult children of divorced lesbian mothers have recalled more teasing by peers during childhood than have adult children of divorced heterosexual parents.⁴⁴ Nevertheless, children seem to cope rather well with the challenge of understanding and describing their families to peers and teachers.

Children born to and raised by lesbian couples also seem to develop normally in every way. Ratings by their mothers and teachers have demonstrated children's social competence and the prevalence of behavioral difficulties to be comparable with population norms.^{27,45} In fact, growing up with parents who are lesbian or gay may confer some advantages to children. They have been described as more tolerant of diversity and more nurturing toward younger children than children whose parents are heterosexual.^{46, 47}

In one study, children of heterosexual parents saw themselves as being somewhat more aggressive than did children of lesbians, and they were seen by parents and teachers as more bossy, negative, and domineering. Children of lesbian parents saw themselves as more lovable and were seen by parents and teachers as more affectionate, responsive, and protective of younger children, compared with children of heterosexual parents.^{46,48} In a more recent investigation, children of lesbian parents reported their self-esteem to be similar to that of children of heterosexual parents and saw themselves as similar in aggressiveness and sociability.³²

Recent investigations have attempted to discern factors that promote optimal well-being of children who have lesbian parents. The adjustment of children who have two mothers seems to be related to their parents' satisfaction with their relationship and specifically with the division of responsibility they have worked out with regard to child care and household chores.⁴⁹ Children with lesbian parents who reported greater relationship satisfaction, more egalitarian division of household and paid labor,⁵⁰ and more regular contact with grandparents and other relatives⁵¹ were rated by parents and teachers to be better adjusted and to have fewer behavioral problems.

Children in all family constellations have been described by parents and teachers to have more behavioral problems when parents report more personal distress and more dysfunctional parent-child interactions. In contrast, children are rated as better adjusted when their parents report greater relationship satisfaction, higher levels of love, and lower

interparental conflict regardless of their parents' sexual orientation. Children apparently are more powerfully influenced by family processes and relationships than by family structure.

Recent publications from two population-based samples lend additional strength to earlier evidence demonstrating that children's well-being is not threatened as a result of growing up with lesbian parents. The importance of these studies is that the research was planned and carried out by people who had no particular interest in or investment in research regarding same-gender parents. In both cases the investigations regarding lesbian parents and their children were post-hoc analyses and thus neither the sample nor the methods were influenced by a bias in support of gay parents.

Study 1: Using data from a cohort study that enrolled all children born within a particular county in England during one year, the well-being of 7 year old children whose parents self-identified as lesbian (n=39) was compared to the well-being of peers whose parents were heterosexual. No differences were found in maternal warmth, emotional involvement, enjoyment of motherhood, frequency of conflicts, supervision of the child, abnormal behaviors reported by parents or teachers in the child, children's self esteem, or psychiatric disorders.

On the other hand there were significant differences in warmth, parenting quality and enjoyment, emotional involvement, imaginative play activities, severity of conflicts, supervision of the child, maternal stress, and abnormal child behaviors reported by teachers--all favoring two-parent families (lesbian or heterosexual) over single parent families.

This study presents evidence that the presence of two parents, irrespective of their gender and sexual orientation, is associated with more positive outcomes for children's psychological well-being than is rearing by a single mother. In all families, there were fewer emotional and behavioral problems among children whose mother showed greater warmth and reported less stress/distress.

Study 2: Using data from the National Longitudinal Study of Adolescent Health, the authors demonstrated that 12-18 year olds living with two women in a "marriage-like" family arrangement (n=44) were similar to peers whose parents were heterosexual in measures of self esteem, depression, anxiety, school 'connectedness', and school success. Overall, adolescents reported positive family relationships, including parental warmth, care from others, personal autonomy, and neighborhood integration, and there were no systematic differences between the same-sex and the opposite-sex parent families.

Research exploring the diversity of parental relationships among gay and lesbian partners is just beginning. The legalization of same-gender marriage in **Massachusetts** in 2004, offers the first true opportunity to study how same-gender marriage effects family life and child development. However, in addition to the findings discussed above, current research on same-gender couples who have been able to jointly adopt and establish legal ties between children and both parents suggests that legal recognition of same-gender marriage may strengthen ties between partners, their children, and their extended families.^{52,53}

The AAP is not alone in supporting second-parent adoption for children with same-gender parents. The following organizations have also established policy on the matter.

The American Academy of Family Physicians agreed to "establish policy and be supportive of legislation which promotes a safe and nurturing environment, including

psychological and legal security, for all children, including those of adoptive parents, regardless of the parents' sexual orientation."⁵⁴

The American Psychological Association: "Not a single study has found children of gay or lesbian parents to be disadvantaged in any significant respect relative to children of heterosexual parents."⁵⁵

The American Psychoanalytic Association: "Accumulated evidence suggests the best interest of the child requires attachment to committed, nurturing and competent parents. Evaluation of an individual or couple for these parental qualities should be determined without prejudice regarding sexual orientation. Gay and lesbian individuals and couples are capable of meeting the best interest of the child and should be afforded the same rights and should accept the same responsibilities as heterosexual parents."⁵⁶

The National Association of Social Workers, in conjunction with the American Psychological Association: "[C]hildren who retain regular and unrestricted contact with a gay or lesbian parent are as healthy psychologically or socially as children raised by heterosexual parents and... the parenting skills of gay fathers and lesbian mothers are comparable to their heterosexual counterparts."⁵⁷

American Academy of Child and Adolescent Psychiatry: "The basis on which all decisions relating to custody and parental rights should rest on the best interest of the child. Lesbian, gay, and bisexual individuals historically have faced more rigorous scrutiny than heterosexuals regarding their rights to be or become parents. There is no evidence to suggest or support that parents with a gay, lesbian, or bisexual orientation are per se different from or deficient in parenting skills, child-centered concerns and parent-child attachments, when compared to parents with a heterosexual orientation. It has long been established that a homosexual orientation is not related to psychopathology, and there is no basis on which to assume that a parental homosexual orientation will increase likelihood of or induce a homosexual orientation in the child. Outcome studies of children raised by parents with a homosexual or bisexual orientation, when compared to heterosexual parents, show no greater degree of instability in the parental relationship or developmental dysfunction in children. The AACAP opposes any discrimination based on sexual orientation against individuals in regard to their rights as custodial or adoptive parents as adopted by Council."⁵⁸

In June of 2005, the **American Medical Association** House of Delegates overwhelmingly endorsed a policy that calls on the AMA to "support legislation and other efforts to allow adoption of a child by the same-sex partner or an opposite-sex non-married partner who functions as a second parent or co-parent to that child."

On the matter of same-gender marriage, in May of 2005 the **American Psychiatric Association's** Assembly approved a statement in support of legalizing same-gender marriage. If approved by the organization's board of directors in July of 2005, APA will become the first medical specialty to publicly support same-gender civil marriage.

Contrary to claims by opponents of same-gender civil marriage, over 25 years of research have documented that there is no relationship between a parent's sexual orientation and any measure of a child's emotional, psychosocial and behavioral adjustment. Absolutely no data have pointed to any risk to children as a result of growing up in a family with one or more gay parents. Indeed, we know without question that conscientious and nurturing adults, whether they are men or women, heterosexual or homosexual, can be excellent parents.¹⁷

Advocacy Consideration

Civil Marriage and Religious Marriage

It is important to note a distinction in the types of marriages that exist in the United States and throughout the world. Since the issue of same-gender marriage has taken on significant political importance, distinctions are not often made between *civil* marriage and *religious* marriage.

Civil marriage is a contract established through a license issued by a state government whereby two consenting adults enter into an agreement of interdependence and support.

Depending on the faith, *religious* marriage is considered to be a liturgical rite, a sacrament, or a solemnization of the uniting of two persons and is recognized by the hierarchy and adherents of that religious group.

In the US, couples may choose to marry in a civil ceremony or a religious ceremony, or both. Religious institutions, their clergy and their hierarchy establish their own criteria and rules for who may marry within their assemblies. They are not bound by statutory definitions of marriage.

Here in the United States, state governments allow priests, rabbis, clerics, ministers, and other clergy to preside over a religious marriage and entrust in them the authority of the state to endorse the marriage license by means of his/her signature in the presence of a witnesses and the couple. In many European countries and elsewhere in the world, couples are required to come before a public official to marry. If the couple wishes participate in the marriage ceremony of their faith tradition, religious ceremonies are often held once a civil ceremony has taken place. However, a marriage is only considered legal by means of issuance and endorsement of a marriage license by civil authorities.

Because clergy in the US are vested with the authority of the government for purposes of marriage, many people are not aware of the distinction between civil and religious marriage and assume the two are inextricably linked.

Same-gender couples are seeking the right to civil marriage because it would provide them with the rights, benefits and protections that stem from the government. In the US, civil marriage has no authority over a religious organization's autonomy. Advocacy efforts on the part of same-gender marriage would not require any religious or faith-based organization to solemnize these unions.

Conclusion

Civil marriage is a social institution that promotes healthy families by conferring of a powerful set of rights, benefits and protections that cannot be obtained by other means. Civil marriage can help foster psychosocial stability and financial and legal security as well as an augmented sense of societal acceptance and support. Legal recognition of a spouse can

increase the ability of adult couples to provide and care for one another and fosters a more nurturing and secure environment for their children.

There is ample evidence demonstrating that civil marriage enhances family life. There is also ample evidence to show that children raised by same-gender parents fare just as well as those raised by heterosexual parents. Simply put, same-gender civil marriage harms no one, whereas prohibiting civil marriage for gays and lesbians harms these couples and their children. Despite this evidence, same-gender couples are denied the right to civil marriage in every state with the exception of **Massachusetts** – and even those legal unions are not recognized by the federal government or the governments of most other states.

As Ellen Perrin, MD, FAAP stated in her Congressional testimony¹⁷ entitled *Marriage Rights for Same-Sex Couples and the Well-Being of Children*, “The issue is not whether children of same-sex couples will exist if same-sex couples are permitted to marry, because gay people have been raising children for many years and will continue to do so in the future. The real issue is whether those children will be raised by married or unmarried parents – and whether those kids will have the same benefits of a secure and permanent family that other children can take for granted.”

The politics and emotion involved in this issue tend to blur the basic facts. There are serious legal, financial and psychosocial ramifications of these initiatives against same-gender parents and their children. It is the hope of the committees and section involved in preparing this analysis that it will bring some of these consequences to light and that the American Academy of Pediatrics will continue to call attention to the inextricable link between the health and well-being of all children, the support and encouragement of all parents, and the protection of strong family relationships.

AAP Policy and Resources

Coparent Or Second-Parent Adoption By Same-Sex Parents (Policy Statement)

Committee on Psychosocial Aspects of Child and Family Health
Pediatrics Vol. 109 No. 2 February 2002, pp. 339-340

Abstract: Children who are born to or adopted by one member of a same-sex couple deserve the security of two legally recognized parents. Therefore, the American Academy of Pediatrics supports legislative and legal efforts to provide the possibility of adoption of the child by the second parent or coparent in these families.

Coparent Or Second-Parent Adoption By Same-Sex Parents (Technical Report)

Committee on Psychosocial Aspects of Child and Family Health
Pediatrics Vol. 109 No. 2 February 2002, pp. 341-344

Abstract: A growing body of scientific literature demonstrates that children who grow up with one or two gay and/or lesbian parents fare as well in emotional, cognitive, social, and sexual functioning as do children whose parents are heterosexual. Children's optimal development seems to be influenced more by the nature of the relationships and interactions within the family unit than by the particular structural form it takes.

Sexual Orientation and Adolescents (Clinical report)

Frankowski, BL and Committee on Adolescence
Pediatrics Vol. 113 No. 6 June 2004, pp. 1827-1832

Abstract: The American Academy of Pediatrics issued its first statement on homosexuality and adolescents in 1983, with a revision in 1993. This report reflects the growing understanding of youth of differing sexual

orientations. Young people are recognizing their sexual orientation earlier than in the past, making this a topic of importance to pediatricians. Pediatricians should be aware that some youths in their care may have concerns about their sexual orientation or that of siblings, friends, parents, relatives, or others. Health care professionals should provide factual, current, nonjudgmental information in a confidential manner. All youths, including those who know or wonder whether they are not heterosexual, may seek information from physicians about sexual orientation, sexually transmitted diseases, substance abuse, or various psychosocial difficulties. The pediatrician should be attentive to various potential psychosocial difficulties, offer counseling or refer for counseling when necessary and ensure that every sexually active youth receives a thorough medical history, physical examination, immunizations, appropriate laboratory tests, and counseling about sexually transmitted diseases (including human immunodeficiency virus infection) and appropriate treatment if necessary.

Not all pediatricians may feel able to provide the type of care described in this report. Any pediatrician who is unable to care for and counsel nonheterosexual youth should refer these patients to an appropriate colleague.

Gay, Lesbian and Bisexual Teens:

Facts for Teens and their Parents (Patient Education Brochure)

Sponsoring Committee: Committee on Adolescence
2001

Gay, Lesbian or Bisexual Parents:

Information for Children and Parents (Patient Education Brochure)

Sponsoring Committee: Committee on Practice and Ambulatory Medicine
Anticipated publication date: 2005

Technical Assistance Available from:

Committee on Adolescence (COA)
Committee on Early Childhood, Adoption and Dependent Care (COECADC)
Committee on Federal Government Affairs (COFGA)
Committee on Practice and Ambulatory Medicine (COPAM)
Committee on Psychosocial Aspects of Child and Family Health (COPACFH)
Committee on State Government Affairs (COSGA)
Section on Adoption and Foster Care (SOAFC)

Department of Federal Affairs
Division of Developmental Pediatrics and Preventive Services
Division of Health Care Finance and Practice
Division of State Government Affairs

Endnotes

¹ US Census Bureau. Selected characteristics from 1990 to supplement Census 2000 SF1 - Unmarried partner households. Washington, DC. 1990. Available online at: http://www2.census.gov/census_1990/other/90partners.txt

² US Census Bureau. Married-couple and unmarried-partner households: Census 2000 special reports. Washington, DC. 2003. Available online at: <http://www.census.gov/prod/2003pubs/censr-5.pdf>

³ US Census Bureau, Population Division, Fertility & Family Statistics Branch. Technical note on same-sex unmarried partner data from the 1990 and 2000 Censuses. Washington, DC. 2002. Available online at: <http://www.census.gov/population/www/cen2000/samesex.html>

⁴ Badgett, MV L, & Rodgers, MA. Left out of the count: Missing same sex couples in Census 2000. Amherst, MA: The Institute for Gay and Lesbian Strategic Studies; 2003. Available online at: http://www.iqlss.org/media/files/c2k_leftout.pdf

⁵ It is important to note that Census 2000 only counted same-gender unmarried partners and should not be interpreted as a count of either the entire gay, lesbian, and bisexual population or the whole same-gender partnered population of the US.

⁶ Although adoption is commonly held to be the only way gays and lesbians become parents, there are many paths to parenthood. Some have biological children from past heterosexual marital and nonmarital relationships, others pursue surrogacy arrangements or undergo in vitro fertilization. Where allowed by law, other gays and lesbians become foster parents, while others choose to adopt children through domestic and international, public and private arrangements.

⁷ Sullivan, A. Issues in gay and lesbian adoption: Proceedings of the fourth annual Peirce-Warwick Adoption Symposium. Washington, DC: Child Welfare League of America; 1995

⁸ Editors of the Harvard Law Review. *Sexual orientation and the law*. Cambridge, MA: Harvard University Press:1990

⁹ Eight states and the District of Columbia have approved second-parent adoption for lesbian and gay parents either by statute or state appellate court rulings, which means that it is granted in all counties statewide. These states include California (as a result of the state's 2001 domestic partner law), Connecticut, Illinois, Massachusetts, New Jersey, New York, Pennsylvania, and Vermont. Some lesbian and gay parents also have been granted second-parent adoptions in 18 other states. In some of these states, adoptions have been granted at the trial court level, which means that they have, to date, been approved in certain counties only. In other states, there is anecdotal evidence of these adoptions being granted, though there is a lack of affirmative case law. These 18 states include Alabama, Alaska, Delaware, Hawaii, Indiana, Iowa, Louisiana, Maryland, Michigan, Minnesota, Nevada, New Hampshire, New Mexico, Ohio, Oregon, Rhode Island, Texas, and Washington.

¹⁰ General Accounting Office. Defense of marriage act: An update to prior report. Washington, DC. 2004. Available online at: <http://www.gao.gov/new.items/d04353r.pdf>

¹¹ Adapted from: National Gay and Lesbian Task Force. Ways to protect same-sex relationships: A comparison. Washington, DC. 2004

¹² Ala. Code § 30-1-19; Alaska Stat. § 25. 05. 013; Ariz. Rev. Stat. § 25-101; Ark. Code Ann. §§ 9-11-107, 109, 208, and 803; Cal. Code § 308. 5; Colo. Rev. Stat. § 14-2-104; Del. Code Ann. § 13-101; Fla. Stat. Ann. § 741. 212; Ga. Code Ann. § 19-3-3. 1; Haw. Rev. Stat. § 572-3; Idaho Code §§ 32-202, 209; Ill. Comp. Stat. § 750 5/201 and 5/212; Ind. Code § 31-11-1-1; Iowa Code § 595. 2; Kan. Stat. Ann. § 23-101; Ky. Rev. Stat. Ann. §§ 402. 005, .020, and .045; La. Civ. Code Art. 89 and 3520; Me. Rev. Stat. Ann. tit. 19A § 701; Mich. Stat. Ann. §§ 551.1 and .271; Minn. Stat. § 517. 01; Miss. Code Ann. § 93-1-1; Mo. Rev. Stat. § 451. 022; Mont. Code Ann. § 40-1-401; Neb. Const. Art. I § 29; Nev. Const. Art. I § 21; N. C. Gen. Stat. § 51-1. 2; N. D. Cent. Code § 14-03-01; Okla. Stat. tit. 43 § 3; Pa. Cons. Stat. Ann. 23 § 1704; S. C. Code Ann. § 20-1-15; S. D. Codified Laws §§ 25-1-1 and 25-1-38; Tenn. Code Ann. § 36-3-113; Tex. Fam. Code Ann. §§ 2. 001 and 3. 401; Utah Code Ann. §§ 30-1-2 and 30-1-4; Va. Code Ann. § 20-45. 2; Wash. Rev. Code §§ 26. 04. 010 and 26. 04. 020; W. Va. Code §§ 48-1-7 and 48-1-18A.

¹³ Citizens for Equal Protection v. Bruning, No.4:03CV3155 (D. Neb. May 12, 2005.) Available online at: <http://www.nebar.com/pdfs/DCOpinPDFs/4-03cv3155.pdf> (scroll down to page 14)

¹⁴ Cox, M. Constitutionality of city providing same-sex domestic partnership benefits: Opinion #7171. Michigan. 2005. Available online at: <http://www.ag.state.mi.us/opinion/datafiles/2000s/op10247.htm>

¹⁵ Associated Press. Domestic violence and gay marriage: Ohio judges differ on how gay marriage amendment affects law. 2005. Available online at: http://abclocal.go.com/wtvg/news/0326_gaymarriage.html

¹⁶ Section one of Article Four of the United States Constitution: "Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof."

¹⁷ Perrin, EC. Marriage rights for same-sex couples and the well-being of children. Written testimony before the US Senate Subcommittee on the Constitution. 2004. Available online at: http://www.hrc.org/Content/ContentGroups/Legislation/Federal_Marriage_Amendment/Testimony_March_3_2004/Ellen_Perrin_M_D.htm

Joseph, JG. Testimony before the US House of Representatives Subcommittee on the Constitution. 2004. Available online at: <http://judiciary.house.gov/OversightTestimony.aspx?ID=176>

¹⁸ Senate Joint Resolution 1, Senate Joint Resolution 13. Available online at: <http://thomas.loc.gov/>

¹⁹ House Joint Resolution 39. Available online at: <http://thomas.loc.gov/>

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MINNESOTA SENATE JUDICIARY COMMITTEE

April 4, 2006

Testimony of Daniel Libenson
Assistant Professor of Law, University of St. Thomas School of Law

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Good afternoon, Mister Chairman and Members of the Committee. My name is Daniel Libenson. I am a faculty member of the University of St. Thomas School of Law. I am here to testify to my own views and not as a representative of my institution.

A few years ago, a modeling agent told me that he could make my son a star if I signed a contract and paid “just” \$500 up front. I wanted to think it over with my wife, but the agent said I had to sign and pay *right now* or the offer would disappear, and my son would never forgive me for losing his once-in-a-lifetime opportunity. I walked away—and later discovered that the agency was a scam.

We have all met high-pressure salespeople. The secret to their success is convincing you that you can avert catastrophe only by buying the relatively cheap product that they are selling. They force you to decide *right now* because otherwise you’ll discover that there is no crisis and that the price they’re asking is too high. This amendment’s sponsors are using classic high-pressure sales tactics to force upon us a premature and costly decision that threatens our constitutional democracy and the freedom of every Minnesotan. We should not buy what they are selling.

There is no same-sex marriage crisis in our state. Minnesota already prohibits same-sex marriage by statute. The Minnesota Supreme Court held in *Baker v. Nelson* that Minnesotans of the same sex cannot marry. There are *no* same-sex marriage cases pending in our courts.

In fact, Minnesotans are in the midst of a productive dialogue. People of faith—on both sides—are engaging in conversations. Polls show that Minnesotans are still making up their minds. Even though constitutions should be amended only when there is broad consensus after a dialogue has *ended*, proponents of the amendment, like high-pressure salespeople, want to stop our deliberations and force us to decide *right now*. That is not democracy.

There is no crisis, and the amendment they are selling us is not cheap. It will cost us the foundation of our freedom and the soul of our state.

Our nation’s founders worried that unchecked governments tend to oppress minorities and stamp out dissent. They also recognized that every person is sometimes in the minority. So, they built the principle of minority protection into the very fabric of our

constitutional tradition. Congress and the Minnesota legislature have rejected every proposed amendment that excluded minorities because they knew that once we use the Constitution to hurt minorities, we begin to dismantle our Constitution's protective shield and leave everyone vulnerable.

Perhaps the highest cost of the amendment stems from the fact that it is far broader than necessary to deal with the concerns that supposedly justify it. If this were only about judges, the amendment could simply reserve to the legislature the exclusive right to define marriage. This amendment, with its sweeping prohibition of civil unions and domestic partnerships, is one of the most restrictive in the nation. It is mean in a state that prides itself on niceness, a state with a rich history of tolerance and religious pluralism, a state that welcomes refugees and is the nation's capital of international adoptions. This amendment is antithetical to the core values of Minnesota. It is *so not* nice, *so un-Minnesotan*, that I would say its proponents are offering us a Faustian bargain: in return for eliminating the specter of same-sex marriage, they are demanding our state's very soul.

After the passage of the Voting Rights Act, my father traveled to Mississippi to help register African-Americans to vote. My grandmother, whose parents and sister were murdered by Nazis only twenty years before, begged him not to go. She said, "If you have the energy to do this work, why don't you help rebuild the Jewish community?" My father replied, "It is precisely *because* our family was killed in the Holocaust that I must go to Mississippi."

His point was that we who have been persecuted because we were seen as "not normal" have a moral duty to ensure that such persecution never happens to others. At the same time, my father was expressing his faith in America. He was telling my grandmother that our family could be safe here as long as we worked to ensure that America remained true to its founding principle of equality under the law. I believe in America, too, and I am proud to be here today carrying on my father's legacy and asking you to preserve our Constitution as the protector of my children's freedom and of the freedom of every person in this state.

Article IX of the Minnesota Constitution gives the legislature an important role in the amendment process. That role is not to rubber stamp every amendment anyone proposes. It is to act as a gatekeeper, to reject amendments that threaten our democracy. For you to approve this un-Minnesotan and un-American amendment—the product of high-pressure sales tactics designed to extinguish dialogue—is precisely what you promised *not* to do when you took the oath of office and swore to support the Constitution of the State of Minnesota.

Everyone knows that the correct response to high-pressure sales tactics is to walk away. As a law professor, a Jew, a husband and father, and a Minnesotan, I implore you to walk away from this very bad deal.



Senate Judiciary Committee
Tuesday, April 4, 2006
Testimony Presented by Marcia Avner

Mr. Chair and Members of the Committee: My name is Marcia Avner. I am the Public Policy Director at the Minnesota Council of Nonprofits.

MCN is a statewide association of nonprofits, representing over 1580 member organizations. The vision that guides our work is "a healthy, cooperative, and just society."

The Minnesota Council of Nonprofits opposes this amendment because it is contrary to that vision. The amendment would have a profound and negative impact on nonprofits. It overwhelms the ability to have civil and substantive dialogue on other issues that affect our communities. And it is an affront to the intent and spirit of the Minnesota Constitution.

IMPACT ON NONPROFITS; What does this mean for nonprofits? Minnesota's nonprofits work hard to provide services and programs in ways that respect all of the people in their communities. The pitting of one group of Minnesotans against another undermines Minnesota's spirit of civil society, voluntarism, and cooperation.

Nonprofits' ability to serve people would be affected.

Human service providers predict that the proposed amendment would abolish many of the frameworks that exist to make families and society stronger, safer, and healthier. For example, Family & Children's Service has been serving and strengthening families in the Twin Cities for more than 125 years. According to president and C.E.O., Molly Greenman, "Not a single child or family will be helped by the proposed constitutional amendment. However, it is very likely that many of the families and children that we serve will be hurt." Constitutionally denying access to legal protections for a select group of citizens will not help a single Minnesota family and will cause significant harm to the thousands of gay and lesbian families, who, according to the 2000 U.S. Census, live and work in every single one of Minnesota's 87 counties.

Organizations that would be affected include, but are not limited to, those working in the areas of health care, adoption, youth services and domestic violence. In other states, the language in similar amendments has been used to restrict legal contracts associated with relationships. For example, domestic violence organizations cite recent legal cases in Utah and Ohio, where domestic violence charges have been ruled invalid against unmarried

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partners, regardless of sexual orientation. In Michigan, the state has cancelled provisions of a previously negotiated labor contract, which provided healthcare benefits to partners of state workers, while in other states unmarried heterosexual partners are finding their legal contracts such as medical powers of attorney negated. Services that nonprofits provide in these areas would be impeded.

Many nonprofits serve children as well as their families. This measure would bar the many children being raised by same sex parents from accessing the legal protections enjoyed by their peers with heterosexual parents. Why would we support public policy that has the effect of destabilizing families and children rather than strengthening them?

IMPACT ON POLICY SHAPING: Nonprofits and participants in the policy dialogue find that the focus on this issue, and the divisiveness that it provokes, has masked the ability to attend to the hundreds of other issues that matter in the lives of Minnesotans. We know that Minnesotans care about sound policy in education, health care, and transportation, and that they understand that it is a proper and necessary role of government to solve problems in those and other issue areas. Right now, we have homeless Minnesotans, we have working families that can't find affordable child care, and we have opportunities to be entrepreneurial in energy technology development and other areas. That should be at the core of the legislative debate and given the time and space that this polarizing issue has claimed.

The divisiveness around the proposed amendment has changed the tenor of the debate in unprecedented ways.

A personal note: I first came to this Capitol in 1972 to advocate for my deaf son. Since then, I have been here to discuss a wide array of issues: energy policy, recycling, the needs of cities, food safety, and, for the past 10 years, the role of nonprofits and their partnership with government. Dialogue in Minnesota was recognized nationwide as civil, productive, and results-oriented. We need to take this amendment and the polarization that it provokes and put them aside, so that we can all engage in respectful, collaborative efforts, addressing the needs and opportunities requiring attention in the best long term interests of Minnesota.

We need to set a different tone for the future. Does anyone benefit if the divisiveness that we are now experiencing is the hallmark of our state's political culture in the years ahead?

THE CONSTITUTION: And, finally, MCN sees this proposed amendment as antithetical to the spirit and intent of the state's constitution. The proposed amendment invites a majority to vote to inhibit the rights of a minority. The constitution is the place in which we protect the rights of minorities. That is a compact that we should never break.

MCN urges the committee to vote no on this proposal.

Academic Rationale to Sustain Marriage Definition

Mick Mayhew, PhD, LMFT
Associate Professor of Marriage & Family Therapy
St. Cloud State University

1

Finding the One Armed Scientist

- Much that we do not know
 - Etiology of gender identity and attraction
 - Paucity of longitudinal data (e.g., parenting)
 - The stakes are too high to make socioinstitutional change devoid of "good" data
- What we do know (30 yrs of solid data)

2

What We Do Know

Comparing family constellations, children raised in nuclear families are more successful than those raised in alternative family forms

- More likely to finish school, obey the law, have happy marriages, and pursue fulfilling careers
- Wealthier, better educated, psychologically and physically healthier, more willing to compromise, less hostile
- Parental genetic connection to child(ren) and sharing the home with the child's other biological parent increases the emotional attachment and time commitment of parents— Which greatly benefits the child

3

Costs of Institutional Plurality

- Emile Durkheim (*Suicide*, 1897)
 - "Man is the more vulnerable to self-destruction the more he is detached from any collectivity"
- *Anomie* as a condition where social and/or moral norms are confused, unclear, or simply not present
 - "If the rules of the conjugal morality lose their authority, and the mutual obligations of husband and wife become less respected, the emotions and appetites ruled by this sector of morality will become unrestricted and uncontained, and accentuated by this very release; powerless to fulfill themselves because they have been freed from all limitations, these emotions will produce a disillusionment which manifests itself visibly"
- Current conditions of adolescent suicidality
 - Hopelessness (combined with adolescents' impulsive nature)
 - Hostility
 - Self concept
 - Social support

4

Conclusions

- Failure of sentiment to reduce stigma of divorce on "at-risk" children – Pandora's Box
- Let's not replay the same mistake by further diffusing the definition of marriage
- Let's sustain (even nourish) the institution of marriage
 - A primary function of marriage is the raising of children
 - Both biological parents in home is best – health is relative
 - Children need socially supported values and institutions that are defined and static
- Empirically, "religion" is a protective factor – let's not marginalize this voice

5

Michael E. Mayhew, PhD, LMFT

Associate Professor of Marriage & Family Therapy, St. Cloud State University
Clinical Member, American Association of Marriage & Family Therapy
Approved Supervisor, Minnesota Licensure Board of Marriage & Family Therapy

Bio-Sketch

Dr. Mayhew received his Doctor of Philosophy in Human Development and Family Studies with an emphasis in Marriage and Family Therapy from Iowa State University. He served as a postdoctoral research associate at the University of Illinois in Chicago. Dr. Mayhew is Minnesota board licensed and is an Approved Supervisor of MFT in the state. He is also a Clinical Member of the American Association of Marriage and Family Therapy (AAMFT).

He has been a Professor of Marital & Family Therapy at St. Cloud State University since 1998. Marital and Family Therapy (MFT) is a systems approach to assessing, diagnosing, and treating pathology within the vast spectrum of relationships. Dr. Mayhew teaches graduate students in the didactics of theory, research methodology, and applications of clinical therapy and human development. Dr. Mayhew is devoted to equipping students and practitioners with clinical skills that are based in empirically and scholarly based practices.

Dr. Mayhew's research interests have been focused on the reconciliation of human differences within simple, complex, and technological systems amid a rapidly changing world. He has developed a method that merges the therapeutic capabilities of information acquisition, maneuverability, and intervention with the information management techniques of aerospace engineering. This method provides solutions designs with greater efficiency and heightened 'stakeholder' satisfaction.

Dr. Mayhew lives in Sauk Rapids with his wife, Dr. Kathryn Mayhew (Professor of Developmental Psychology), and their two year-old children, Hannah and Thomas.

Selected graduate courses taught that demonstrate prequalification for today's hearings:

- CPSY 620 Family Systems
- CPSY 623 Family Stress & Coping
- CPSY 624 Family Assessment
- CPSY 625 Human & Family Sexuality
- CPSY 651 Advanced Theories of Psychology
- CPSY 675 Research Methods

Faith Leaders who oppose the anti-marriage amendment by signing a resolution that states:

"I oppose any amendment to the Constitution that would ban marriage, civil unions, and/or legal protections for same-sex couples." (or similar language)

Speakers at the People of Faith Rally, March 23, 2006:

Rev. Letia Blade, Full Truth Fellowship in Christ Church
Rabbi Aaron Brusso, Associate Rabbi at Adatah Jeshurun and co-chair of Minnesota Rabbinical Association
Rev. Mariann Edgar Budde, St. John the Baptist Episcopal Church
Rev. Doug Donley, University Baptist Church
Farheen Hakeem
Rev. Elizabeth Macauley, Richfield United Methodist Church
Brian McNeill, Dignity, Twin Cities/Rainbow Sash Alliance
Rev. Doug Mitchell, Westminster Presbyterian Church
Rev. Robyn Murphy, All God's Children: a Metropolitan Community Church/Mormon/LDS
Rev. Victoria Safford, White Bear Lake Unitarian Universalist Fellowship
Rev. Paul Tiedeman, St. Paul Reformation Lutheran Church
Rev. Oliver White, Grace Community United Church of Christ

The Following Individuals Signed a Resolution, dated April 3, 2006:

Rev. Ross A. Aalgaard, Judson Memorial Baptist Church
Rev. Paul Allick, University Episcopal Center, University of Minnesota
Rev. Nancy L. Anderson, United Church of Christ
Rev. Joy Bassert
Rabbi Renee Bauer, Mayim Rabim Congregation
Rev. Ruth J. Beck, St. Peter's United Church of Christ
Chaplain Mary Beckfeld
Pastor Steve Benson, Bethany Lutheran Church
Rev. Anita Bradshaw, Mayflower Congregational United Church of Christ
Rev. Robert Boehlke, Presbyterian Clergy
Rev. Anthony Britten-Campbell, Linden Hills Congregation United Church of Christ
Rev. Leigh Brown
Rev. Nancy Brown, Lutheran, ELCA
Rev. Richard Buller, Valley Community Presbyterian
Rev. Judy Burgett Winzig
Rev. Thomas Burtch, Retired Lutheran Clergy
Rev. Norma Burton, Linden Hills Congregation United Church of Christ
Rev. Laurie Bushbaum
Rev. John Buzza
Pastor Sarah Campbell, Mayflower Congregational United Church of Christ
Rev. Dawn Carder, First Presbyterian Church of Mankato
Pastor John Carrier, Lutheran Campus Center of Winona
Former Presiding Bishop Herbert W. Chilstrom
Rev. Don Christensen
Rabbi Norman Cohen, Congregation Bet Shalom
Pastor Donald Crannell, Retired Presbyterian Pastor

Rev. Laurie Crelly, United Church of Christ
Pastor Joseph Crippen
Rev. Catherine Crooks, Plymouth Congregational Church
Rev. James Dahlgren, Macalester - Plymouth United Church
Rev. John Darlington, Christ United Methodist of Rochester
Rabbi Alexander Davis, Beth El Synagogue
Rev. Eldon DeWeerth, Redeemer Lutheran, White Bear Lake
Rev. Dr. Beth Donaldson, United Church of Christ
Rev. Jan Dougherty, St. Mark's Episcopal Cathedral
Rev. Thomas A. Duke, Retired Clergy ELCA
Rev. Rob Eller-Isaacs, Unity Church
Rev. Janne Eller-Isaacs, Unity Church
Rev. David Engelstad, Lutheran, ELCA
Pastor Susan Engh, ISAIAH
Rev. James E. Erlandson, Lutheran Church of the Redeemer
Rev. Thomas Ewald, Macalester - Plymouth United Church
Rev. Chris Fazel, First Congregational United Church of Christ
Rev. Sharon Fazel, First Congregational United Church of Christ
Rev. Scott Fearing
Rev. Pam Fickenschner, Edina Community Lutheran Church
Pastor Walter Flesner
Rabbi David Freedman, B'nai Israel Synagogue
Rev. Bradley A. Froslee
Pastor Robert Gamble
Thomas Garvey, Retired Priest
Senior Minister James Gertmenian, Plymouth Congregational Church
Rev. Patricia Gillespie, Episcopal Congregations in Eveleth, Virginia, Tower, Ely, Cloquet, and Hermantown
Rabbi Sim Glaser, Temple Israel
Rev. G. Dean Goebel, United Church of Christ
Rev. Trish Greeves, Elk River, United Church of Christ
Pastor Teresa Guidon, Church of the Immaculate Heart of Mary
Rev. Myo-o Habermas-Scher, Hokyoji Zen Monastery
Rev. Sue Hamly, Faith United Church of Christ of International Falls
Rev. Jerry P. Hankins
Rev. Nile Harper, Westminster Presbyterian Clergy
Senior Pastor Tim Hart-Andersen, Westminster Presbyterian Church
Pastor Robert Hausman, Lutheran Church of the Resurrection
Community Minister Allan Henden, Lyndale United Church of Christ
Pastor Glen Herrington-Hall, New Brighton United Church of Christ
Rev. Anita Hill, Wingspan Ministry of St. Paul Reformation Lutheran
Janet I. Hill, Community of Christ
Rev. Stephanie Hill
Rev. Malcolm Himschoot, Plymouth Congregational Church
Senior Pastor Diane Hooge, Judson Memorial Baptist Church

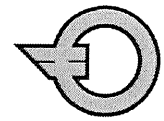
Rev. T. Lance Holthusen of Arlington
 Rev. Eliot Howard, Linden Hills Congregation United Church of Christ
 Rev. Suzan Ireland, Lynnhurst Congregational United Church of Christ
 Rev. Wendy Jerome
 Rev. Gregory Kapphahn of Glenwood
 Rev. Karen Kennerly, Presbyterian Church
 Sister Mary Kessler, Sister of St. Joseph
 Pastor Rebecca Kloek
 Rev. Donald Knecht
 Rev. Mark Kuether of Detroit Lakes
 Rev. Christina Kukuk, First Congregational United Church of Christ
 Rev. Stephen Lauden, Episcopal Priest
 Senior Pastor Hans Lee, Our Savior's Lutheran Church
 Rev. Annika Lister Stroope, Westminster Presbyterian Church
 Rev. Walter Lockhart
 Rev. Steve Lomen
 Sister Lillian Long, Sister of St. Joseph
 Rev. Dr. Lynne Lorenzen
 Sister Marian Louwagle, Sister of St. Joseph
 Rev. Richard Luedtke, Evangelical Lutheran Church
 Rev. Suzanne Makes, Wesley United Methodist Church
 Pastor David Maghakian, North Como Presbyterian Church
 Rev. Catherine Malotky, Evangelical Lutheran Church
 Rev. Deborah Manning
 Rev. Dr. L. Edwin Martin, Westminster Presbyterian Church
 Pastor Jane McBride, Falcon Heights United Church of Christ
 Sister Rita McDonald, Sister of St. Joseph
 Ordained Minister Dennis McKee,
 Pastor David McMahill, Retired Pastor, United Church of Christ, Eastern MN Association United Church of Christ
 Rev. Jane A. McMahill, United Church of Christ
 Rev. Alan McNamara, United Church of Christ
 Pastor Ronald Meyer, Parkway United Church of Christ
 Rev. Fintan Moore, Spirit of the Lakes United Church of Christ
 Rev. Michele Morgan, Ascension Episcopal Church Stillwater
 Rev. Lynn Naeckel, Holy Trinity Episcopal Church of International Falls
 Pastoral Minister, Jen Nagel, Salem English Lutheran Church
 Rev. Eric Nelson, First Congregational Church of Minnesota
 Rev. Richard Norman, St. Mark's Cathedral
 Rev. Karen O'Connell
 Rabbi Stacy Offner, Shir Tikvah
 Rev. Gary Olson
 Rev. Margaret Otteburn
 Rev. Theodore Park, St. James Episcopal Church
 Rev. John Clark Pegg
 Chaplain Theresa Pick
 Rev. David Plumb, Robbinsdale United Church of Christ
 Pastor Don Portwood, Lyndale United Church of Christ
 Pastor Patrick Preheim
 Rev. Dr. Carolyn Pressler
 Rev. Philip Ramstad, Retired Pastor, United Church of Christ
 Pastor Judy Reitz
 Rev. Linda Reynolds, Peace United Church of Christ of Rochester
 Rev. Margaret Richardson
 Rev. Paul G Rider, St. John's Episcopal Church of Mankato
 Pastor Frank Rivas, First Universalist Church
 Rev. Dr. Judith Roska
 Rev. Terry Ross
 Rev. Diane M. Roth, Woodlake Lutheran Church
 Rabbi Jared Saks, Temple Israel
 Rev. Jeff Sartain, Plymouth Congregational Church
 Pastor Mary Kay Sauter, Western MN Association, United Church of Christ, Alexandria
 Rev. Kevin Schill, Christ United Methodist
 Pastor Kirsten Schlauderaff, St. Paul's Lutheran Church of Red Wing
 Pastor Daniel Schmeichen, United Church of Christ
 Rev. Jamie Schultz, Bryn Mawr Church
 Garth Schumacher, United Church of Christ of Elk River
 Rev. Becky Sechrist, Prospect Park United Methodist Church
 Retired PCUSA Minister, John Severson
 Pastor David Shields, Retired Pastor
 Rev. Dr. Jim Siefkes, Edina Community Lutheran Church
 Rev. Jan Skogstrom, Spirit United Interfaith Church
 Rev. Dr. Christine Smith
 Rev. Karen Smith Sellers, Mayflower Congregational United Church of Christ
 Minister Jerie Smith, Lutheran Campus Ministry
 Rabbi Adam Spilker, Mount Zion Temple
 Rev. Anni Stedman, Robbinsdale United Church of Christ
 Pastor Jay Steele, Open Circle Church of the Brethren
 Rev. Hugh Stephenson, Peace United Methodist Church
 Pastor Grant Stevensen, St. Matthew's Lutheran Church
 Rev. H. David Stewart, Dayton Ave Presbyterian
 Rabbi Sharon Stiefel, Hillel Foundation of B'nai B'rith
 Pastor Erik Strand, Edina Community Lutheran Church
 Sister Linda Taylor, Sister of St. Joseph
 Rev. Wayne Tellekson, ELCA
 Rev. Tim Tennant-Jayne
 Pastor Albert Thompson, First Congregational United Church of Christ
 Pastor Byron Thompson
 Rev. Stephen G. Thompson, Mizpah United Church of Christ
 Rev. Susan Tjornehoj
 Rev. Paul A. Tucker, All God's Children: a Metropolitan Community Church
 Rev. Kate Tucker, First Universalist Church
 Rev. Sue Turner, Unitarian Universalist, Rochester
 Rev. Daniel Vanderploeg, St. Paul United Church of Christ
 Rev. Carmen Valenzuela, Minnehaha Church of Christ
 Rev. Heidi Vardeman, Macalester - Plymouth United Church
 Rev. Dr. Nancy Victoria-Vangewd, United Methodist Church
 Rev. Rebecca Voelkel, Lyndale United Church of Christ
 Rev. Marguerite Voelkel
 Rev. William Voelkel
 Rev. Allan Vrieze of Rochester
 Rev. Ryan Voss
 Pastor Richard K. Wagner, Union Congregational United Church of Christ
 Pastor Gary Walpole, United Church of Christ
 Rev. Judith J. WestLee, Retired Elder, MN Annual Conference
 Rev. Jay Wiesner, Bethany Lutheran Church
 Rev. Johnathan Zielske
 Rabbi Marcia Zimmerman, Temple Israel

Is there a name missing or you would like to add your name?, Contact: Becky Smith
 via e-mail at: bsmith@outfront.org or by calling 612-822-0127 or 800-800-0350 ext.

Total 196 Faith Leaders

The following is a list of organizations who have signed a resolution stating:

We oppose any amendment to the Minnesota Constitution that prohibits or limits marriage, civil unions and/or legal protections for same-sex couples (or similar language).



OUTFRONT
MINNESOTA

Minnesota Council of Nonprofits	Gay and Lesbian Youth Services of Rochester
City of St. Paul	Gay/Lesbian Community Services of Southeast Minnesota
Minnesota Senior Federation	Gender Education Center
Family & Children's Service	GLBT Generations
Minnesota State Bar Association	Gloria Dei Lutheran Church of Duluth
YWCA of Minneapolis	Good Samaritan United Methodist Church of Edina
National Association of Social Workers, Minnesota Chapter	Grandmothers for Peace
American Civil Liberties Union of Minnesota	Gustavus Adolphus College, Women's Studies Program
Catholic Church of St. Stephen	Hadassah, Upper Midwest Region
Edina Community Lutheran Church	Hamline University, School of Law, Stonewall Alliance
Jewish Community Action	Headwaters Unitarian Universalist Fellowship of Bemidji
Headwaters Foundation for Justice	Healing Spirit: Metropolitan Community Church of Rochester
Jewish Community Relations Council	Hennepin County Bar Association
Minnesota Alliance for Progressive Action	Houston County Women's Resources
Winona Human Rights Commission	Humphrey Institute of Public Affairs Student Association
Women's Center of Mid-Minnesota of Brainerd	Interfaith Peacemakers of Edina
Affirmation: Gay & Lesbian Mormons	Itasca Community College, Gay Straight Alliance
All God's Children: Metropolitan Community Church	Joint Synod Committee for Inclusivity
Alternative Auto Access	Lake Fellowship of Unitarian Universalists
Maze	LGBT Resource Center of the 7 Rivers
Animal Ark	LGBTQA Network
Aquaries Media Corp.	Long, Reher and Hanson, P.A.
Arts and Culture Partnership of St. Paul	Lutheran Church of Christ the Redeemer
Augsburg College, Department of Social Work	Lutherans Concerned, Twin Cities
Aurora Consulting, Inc.	Lyndale United Church of Christ
Balance Chiropractic	Macalester College, Theatre and Dance Department
Beltrami County DFL	Macalester, Plymouth United Church
Bethany Lutheran Church	Maccabee Group Public Relations
Boulevard Strategies	Madelain Group
Boys Into Gardening Ltd.	Mayflower Congregational United Church of Christ
Bryn Mawr Presbyterian Church	Mayim Rabim Reconstructionist Synagogue
Cannon Valley Friends Meeting	Mayo High School, Gay Straight Alliance
Catholic Pastoral Committee on Sexual Minorities	Mesabi Unitarian Universalist Church of Virginia
Cherokee Park United Church	Mill Trace Properties, LLC
Clare Housing	Millennium Consulting Group
Dignity, Twin Cities	Minneapolis Area Synod - ELCA
Dolphin Development and Construction Co. Inc.	Minneapolis Friends Meeting
Faith Family Fairness Alliance	Minnehaha United Church of Christ
Falcon Heights United Church of Christ	Minnesota AIDS Project
First Congregational Church of Minnesota	Minnesota Atheists
First Congregational Church of MN, United Church of Christ	Minnesota Chapter of National Lawyer's Guild
First Congregational Church United Church of Christ of Anoka	Minnesota Coalition Against Sexual Assault, Board and Staff
First Unitarian Church of Duluth	
First Unitarian Society of Minneapolis	
First Unitarian Universalist Church of Rochester	
First Universalist Church	
Full Truth Fellowship Church	

Minnesota Hispanic Bar Association
 Minnesota Lavender Bar Association
 Minnesota National Organization for Women
 Minnesota Trial Lawyers
 Minnesota Unitarian Universalist Social Justice Alliance
 Minnesota Valley Unitarian Universalist Fellowship
 Minnesota Women Lawyers
 Minnesota Women's Political Caucus
 Minnesota Women's Press
 Monarch Investment Properties
 Mt. Zion Temple
 NARAL Pro-Choice Minnesota Foundation
 National Council of Jewish Women, Minnesota
 Newman Center Christ Church, Staff
 Northland Gay Men's Center of Duluth
 Olmsted County DFL Central Committee
 Olmsted County Human Rights Commission
 One Voice Mixed Chorus
 Open Circle Church
 Out in the Valley
 OutFront Minnesota
 Parkway United Church of Christ
 Patrick's Cabaret
 Pax Christi Twin Cities
 Peace United Church of Christ of Duluth
 Peace United Methodist Church
 PFLAG Northfield
 PFLAG Red Wing
 PFLAG St. Paul/Minneapolis
 Pilgrims United Church of Christ
 Planned Parenthood Minnesota/South Dakota
 Portland Commons, LLC
 Presbyterian Church of the Apostles
 Presbytery of the Twin Cities Area
 Pride Collective & Community Center of Moorhead
 ProGroup
 Prospect Hill Friends Meeting
 Prospect Park United Methodist Church
 Queer and Straight in Unity
 Rainbow Families
 Rainbow Health Initiative
 Ramsey County Bar Association
 Reconciling Ministries Small Group
 Riptide Rescue
 Robbinsdale United Church of Christ, 2005
 Coordinating Council
 Rochester Friends Meeting
 Sentient Consultants
 Sexual Orientation Human Rights of Detroit Lakes
 Shir Tikvah Congregation
 Solvibe
 Spirit of Life Church, Unitarian Universalist of St. Cloud
 Spirit of the Lakes, United Church of Christ

St. Anthony Park United Church of Christ, 2006
 Council
 St. Cloud State University Student Government
 St. Cloud Unitarian Universalist Fellowship
 St. Croix Valley Friends Meeting
 St. James Episcopal Church on the Parkway
 St. Luke Presbyterian Church
 St. Luke Presbyterian Church Peace & Justice
 Focus Group
 St. Luke's Episcopal Church
 St. Paul Mennonite Fellowship
 St. Paul Reformation Lutheran Church Wingspan
 Ministries
 St. Paul Reformation Lutheran Church
 Stephenson & Sutcliffe, P.A.
 Temple Israel
 Ten Thousand Things Theater
 The IT Guys, Ltd.
 Twin Cities Friends Meeting
 Twin Cities Quorum
 Twin City Artist Front
 Two Spirit Press Room
 Unitarian Universalist Church of Minnetonka
 Unitarian Universalist Church of Willmar
 Unitarian Universalist Fellowship of Mankato
 Unitarian Universalist Fellowship of Northfield
 Unity Church Unitarian's Board of Trustees
 University Baptist Church
 University Lutheran Church of Hope
 University Lutheran Church of the Epiphany of St.
 Cloud
 University of Minnesota, Queer Graduate and
 Professional Association
 University of Minnesota, School of Social Work
 Faculty
 Walker Community United Methodist
 Wesley United Methodist Church
 White Bear Unitarian Universalist Church
 White Bear Unitarian Universalist Church, Board of
 Trustees
 Wilson Resource Center
 Winona State University, Faculty Association
 Winona State University, Student Association of
 Social Workers
 Woodbury United Methodist Church, Kairos Sunday
 Adult Class

Total = 178 organizations

For more information on this list, or for a list of individuals who have signed the resolution please contact Becky Smith at (612) 822-0127 ext. 103 or bsmith@outfront.org .
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**Testimony of Elaine Aron
Director, Justice Squared
Jewish Community Relations Council of Minnesota and the Dakotas
Before the Senate Judiciary Committee
April 4, 2006**

Mr. Chair and members of the Committee:

My name is Elaine Aron. I work at the Jewish Community Relations Council of Minnesota and the Dakotas, where I am the director of our social justice program, Justice Squared. The JCRC is the designated public affairs voice of the Jewish community in Minnesota.

Thank you for allowing me the opportunity to testify regarding House File 6. The JCRC is opposed to this legislation.

As a religious minority, the Jewish community fully understands the importance of the protections contained in federal and state constitutions. Historically, constitutions in America have protected the people – especially minorities – from government power. Amending Minnesota's Constitution to deny rights to a minority group is antithetical to its true purpose and presents an alarming contrast to American – and Minnesotan – values and traditions.

If the amendment moves forward, this state will sully its hard-earned and commendable reputation as a progressive and tolerant state committed to equal rights for all, and condemn a minority group into a new and deplorable group: sub-citizens of the state of Minnesota.

We respect the many religious groups within the state of Minnesota, including some members of our own Jewish community, who believe that marriage between same sex couples is prohibited by passages found in the Torah, Bible and Koran. But the pluralistic nature of our state requires our legislature to refrain from forcing religious interpretations on citizens.

If we have learned anything from the annals of Jewish history it is that we must preserve, not undermine, the societal institutions that protect minorities.

Thank you, Mr. Chair and members of the committee, for considering our views

Academic Rationale to Sustain Marriage Definition

Mick Mayhew, PhD, LMFT
Associate Professor of Marriage & Family Therapy
St. Cloud State University

1

Finding the One Armed Scientist

- Much that we do not know
 - Etiology of gender identity and attraction
 - Paucity of longitudinal data (e.g., parenting)
 - The stakes are too high to make socioinstitutional change devoid of "good" data
- What we do know (30 yrs of solid data)

2

What We Do Know

Comparing family constellations, children raised in nuclear families are more successful than those raised in alternative family forms

- More likely to finish school, obey the law, have happy marriages, and pursue fulfilling careers
- Wealthier, better educated, psychologically and physically healthier, more willing to compromise, less hostile
- Parental genetic connection to child(ren) and sharing the home with the child's other biological parent increases the emotional attachment and time commitment of parents— Which greatly benefits the child

3

Costs of Institutional Plurality

- Emile Durkheim (*Suicide*, 1897)
 - "Man is the more vulnerable to self-destruction the more he is detached from any collectivity"
- *Anomie* as a condition where social and/or moral norms are confused, unclear, or simply not present
 - "If the rules of the conjugal morality lose their authority, and the mutual obligations of husband and wife become less respected, the emotions and appetites ruled by this sector of morality will become unrestricted and uncontained, and accentuated by this very release; powerless to fulfill themselves because they have been freed from all limitations, these emotions will produce a disillusionment which manifests itself visibly"
- Current conditions of adolescent suicidality
 - Hopelessness (combined with adolescents' impulsive nature)
 - Hostility
 - Self concept
 - Social support

4

Conclusions

- Failure of sentiment to reduce stigma of divorce on "at-risk" children – Pandora's Box
- Let's not replay the same mistake by further diffusing the definition of marriage
- Let's sustain (even nourish) the institution of marriage
 - A primary function of marriage is the raising of children
 - Both biological parents in home is best – health is relative
 - Children need socially supported values and institutions that are defined and static
- Empirically, "religion" is a protective factor – let's not marginalize this voice

5

Michael E. Mayhew, PhD, LMFT

Associate Professor of Marriage & Family Therapy, St. Cloud State University

Clinical Member, American Association of Marriage & Family Therapy

Approved Supervisor, Minnesota Licensure Board of Marriage & Family Therapy

Bio-Sketch

Dr. Mayhew received his Doctor of Philosophy in Human Development and Family Studies with an emphasis in Marriage and Family Therapy from Iowa State University. He served as a postdoctoral research associate at the University of Illinois in Chicago. Dr. Mayhew is Minnesota board licensed and is an Approved Supervisor of MFT in the state. He is also a Clinical Member of the American Association of Marriage and Family Therapy (AAMFT).

He has been a Professor of Marital & Family Therapy at St. Cloud State University since 1998. Marital and Family Therapy (MFT) is a systems approach to assessing, diagnosing, and treating pathology within the vast spectrum of relationships. Dr. Mayhew teaches graduate students in the didactics of theory, research methodology, and applications of clinical therapy and human development. Dr. Mayhew is devoted to equipping students and practitioners with clinical skills that are based in empirically and scholarly based practices.

Dr. Mayhew's research interests have been focused on the reconciliation of human differences within simple, complex, and technological systems amid a rapidly changing world. He has developed a method that merges the therapeutic capabilities of information acquisition, maneuverability, and intervention with the information management techniques of aerospace engineering. This method provides solutions designs with greater efficiency and heightened 'stakeholder' satisfaction.

Dr. Mayhew lives in Sauk Rapids with his wife, Dr. Kathryn Mayhew (Professor of Developmental Psychology), and their two year-old children, Hannah and Thomas.

Selected graduate courses taught that demonstrate prequalification for today's hearings:

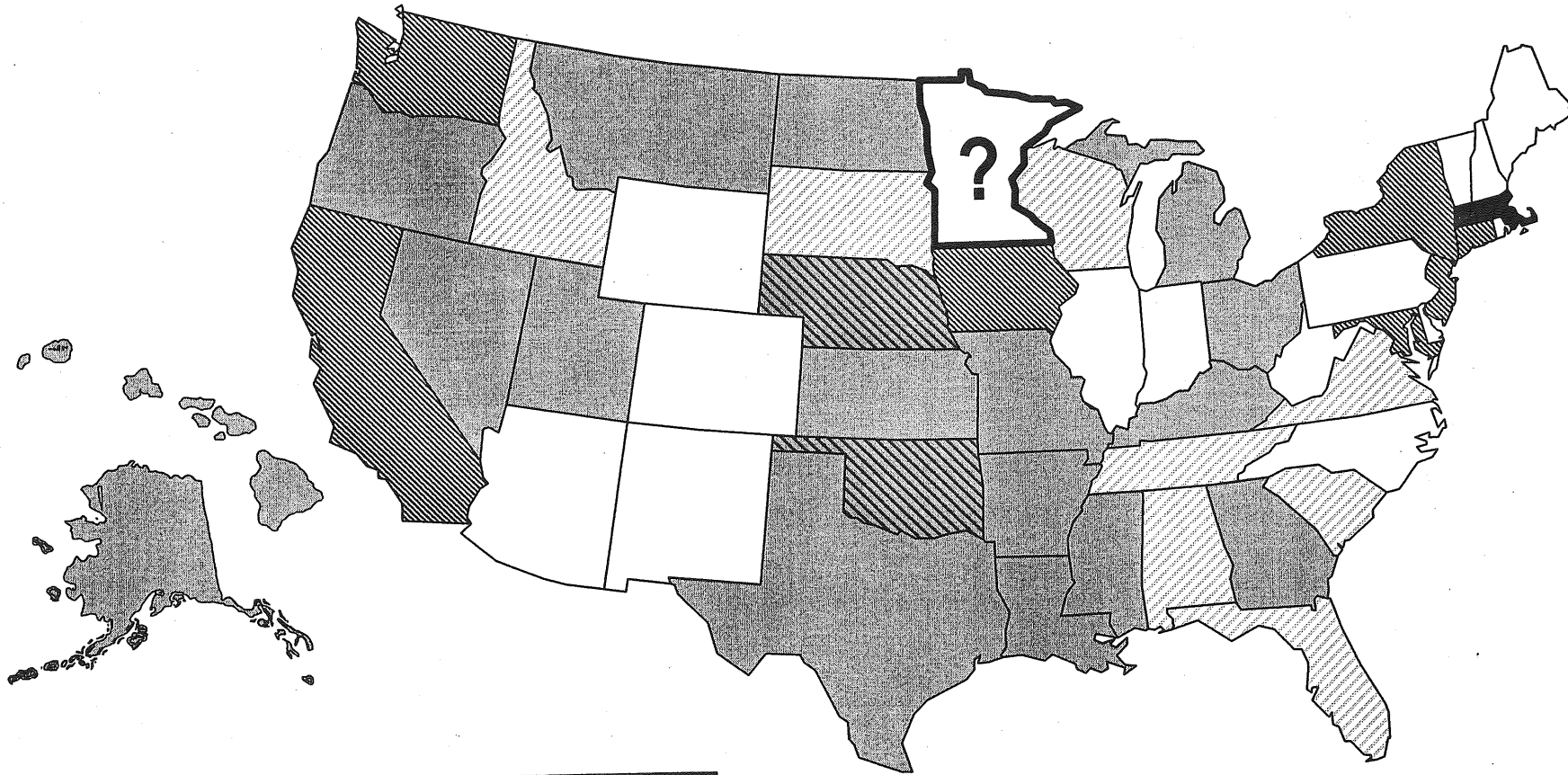
- CPSY 620 Family Systems
- CPSY 623 Family Stress & Coping
- CPSY 624 Family Assessment
- CPSY 625 Human & Family Sexuality
- CPSY 651 Advanced Theories of Psychology
- CPSY 675 Research Methods

Where Things Stand Today






- **Lawsuits challenging state marriage laws have been filed in over half our country, the latest being in Iowa.**
- **State judges have now overturned marriage laws in 8 states:**
 - Same-sex marriage legalized in Massachusetts
 - People amended state constitution in Hawaii and Alaska
 - Legislature acted in Vermont
 - Appeals pending in California, Maryland, Washington, and New York.
- **A federal judge overturned Nebraska's marriage amendment (appeal pending).**
- **Civil unions or domestic partnerships legal in 6 states – California, Connecticut, Washington D.C., Maine, New Jersey, and Vermont.**
- **State marriage amendments:**
 - 19 states have now passed amendments by an average margin of 71.5%
 - 15 states already had DOMA statutes
 - All define marriage as the union of one man and one woman
 - At least 8 additional states will put measures to voters in 2006, including South Dakota and Wisconsin.

Marriage is Under Attack

Constitutional Amendments v. Lambda Legal Lawsuits

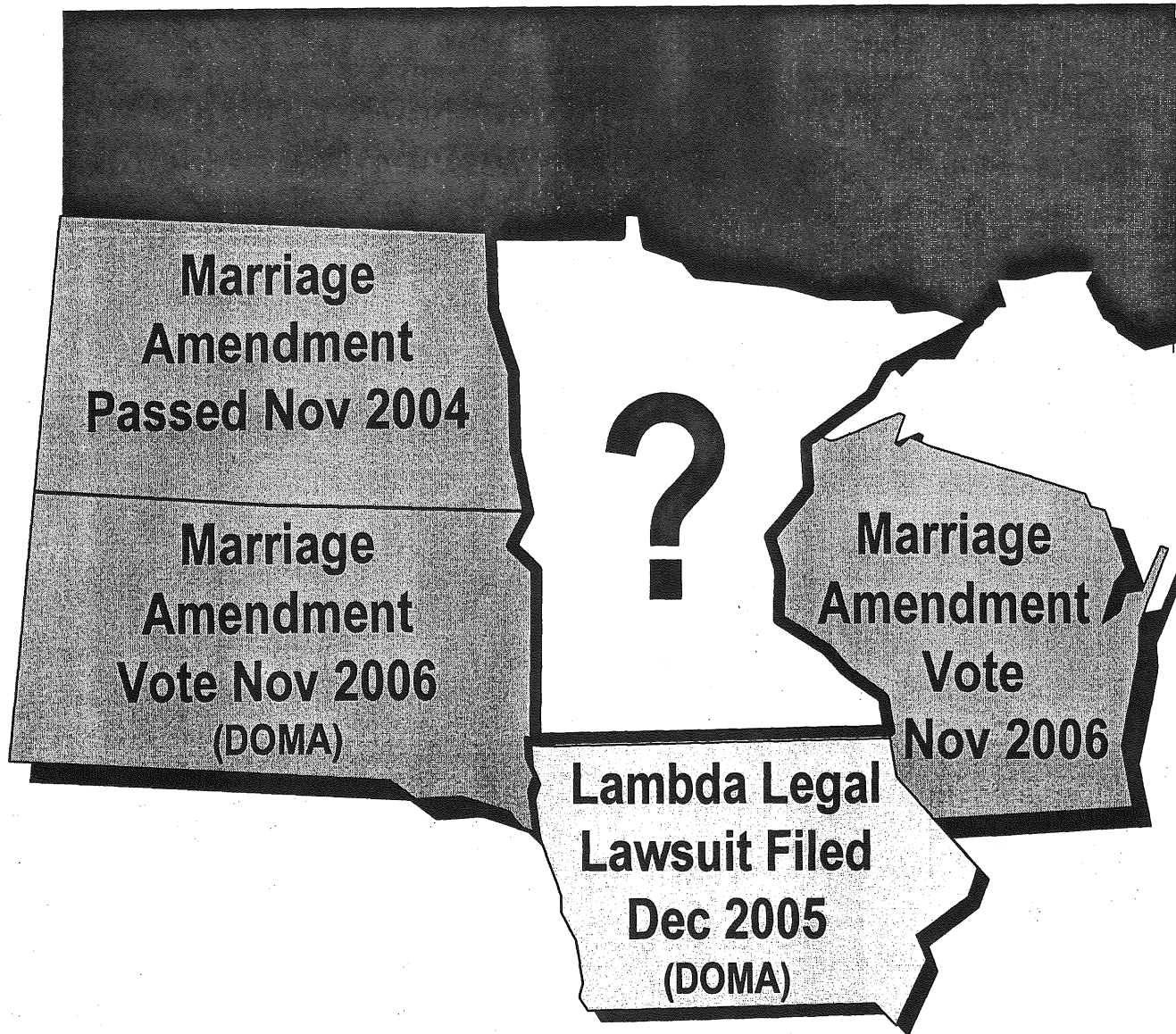


Legend

-  Marriage amendment passed by average of 70%
-  Ballot measure to be put to voters in 2006
-  Federal court challenge to state marriage amendment
-  Lambda Legal court challenge to marriage statuses
-  Same-sex marriage legal

- 19 states have passed the marriage amendment by an average of 70%.
- 15 states already had DOMA laws
- 8 states will vote on the marriage amendment in November.

Marriage will be challenged in Minnesota



Little Difference Between Minnesota's Laws and Those Struck-Down in Other States

Minnesota's Defense of Marriage Act

517.03 Prohibited marriages. Subdivision 1. General.

(A) The following marriages are prohibited:

(4) a marriage between persons of the same sex.

(B) A marriage entered into by persons of the same sex, either under common law or statute, that is recognized by another state or foreign jurisdiction is void in this state and contractual rights granted by virtue of the marriage or its termination are unenforceable in this state.

Washington's Defense of Marriage Act

Wash. Rev. Code § 26.04.010 Marriage contract--Void marriages

(1) Marriage is a civil contract between a male and a female who have each attained the age of eighteen years, and who are otherwise capable.

Wash. Rev. Code § 26.04.020

(1) Marriages in the following cases are prohibited:

(c) When the parties are persons other than a male and a female.

(3) A marriage between two persons that is recognized as valid in another jurisdiction is valid in this state only if the marriage is not prohibited or made unlawful under subsection (1)(a), (1)(c), or (2) of this section.

Examples of the Implications of Legalizing Same-Sex Unions

▪ Massachusetts

- Catholic Church forced to exit the adoption business
- Father arrested for protesting use of book in child's kindergarten class promoting same-sex families

▪ Canada

- Justice Department study recommending legalization of polygamy
- Catholic Church threatened by Revenue Canada that they could lose their charitable tax status
- Lawsuit filed demanding pro-homosexual agenda in public schools
- Laws being rewritten to eliminate references to biological mother and father
- Christian broadcasters blocked from broadcasting programming on homosexuality
- Man fined for running newspaper ad listing four bible verses on homosexuality

▪ Europe

- Swedish pastor jailed for preaching on homosexuality (later overturned)
- European Parliament has threatened to punish countries that do not approve same-sex unions
- The Netherlands recognizes union between two women and a man

“Civil Union” - no civil compromise.



“Civil Union” in Connecticut
Incremental approach to same-sex marriage.

“Adopting civil unions will add a strong weapon to the arsenal of arguments for gay marriage.”

Prof. Dale Carpenter – Independent Gay Forum.

- **“Civil Union” legal April 2005.**
- **Same-sex marriage advocates demand full marriage.**
- **Lack of interest as only 1.4% of estimated gay population in civil union.**
- **Lawsuit March 2006; “civil unions illegally create a separate class of people.”**



MINNESOTA STATE
UNIVERSITY
MANKATO

April 3, 2006

Senate Judiciary Committee
The Honorable Senator Don Betzold, Chair
Minnesota State Capitol
St. Paul, Minnesota

RE: Constitutional Amendment on Marriage

Dear Chair Betzold and Distinguished Committee Members,

We write to you to contribute our expert knowledge to the current debate regarding a proposed constitutional amendment defining marriage in the State of Minnesota. We stand strongly opposed to this proposed amendment. Our arguments against this amendment stem from over 150 years of intensive study of both the cultural and biological nature of human life. As professors of anthropology we are uniquely well versed in the current and historical worldwide practices of social bonding that are loosely called "marriage", and we are especially well qualified to address the social aspects of these issues.

Proponents of the amendment have, at least in part, suggested several reasons for its adoption. Among these reasons are that the "one man, one woman" arrangement is the only "natural" form of marriage, that it is the only form of family that can provide a proper venue for rearing children, and that it is decreed the only legitimate form of marriage in their religious tradition. We categorically reject all of these statements; they are false.

Broadly speaking, biological data indicate that strict heterosexuality is not an invariable characteristic of sexually-reproducing species. Forms of non-heterosexual behavior (including exclusive and episodic homosexuality) occur across many species of mammal, bird, and reptile. Individuals exhibiting these behaviors are not treated differently in non-human species. There can be no doubt that non-heterosexual behavior is, in fact, natural. Human societies have practiced a variety of responses to this fact, ranging from hostile suppression to complete accommodation. The continued existence of non-heterosexuality and the continued existence of human society indicate that they are not mutually exclusive. Non-heterosexual behavior is a natural part of life and the preponderance of cultural solutions have been to recognize and accommodate this facet of our existence through integration, rather than through exclusion.

Insofar as the marriage part of this argument goes, the anthropological data unequivocally show that there is a multitude of recognized forms of interpersonal union that all adequately serve perceived social needs. As a social institution, these sorts of bonds exist

to support the perceived requirements of particular societies at specific times. Specifically, adult bonded relationships exist to provide supportive and integrative structure to families and communities. The anthropological literature is replete with data showing that all possible forms of intimate bonding among consenting adult humans have been recognized as legitimate and beneficial to the varying societies in which they exist.

There is no single arrangement of adult bond that fulfills all requirements at all times in all places. In fact, the prevalent bonding practices at any one point in time are almost never exclusive of all other possible practices, and change or variability in preferred forms of socially-sanctioned bonding is common. It is a fundamental requirement of any social bonding system that the available formats encompass sufficient leeway to allow for the changing needs of society and the full participation of all members of that society. Artificially excluding certain members of society from access to one of the fundamental conditions of human existence is not only discriminatory, but it is also contradictory to the very function of that institution, and it strikes at the very heart of what culture is supposed to do.

Data from across the social sciences further indicate that there is no particular advantage to the "one man, one woman" arrangement insofar as child rearing. The fact of the matter is that parental support is the single most important aspect of good parenting, and that it does not matter whether that support comes from one parent, two parents, or an entire group of parents. Moreover, the sex of the parents, in whatever combination, has nothing to do with whether a child is properly socialized, and has no determinable impact on the child's emergent sexuality. Children reared in single parent, multiple parent heterosexual, or multiple parent homosexual households are no more and no less apt to be improperly socialized, non-heterosexual, or to have an alternative gender identity. What matters is whether the children are loved and supported.

Lastly, it is illegitimate to claim religious mandate in restricting the recognition of marriage to the one man, one woman model. This is because different branches of the commonly-practiced, mainstream religions in America have taken different, official positions as matters of doctrine in support of, or against church recognition of non-heterosexual unions. On its face, the ban would construct institutional inequalities among otherwise equally-righted citizens, and between otherwise equally-righted religious traditions. The state cannot, as a matter of law, create a situation where the doctrine of one group is held legally superior to the doctrine of another group.

The proposed amendment is therefore narrowly based on a particular form of religious doctrine and would necessarily be an unconstitutional state establishment of religion. Creating such an amendment would set up radical internal inconsistencies in the state constitution, and between the state and Federal constitution. The state has no authority over religious issues, nor should religion have any authority over civil issues. This idea lies at the heart of the church/state separation that the framers of the United States Constitution envisioned. We would recall your minds to the fact that one thing our forebears were escaping from was a political situation where those in power would

establish civil law that specifically de-legitimized and/or outlawed the free practice of religions that embraced differing ideologies.

Clearly, a constitutional amendment banning "gay marriage" is problematical for many reasons. The rationale for it is based on false premises and is not only morally wrong, but simply a bad idea for the social institution itself. There is no demonstrated need to, nor non-religiously based justification for the proposal. It is undeniable that we live in a multicultural society and that the conditions of our existence are changing. Hence, it would be a tremendous disservice, and indeed it would be counter productive, to institute a law that purposefully excludes some members of society from participating in and benefiting from a social institution that is available to all other members of our society. Furthermore, it runs opposite the very spirit of our Constitution to create structural inequalities based on religious beliefs and/or biological characteristics.

We thank you for your time and attention, and we welcome any opportunity to discuss these matters in greater detail. Please do not hesitate to contact us if you desire any further information.

Signing for the department, we remain respectfully yours,



Dr. Ronald C. Schirmer
Assistant Professor
Department of Anthropology
Minnesota State University, Mankato

Co-signers:

Dr. Paul F. Brown
Professor and Chair
Department of Anthropology
Minnesota State University, Mankato

Dr. Kathryn S. Elliott
Associate Professor
Department of Anthropology
Minnesota State University, Mankato

Dr. Susan L. Schalge
Assistant Professor
Department of Anthropology
Minnesota State University, Mankato