

# Testimony on the Marriage Affirmation and Protection Amendment (H3190)

of

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1. What is marriage for? Marriage is a universal human institution which in every known society is the mechanism by which a culture attempts to secure fathers for children. The goal of marriage is to bridge the sex divide, to bring men and women together to create lasting unions in which men and women will take care of each other and any children their sexual union may produce. Why is marriage between the sexes a universal human institution? Despite important differences in marriage between cultures, marriage everywhere is rooted in the great idea that the people who make the baby should take care of each other and the baby they have made together. (Institutions like adoption were created not in order to transcend biology to give adults more choices in family form, but to take care of the needs of children whose parents cannot or will not care for them.) The fact the sex between men and women sometimes makes babies is the great biological reality which in hundreds of wildly different cultures, consistently generates the marriage idea. Cross-culturally, marriage is the context where childbearing is not only tolerated but sanctioned. Marriage is the place where we tell young people that we will not only tolerate or permit but encourage and welcome their desire to have children, because it is the kind of union most likely to provide for their needs, including their deep longing for a mother and a father.
2. Does marriage still matter? A large body of social science evidence confirms the common sense proposition that on average children do better when raised by their own mother and fathers in a married home. Children raised outside of marriage are at substantially increased risk for just about every negative outcomes that social scientists can measure: They are more likely to be poor, to experience deep and persistent poverty, to fail at school, to suffer physical and mental health problems, to become victims of child abuse, to become involved in juvenile delinquency, conduct disorders, substance abuse. They are less likely to achieve high occupational status as adults more likely to experience unemployment, to become young unwed parents. They have poorer relationships with both mothers and fathers, compared to children raised in intact married homes. The negative impact of being raised outside of an intact married household persist even after scholars control for factors such as age, race, and income.<sup>1</sup> Thirteen leading family scholars, summing up the evidence, recently concluded: "*Marriage is an important social good associated with an impressively broad array of positive outcomes for children and adults alike. . .whether American society succeeds or fails in building a health marriage culture is clearly a matter of legitimate public concern.*"<sup>2</sup>
3. Do children need mothers and fathers, or will any two parents do? Advocates for same-sex marriage sometimes use this vast body of research on the benefits of marriage to argue that same-sex couples and their children ought to be offered the legal benefits of marriage, too. But the benefits of marriage do not consist primarily in its legal incidents. (Indeed for same-sex couples who tend to adopt egalitarian family roles access to legal marriage would probably result in marriage penalties in the tax code.)<sup>3</sup> Rather the benefits of marriage, especially for children, are the natural advantages of having a mother and fathers united together in a public, committed union. Marriage protects children by singling out a certain kind of union (faithful, lifelong, permanent emotional, sexual, financial and parenting partnership between a man and a woman) as the ideal, or preferred option. In authorizing

same-sex marriage, government would be informing same-sex couples that children do not really need mothers and fathers, that two mothers or two fathers are just as good. Given the large body of evidence we have on the importance of married mothers and fathers, we ought to hesitate to make that powerful statement unless we have considerable evidence that it is true. Do we have that evidence? No. As a body of social science, the literature on gay parenting is weak and preliminary. Most of the evidence routinely cited as showing that sexual orientation does not matter compares single lesbian mothers to single heterosexual mothers. At best it shows that children of single mothers do about the same, regardless of the sexual orientation of the mother. To use this as evidence that children raised in motherless or fatherless household do just as well as children raised by their own two married parents is irresponsible. In addition the literature is plagued by numerous design flaws that make it wildly premature to use as the basis for an important public policy change.<sup>4</sup> It is one thing for individuals to decide to ignore the marriage message that children need mothers and fathers. A free society gives them that right. It is another thing for the law to step in and actively affirm the choice to create motherless or fatherless children.

4. Does marriage discriminate against gays and lesbians? Formally speaking, no. There is no sexual orientation test for marriage and many gays and lesbians do choose to marry members of the opposite sex. (One therapist estimated that half or more of all men who self-identify as gay will marry a woman at some point.)<sup>5</sup> I do not intend in presenting this fact to judge gays and lesbians who make this choice, either positively or negatively, (certainly not to suggest that gays and lesbians “should” choose to marry a person of the opposite sex). My purpose is only to note that marriage in our law and culture does not require a person to marry the individual to whom he or she is most erotically attracted, so long as he or she is willing to promise sexual fidelity, mutual caretaking, and shared parenting of any children of the marriage. In formal terms, marriage does not discriminate based on sexual orientation. Some people who identify as gays and lesbians can and do marry, if they decide they want what marriage means. It is certainly fair, however, to note that marriage is not well-suited to the wants and desires of many gays and lesbians, precisely because it is designed to bridge the sex divide and sustain the idea that children need mothers and fathers. Remaking marriage so that it suits the needs of gays and lesbians requires fundamentally changing our legal, public and social conception of what marriage is.
5. Are there any risks to same-sex marriage? Advocates ask, how can allowing John and James to marry affect Joe and Martha’s marriage? The answer is: quite profoundly. If marriage becomes a unisex social institution, its core public purposes will be redefined in ways that will damage its ability to protect children, or to direct the erotic energies of young men and women into the social relationship most likely to benefit themselves and their children. The message that children do not need mothers and fathers, that motherlessness or fatherlessness is not a social problem, cannot and will not be confined to the tiny fraction of same sex couples who choose to marry. A society that is seriously concerned about fatherlessness, and the dangers and suffering it imposes on children and taxpayers, will not conduct a radical social experiment on an institution already struggling.
6. Will many gays and lesbians suffer if marriage remains an opposite-sex union? The Census Bureau indicates that about one-half of one percent of households now consist of same-sex partners. How many of these wish to marry is unknown. About half of all opposite-sex cohabitators marry. If the proportion of cohabitators that want marriage is the same among same-sex as among opposite sex partners, the upper bound of the demand for marriage is one-quarter of one-percent of households. Meanwhile, forty percent of children go to sleep in fatherless households. The sexual liberty interests of adults in choosing their own family forms should not trump the interest of state and society in trying to strengthen marriage, and reverse trends towards family fragmentation.<sup>6</sup>
7. Is same-sex marriage a good way to expand health care? Not really. In 2001, I asked the top ten companies listed as providing same-sex health insurance benefits on the Human Rights Campaign website to tell us what proportion of their employees take advantage of this benefit. Nine out of ten companies refused to release the information. General Motors, a large company with over 1.3 million employees, did. Just 166 employees (or just over one-one-hundredth of one percent) extended

benefits to a same-sex partner. Redefining marriage is not an effective vehicle for extending health care insurance to non-traditional families. If people need health insurance, we should look for more effective means of providing it;

In a caring and responsible society, the desires of adults to have their sexual choices affirmed by law would not trump the interests of children in having a mother and a father. Tolerance is one thing. But a society that is deeply concerned about fatherless children will not re-design its most basic social institution to suit the needs of adults who want to create fatherless or motherless families. If the law of Massachusetts currently does not recognize that the fundamental public purpose of marriage is regulating sexual unions between men and women to try to give children mothers and fathers, then it is the law that should be changed, and made more articulate, not our deeply-rooted understanding of marriage.

<sup>1</sup> See for example: William J. Doherty, et al, 2002. *Why Marriage Matters: Twenty-One Conclusions from the Social Sciences* (available from [www.americanvalues.org](http://www.americanvalues.org)); Linda J. Waite and Maggie Gallagher, 2000. *The Case for Marriage: Why Married People are Happier, Healthier, and Better-Off Financially* (New York: Doubleday); Paul R. Amato and Alan Booth, 1997. *A Generation at Risk: Growing Up in an Era of Family Upheaval* (Cambridge, MA: Harvard University Press); Sara McLanahan and Gary Sandefur, 1994. *Growing Up with a Single Parent: What Hurts, What Helps* (Cambridge, MA: Harvard University Press);

<sup>2</sup> William J. Doherty, William A. Galston, Norval D. Glenn, John Gottman, Barbara Markey, Howard J. Markman, Steven Nock, David Popenoe, Gloria G. Rodriguez, Isabel V. Sawhill, Scott M. Stanley, Linda J. Waite, Judith Wallerstein, 2002. *Why Marriage Matters: Twenty-One Conclusions from the Social Sciences* (Institute for American Values: New York City): 6.

<sup>3</sup> Marriage penalties in the federal tax code result when two spouses make roughly equal incomes. They are pushed into higher tax brackets and pay more in taxes than they would as single cohabitators.

<sup>4</sup> See for example, Robert Lerner and Althea Nagai, 2001 *No Basis: What the Studies Don't Tell Us About Same-Sex Parenting* (Washington, D.C.: Marriage Law Project). For a critique of Lerner and Nagai see Judith Stacey and Timothy J. Biblarz, 2001. "(How) Does the Sexual Orientation of Parents Matter?" *American Sociological Review* 66: 159ff. However Stacey and Biblarz, rather than responding to the methodological critique suggest that children with same-sex parents may be advantaged in terms of experiencing less gender-role typing and more sexual freedom. Lerner and Nagai's critique, however, suggests that the current evidence is too systematically weak to make any conclusions, based on social science, on the effect of same-sex parenting on children.

<sup>5</sup> Jean Schaar, Gochros, Phd., 1989. *When Husbands Comes Out of the Closet* (New York: Harrington Park Press): 5.

<sup>6</sup> For evidence of new efforts to reverse fatherlessness, see *The Marriage Movement: A Statement of Principles* (New York: Institute for American Values) available at [www.marriagemovement.org](http://www.marriagemovement.org).