

FAMILY NEW JERSEY FAMILY POLICY COUNCIL FINDINGS



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Preserving Marriage and Protecting Children in New Jersey

SAME-SEX "MARRIAGE" LAWSUIT IN NJ

Marriage has been under attack in New Jersey since June 2002, when Lambda Legal Defense Fund (a national homosexual rights group) filed a lawsuit against the state of New Jersey on behalf of seven homosexual couples who were denied marriage licenses. Lambda argues that denying same-sex couples the benefits of marriage violates their constitutional right to equal protection. State Attorney General Peter C. Harvey said in defense of New Jersey marriage law that the couples suing the state were not seeking "equal access to marriage, but a *fundamental change in the meaning of marriage itself*," and that "*the power to define marriage rests with the Legislature.*"¹

On Nov. 5, 2003, Mercer Superior Court Judge Linda Feinberg ruled in favor of the state, stating that same-sex "marriage" is not recognized or required by New Jersey statute, judicial decision, public policy or the state Constitution, and affirmed that the definition of marriage rests with the Legislature, not the courts.

This case, *Lewis v. Harris*, currently awaits appeal in New Jersey Superior Court, Appellate Division. Lambda Legal recently filed a motion to bypass this court and go directly to the New Jersey Supreme Court, but on Oct. 6, 2004, their request was denied by a unanimous decision. The high court did, however, instruct the lower court to accelerate the case. Ultimately, this suit will reach the state Supreme Court, which is known for being one of the most liberal in the land.

ABSTRACT: This report examines why it is vitally important that the preeminence of traditional marriage is preserved in our society and shows why New Jerseyans and the state should not grant marriage status to same-sex couples. It explores what has happened in other states, discusses what we are facing in this state, and provides valuable talking points (see insert) to help individuals, houses of worship and businesses to wisely and effectively engage in the battle to preserve marriage between one man and one woman only in New Jersey.

Why the Preeminence of Traditional Marriage Must Be Preserved *Marriage benefits adults, children and society.*

Marriage as we have known it for thousands of years "contributes to the physical, emotional and economic health of men, women and children, and thus to the nation as a whole."² It is a fundamental fact of human life that human beings come in two sexes, male and female, different yet designed for one another. Together they form a unique human community in which children are naturally conceived and raised. It is therefore not surprising that virtually every major society has institutionalized a strong preference for marriage in its customs and laws.³ Around the world, a family formed by marriage is seen as the foundation of society.

Spouses reap many benefits from marriage, compared to those who are single, divorced or cohabiting. They are happier, physically and mentally healthier, live longer, enjoy greater sexual satisfaction, show greater labor force productivity and are better off financially.⁴

Marriage is also central to raising children. The children of married parents tend to develop in a more healthy way, both personally and in their interaction with society than children of divorced or single parents.



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Marriage is the “social glue” that reliably attaches fathers to their children. A large and growing body of research reveals that compared to children of intact two-parent homes, children who grow up without their fathers have significantly worse outcomes, on average, in almost every measure of well-being. They are more likely to suffer from child abuse, poverty, low academic achievement, drug use, emotional and behavioral problems and suicide.

Unmarried childbearing, as well as our 30-year divorce experiment, have clearly shown us how children suffer in both the short and long-term when they grow up in a home without their married mother and father. Conversely, children in homes with married parents are safer, healthier, engage in less risky behavior, fare better economically, experience greater educational success, have fewer emotional and behavioral problems, are less likely to cohabit and more likely to have stable marriages.⁵

Traditional marriage provides children with both a mother and a father, who each make unique contributions to a child’s development. According to research, “fathers tend to stress competition, challenge, initiative, risk-taking, and interdependence through their play as well as other child-rearing activities. Mothers in their care-taking roles ... stress emotional security and personal safety.” While mothers provide an important flexibility and sympathy in their discipline, fathers provide ultimate predictability and consistency. Both dimensions are critical for an efficient, balanced and humane child-rearing regime.⁶

Preeminence is necessary to the viability of marriage.

Marriage can only work its miracles if it is supported by the society. It cannot thrive, and may not even survive, in a culture that views it as just another lifestyle option.⁷ As marriage has been weakened over the past 30 years by cohabitation, unwed childbearing and a high divorce rate, we have incurred the costs of higher crime, welfare, education, health expenditures and reduced security for our own marriage investments.⁸

These costs are borne not only by individual children and families, but by all of us — taxpayers, citizens and neighbors. Some say that because the two-parent family has been weakened over the last 30 years, nothing would be lost by allowing other types of marriage, but there is no reason to support even more erosion by experimenting with yet another type of family. Instead this should be a wake-up call to form new state policies that would both encourage and strengthen marriage, because when the larger society helps support traditional marriage, we all benefit.

Additionally it is important to realize that the law is a teacher — it sets up a standard and points the way for society. For example, in the 1970s most states changed their laws, giving one spouse unilateral power to declare the marriage over. Many people, including family lawyers, believed that instituting no-fault divorce laws would have no effect on the divorce rate. But the best new research shows that the shift to unilateral divorce itself raised divorce rates 6.5 percent, accounting for 17 percent of the increase in divorce rates between 1968 and 1988.⁹ If New Jersey were to pass a law that would further diminish the status of marriage, how many more thousands of children would suffer?

The premier example of law reform that brought about catastrophic change in marriage and family law was American Law Institute’s (ALI) release of a model criminal code in 1955. Prior to this change, the same marriage laws had protected Americans for two centuries. These laws reflected the definition of marriage as set forth by Noah Webster: to provide for the progeny of the union, secure the orderly passage of property to the next generation and prevent any burden to the State wrought by divorce, promiscuity, perversion and “unnatural” acts.¹⁰

After the states adopted this new ALI Model Penal Code, the systematic dismantling of marriage began, because the new code weakened or eliminated protective laws that had criminalized fornication, adultery, breach of promise, seduction, sodomy and child molestation. The ALI justified the change with the help of the debunked Kinsey Reports (detailing the sexuality research of Alfred Kinsey), which the ALI claimed was the latest “science” to inform modern law.

These changes in law pointed the way to a sexual freedom that came with a high cost: millions of fatherless children, more families in poverty, higher welfare costs, 65 million Americans with incurable sexually transmitted diseases (STDs), higher violent crime rates and the erosion of the state of matrimony.¹¹

Now the ALI has a plan to redefine marriage law by completely redefining the family. In 2001, they released a new model code for family law, which reduces marriage to partnerships or cohabiting relationships with economic benefits. Traditional marriage must be upheld as the ideal, because as illustrated, law should point the way to what is best for society. When love seeks permanence, a safe home for children who long for both parents, when men and women look for someone they can count on, there are no substitutes. The word for what we want is marriage.¹²

What happens when marriage is no longer elevated?

Studies of past civilizations, such as the 1933 study by J.D. Unwin, reveal that when a society strays from the sexual ethic of marriage, it deteriorates and eventually disintegrates.¹³

The research of eminent Harvard sociologist Pitirim Sorokin, which reviewed thousands of years on several continents, also demonstrates that virtually all political revolutions that brought about societal collapse were preceded by sexual revolutions in which traditional marriage and family were no longer given premier status.

Why Should the Rights of Marriage Be Reserved? Same-sex relationships are not marriages.

Marriage, in its truest sense, is a natural institution and male and female is an essential part of its nature. Persons of the same sex do not form a unique community based on sexual difference. Calling their relationship a "marriage" requires that we declare that the cultural and biological differences between men and women make no difference to society or to children. Many advocates of same-sex "marriage" state plainly that their goal is to deconstruct our understanding of marriage.

Writing in the homosexual magazine *Out*, Michelangelo Signorile says that the goal is "to fight for the right to marry not as a way of adhering to society's moral codes but rather to debunk a myth and radically alter an archaic institution...The most subversive action lesbian and gay men can undertake ... is to transform the notion of 'family' entirely."¹⁴

The homosexual view of marriage as a "loving, committed relationship recognized by the government" is a *redefinition* of marriage, not an extension of it. Furthermore, redefining marriage as anything other than an institution based on a man and a woman opens the legal door to allow multiple "loving, committed relationships."

Discrimination is necessary within marriage law for the common good.

Current law protects society from polygamy, underage marriage (also preventing adult/child unions) and incestuous marriage. When one group demands support for unwise or unhealthy choices, it is the responsibility of our representative govern-

ment to reject those demands for the good of society. We cannot stop private behavior, but we do not have to allow what many people consider immoral (and science has shown to be unhealthy) to be made legal, thereby propagating its practice.

It's not a civil rights issue.

The Constitution. With the Civil Rights Act of 1964, federal law grants protection against discrimination on the basis of personal characteristics that are inborn, innocuous (do no harm to society as a whole), or that are in the Constitution. In truth, none of these apply to "sexual orientation."¹⁵ But in New Jersey, the state Constitution (like the federal Constitution) does not expressly recognize a "right to marry." While the decision to marry raises a privacy interest that is protected under the Constitution, it is subject to reasonable state regulation. Under current marriage law, the government is not trying to "restrict the rights of a minority."

Rather, government defines marriage between one man and one woman because it has a paramount interest in preserving the integrity of that relationship. Society gives benefits to marriage because marriage benefits society.

The New Jersey Constitution (Article 1, paragraph 1), protects against the unequal treatment of *those who should be treated alike*. Homosexuals are not only prevented from marrying because they do not meet the criteria of one man and one woman, but because their demands require a redefinition of marriage based on self-interest. Such a redefinition would create a precedent for any group to make demands and redefine well-established policy for self-serving reasons.¹⁶

Homosexuality is not inborn. One of the main reasons homosexual activists insist that they deserve "equal rights" with regard to marital benefits is because they wrongly equate homosexuality with an immutable or inborn characteristic such as race. There is no "gay gene" that predetermines homosexuality, and there is no scientific support for the belief that homosexuality is primarily determined by biological causes.¹⁷ The complex roots of homosexuality develop over a period of time from birth through adolescence. Later in life as these factors converge, they play a strategic role in the choices people make involving sexual relations.

Homosexuality is not unchangeable.

Many former homosexuals are now living happy heterosexual lives. Dr. Robert Spitzer, the psychiatric professor and researcher behind the American Psychiatric Associa-

tion's political decision to remove homosexuality from the list of disorders, conducted a recent study of ex-homosexuals. Based on the results of his study, Spitzer now says some people *can* change their sexual desires from homosexual to heterosexual.¹⁸

Treating same-sex relationships like marriage would be detrimental to society.

The fact that same-sex relationships exist does not require the government to recognize them as marriage. If the government were to recognize and thereby endorse same-sex relationships, the force of the state could be turned against those who affirm the historic, tested concept of monogamous heterosexual marriage. Anyone who held to this standard would be branded a "bigot" needing to be "re-educated."

Or worse, a hate crimes law similar to the one passed in 2004 in Canada could result in jail time for pastors or other citizens who speak publicly against same-sex behavior. (An amendment to the Defense Appropriations bill that would add criminal penalties for "hate crimes" against homosexuals has already been passed in the U.S. Senate, and Sen. Ted Kennedy has promised not to rest until it is law.)

This message would translate into every government agency, and into the curricula of public schools. It would be enforced through civil rights laws that would penalize employers or organizations like the Boy Scouts, or disqualify faith-based organizations receiving government money if they refused to treat same-sex relationships like marriage. Children would receive the message that any kind of "sexuality" is as good as another. This would likely encourage experimentation with homosexual sex and increase promiscuity, confusion and teen depression.

Children will be placed at risk.

Dr. Judith Stacey and Timothy Biblarz re-evaluated 21 psychological studies conducted between 1981 and 1998 that purportedly found no differences in children raised by same-sex parents. They found instead that children of homosexual couples were more likely to be confused about their own sexual identity, more likely to engage in homosexual relationships and more likely to be promiscuous.¹⁹

Children need both a mom and a dad in order to experience first-hand three of the most important relationships required for social development in a predominantly

heterosexual world: husband/wife, mother/father and male/female. From research on the effects of divorce, we have already learned that “two loving adults” do not make up for a married mother and father.

Children who grow up in single parent homes yet have another adult present, such as a grandparent, still fare worse on average than children who grow up in intact mother/father households.²⁰ When the welfare of children is at stake, wisdom rests with the society that seeks to give its children the best possible family environment. We should not legally sanction the purposeful deprivation of a mom or a dad to any child.

Health and Safety

A number of pathologies plague homes of same-sex couples, including higher rates of promiscuity (*Journal of Sex Research*, 1997), physical disease, mental illness (*Archives of General Psychiatry*, 1999), substance abuse (*Nursing Research*, 1994; *Family Planning Perspectives*, 1994), and domestic violence (*The Medical Institutes for Sexual Health*, 1999).

Common sexual practices among gay men lead to higher rates of and numerous types of STDs, as well as physical injuries. The list of diseases found with extraordinary frequency among gays (including anal cancer, gonorrhea, viral hepatitis B and C and other deadly viral infections) as a result of anal sex is alarming. Sexual transmission of some of these diseases is so rare among the exclusively heterosexual population as to be virtually unknown.

Others, like syphilis, can be found in heterosexuals, but are clearly more prevalent among those involved in homosexual activity. Lesbians are also at higher risk for STDs. A study at an Australian STD clinic found that they were three to four times more likely than heterosexual women to have sex with men who were HIV positive.²¹

The only epidemiological study to date on the life span of homosexual men conducted by the British Columbia Centre for Excellence in HIV/AIDS Research revealed that life expectancy for gay and bisexual men is between 8 and 20 years less than for all men.²²

Despite the poster couples with “long-term, committed relationships,” sexual promiscuity is quite common, especially among gay men, and any level of promiscuity carries the risk of contracting and spreading STDs. Monogamy — long-term sexual

fidelity — is rare in gay, lesbian and bisexual relationships. One study reported that 66 percent of gay couples reported sex outside the relationship within the first year, and the figure rose to nearly 90 percent if the relationship lasted five years.²³

The Assault on Marriage in the U.S.

The assault on marriage began in the early 1990s, but today it is under attack from San Francisco to Massachusetts by radical gays, judicial activists and public officials who are ignoring the law, the will of the people, and centuries of experience and tradition. Currently, homosexual activists have recent or pending marriage litigation in sixteen states: Arkansas, California, Connecticut, Florida, Georgia, Indiana, Louisiana, Maryland, Massachusetts, New Jersey, New Mexico, New York, Ohio, Oregon, Pennsylvania and Washington.

A total of 39 states have legal protection for marriage either through a constitutional amendment or a defense of marriage statute, and 11 more of these states passed constitutional amendments to preserve marriage in the 2004 elections. New Jersey does *not* have a law expressly protecting marriage. A total of 17 of the 39 states have passed constitutional amendments — the strongest way to protect marriage, and 10 of these amendments also ban civil unions.²⁴ In every case, a high level of citizen participation was required to see the legislation become law.

How was homosexual “marriage” defeated in other states?

The campaign for “same-sex marriage” is a blatant attempt to redefine a crucial social institution without the consent of the governed. Lambda lawyer Michael Adams boasts, “It’s possible to win in court but not in the court of public opinion.”²⁵

In Hawaii, Alaska, Nebraska, Nevada, Missouri, Louisiana, Arkansas, Georgia, Kentucky, Michigan, Mississippi, Montana, North Dakota, Ohio, Oklahoma, Oregon and Utah, the people sought the opportunity to respond through the ballot box and voted to preserve marriage by resounding majorities, ranging from 57 percent in Oregon to 86 percent in Mississippi. What transpires in New Jersey is up to us. Ultimately, same-sex marriage was defeated in these 17 states because the public was informed and mobilized to pass a constitutional amendment to preserve marriage.

This was accomplished at the grassroots level through mailings, door-to-door information campaigns and the concerted efforts of churches and pro-family groups within those states. Are we willing to do whatever it takes? Will our laws be written by the courts or by our elected representatives in the Legislature?

Why were certain states targeted?

Homosexual activists have systematically brought marriage litigation in states they consider vulnerable, either because of their activist courts or the absence of a strong legislative barrier. Vermont (like New Jersey) was particularly susceptible to a legal challenge, because they had supported homosexual adoption through the courts and led the way with gay-friendly laws like the employment non-discrimination act.

As a result the Vermont Supreme Court ruled that because homosexuals had been given *some* (special) rights, their rights should be “complete,” and the Legislature was ordered to provide some equivalent statutory scheme for recognition and the benefits of marriage. Over the past few years, Vermont residents have been unsuccessful in persuading their legislators to pass a constitutional amendment that would void their court-ordered civil unions law.

In Massachusetts, homosexuals sued based on an equal protection argument, similar to the New Jersey suit. Although the people amassed over 100,000 signatures to put a constitutional amendment on the ballot prior to the court case, the president of the state senate refused to bring up the amendment and adjourned the session early to avoid a vote. This paved the way for the Massachusetts Supreme Court to legislate from the bench, telling the Legislature that homosexual couples are legally entitled to wed under their state constitution, and that civil unions would not be legally sufficient.²⁶

In response, citizens rose up in greater numbers to pressure the Legislature to place a constitutional amendment on the ballot. But instead of simply declaring marriage as a union between one man and one woman only, the Legislature wrote the ballot question so that if citizens vote to preserve marriage, they also must say yes to civil unions at the same time.

In addition, the Legislature must pass the amendment again in 2005, before it reaches the ballot in 2006. Meanwhile, since May 17, 2004, homosexual couples have

been obtaining legal “marriage” licenses, and going back to their home states to demand recognition. How would New Jersey’s lawmakers react in a similar situation? This is something to consider when electing state lawmakers in 2005.

New Jersey: Marriage is Now Under Attack

Although New Jersey has had a defense of marriage bill pending since June 1996, legislative leaders have never posted it for a vote. “We cannot come out and attack a small group of people when marriage is not currently being challenged in New Jersey,” the leadership has said. Consequently, nothing was done to ensure that marriage could not be easily challenged in court. We cannot sit back any longer — the challenge is here.

The Strategy to Attack Marriage

The seven same-sex couples who are suing the state for marriage licenses claim the New Jersey Constitution guarantees them access to the same equal protection as heterosexual couples. The lawsuit in support of same-sex “marriage” in New Jersey began as a two-pronged strategy that sought to obtain both legal recognition in the courts for same-sex “marriage,” as well as a separate domestic partnership system in the Legislature. Lambda invested heavily in this strategy, and they have already won a domestic partnership law in New Jersey (see “Domestic Partnerships” below).

The Strategy to Preserve Traditional Marriage

Those who oppose giving marriage benefits to same-sex couples maintain that doing so would require a redefinition of marriage, one that would threaten the stability of our state and culture. As was done at the Superior Court level, *amicus* briefs were filed by various groups including the New Jersey Family Policy Council (NJFPC) and the New Jersey Coalition to Preserve and Protect Marriage, which represents a diverse group of pro-marriage organizations.

The brief argues that same-sex marriage would damage “public health, child-rearing and the distribution of public and private resources.”²⁷ We cannot trust the state courts to aggressively preserve marriage as a heterosexual institution, because they have been very supportive of special rights for homosexuals in the past.²⁸

What’s Next for New Jersey?

New Jersey’s liberal state Supreme Court will likely rule that the Legislature must award some type of “parallel” benefits to same-sex couples. The court could decide to either redefine marriage to include same-sex couples, as the high court did in Massachusetts, or institute Vermont-style civil unions. Unless the people of New Jersey petition the Legislature to pass a constitutional amendment prior to that decision, our only recourse would be to pass an amendment afterwards to overturn the high court’s ruling and preserve marriage between one man and one woman only.

A Constitutional Amendment

To pass a constitutional amendment in New Jersey requires the approval of either a simple majority of both chambers (41 votes in the Assembly and 21 votes in the Senate) in *two consecutive* sessions; or a super majority in both chambers (48 votes in the Assembly and 24 votes in the Senate) in *one* legislative session. Either way, the issue would need to pass both chambers by a set date in August in order to be put on the ballot in the upcoming November general election.

A Defense of Marriage Act

The New Jersey Coalition to Preserve and Protect Marriage is no longer pursuing a Defense of Marriage Act (DOMA) because, unlike a constitutional amendment, the courts could strike down the law after it was passed. Since the legalization of same-sex “marriage” in Massachusetts, state DOMA laws are being challenged in court. In light of judicial activism across the country, a constitutional amendment is the surest way to stop judges from imposing same-sex “marriage” from the bench.

Domestic Partnerships Now Law

During December 2003, while New Jerseyans were distracted with holiday preparations, homosexual activists succeeded in lobbying the state Legislature to pass domestic partnership legislation. The final vote in the Senate was 23-9. The bill was promptly signed by Gov. Jim McGreevey and made New Jersey the fifth state to grant legal status to same-sex couples, providing them with many of the benefits of marriage: hospital visitation, making medical decisions, exemptions on state income and inheritance taxes, and health coverage to state employees.²⁹

The law, however, provides these special rights for only a select group of people: same-sex couples and cohabiting adults 62 years old and over. Yet activists are not satisfied. They are pressing on to obtain full marriage benefits, arguing that anything less is still discriminatory.

Under the state’s domestic partnership law, same-sex couples have an easier way to order their affairs. But even prior to this new law, homosexuals already had the same rights of access to marriage as everyone else — subject to the same terms, which is compliance with the definition of marriage as one man and one woman. All adults who do not marry could enter into other non-marital relationships, not publicly endorsed but privately tolerated. Private mechanisms are available to all unmarried people if they wish to order their affairs.

Redefining Marriage: What Will It Cost Us? Implications for Society

In Scandinavia, registered partnerships and the move to same-sex “marriages” have brought sharply higher rates of parental cohabitation and out-of-wedlock births. In the Netherlands where registered partnerships have been legal since 1998 and same-sex “marriage” has been legal since 2001, there was a 60 percent *increase* in the number of unmarried couples with children by 2002.³⁰ Same-sex “marriage” has clearly increased the separation between marriage and parenthood. As a result, marriage is steadily dying, with more and more children shouldering the burden of family dissolution.

Cohabiting couples with children break up at a rate 2 to 3 times higher than married couples with children,³¹ and the average male homosexual partnership lasts only one-and-one-half years, with an average of eight partners a year outside their main partnership.³² Rewarding these types of families will have a negative impact on children, causing even greater societal fallout, as it has in the Netherlands. More broken families will lead to higher welfare costs, taxes and crime.

Civil-union laws set up a parallel system of legal recognition without calling it marriage, but sending almost the same message: marriage is not really unique or necessary for good relationships or families. That is detrimental to children and adults, as established by mountains of social science research, and now supported by data from the Netherlands and Scandinavia.

Implications for Businesses

Employees in lasting marriages are generally happier and healthier than employees who are divorced, cohabiting or unpartnered.³³ Corporations have a financial interest in promoting traditional marriage as opposed to other types of relationships.

There is no reason to believe that giving the economic and societal benefits of marriage to same-sex couples will cause them to enjoy the same happiness and health, or that businesses and society will reap the same benefits they do from traditional marriage. This is due to homosexuals' higher rates of physical and emotional disease, and the fact that children of such couples are more likely to be sexually confused, engage in homosexual relationships and be more promiscuous.

Many companies can expect that health care costs for domestic partners may be higher than for married heterosexual couples. One conservative estimate shows that some employers can expect to pay 3 to 5 percent more if only 1 to 2 percent of their employees choose domestic partnership benefits, taking into account

high-risk enrollees and same-sex medical costs, which are higher.³⁴ One small group plan in California paid 17.1 percent more in 2002 for same-sex couples than for opposite-sex couples.³⁵

As a follow-up to this report, the NJFPC plans to publish a *Family Findings Series* that will explore specific issues regarding the preservation of marriage and the protection of children such as: *The End of Marriage in Scandinavia; So What – How Will Same-Sex Unions Affect Me?; The Impact of Preserving Marriage – The Children; The Impact on Religious Freedom – A Clarion Call to the Church; and Constitutional Issues – Not About Civil Rights.*

Future Generations Depend on Our Response What can citizens do?

As we watch how this issue develops in the courts and in the Legislature, we must work together to insure the survival of traditional marriage. Join with the NJFPC's alliance of citizens, working with the New Jersey Coalition to Preserve and Protect Marriage, so that we are ready to act and

make our voices heard when necessary.

Please contact us at 1-800-FAMILY-1 to unite with us. Actions may involve phone calls, e-mails, letters to the editor, mailings or door-to-door campaigns to inform others of the need to support a constitutional amendment.

This is our challenge to the citizens of New Jersey: What will you do to preserve marriage and family for our children and grandchildren? Will you say you are too busy, or the battle is too hard, or even that the issue isn't important enough to take on?

The NJFPC's mission statement declares that we are dedicated to pursue justice and righteousness and that we do what we do because we refuse to abdicate responsibility for the society we will leave to future generations. If we lose the battle, marriage – that hallowed institution created by God and serving society and civilization well – will come to an end. Soon many combinations of people living together will be "tolerated." That famous question echoes in our ears and moves us to action: If not us, then who, if not now, then when? How will you respond?

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- 35 *Ibid.*

ABOUT US:

Organized in 1995, the New Jersey Family Policy Council is a nonpartisan, nonprofit research and education organization. Our goal is to serve as a voice for families and traditional family values in the public policy arena. We are supported solely by private contributions which are tax deductible as provided by law. Our mailing address is P.O. Box 6011, Parsippany, NJ 07054. Phone: (973) 263-5258. Fax: (973) 263-3772. **Family Findings** is a publication of the New Jersey Family Policy Council and is intended to communicate research findings and perspectives on public policy issues that affect the family. Nothing written here should be construed as an attempt to aid or hinder the passage of any bill before Congress or the New Jersey General Assembly. Printed December 2004.

FAMILY FINDINGS

NEW JERSEY FAMILY
POLICY COUNCIL



Talking Points

The following will help you explain the importance of preserving marriage as a commitment between one man and one woman in discussions with family, friends and associates.

For Neighbors and Family

Question: Homosexuals are born that way. Don't they deserve our tolerance and understanding?

Answer: First, there is no proof that homosexuals are born that way (see p. 3, "It's not a civil rights issue"). Second, homosexual activists are not seeking our tolerance, they are seeking to radically change the definition of marriage and impose their views on the rest of society by changing the laws of the land (see p. 3, "Why Should the Rights of Marriage Be Reserved?").

Question: Aren't homosexuals entitled to equal rights? They are citizens too. Shouldn't we recognize that they are entitled to certain benefits?

Answer: Homosexuals do not meet the constitutional criteria in current law to receive the benefits of marriage (see p. 3, "Why Should the Rights of Marriage Be Reserved?" and subheadings).

Question: I don't think homosexuals can do any worse with marriage. Heterosexuals have already made a mess of it.

Answer: The two-parent family isn't perfect, and while many have broken apart over the last 30 years, that is no reason to encourage further erosion by experimenting with yet another type of family (see p. 2, "Preeminence is necessary to the continued viability of marriage").

For Clergy

Question: Just because your religious beliefs dictate that homosexual acts are sinful, what gives you the right to impose those beliefs on the rest of society?

Answer: First, all societal laws are based on the beliefs and decisions of elected government leaders. As voting citizens, each of us (including clergy, and all those in any house of worship) has a right to be represented by our government and to have our views reflected in law.

Second, if people of faith do not stand against legislation to legalize homosexual unions, our right to free speech on this issue could be taken away. In Canada and Sweden it is now a "hate" crime to criticize homosexuality, punishable by fines and jail time. In Sweden a pastor was arrested at his church and jailed for 30 days for preaching from Romans 1.¹ Unless such a law was written to exempt religious institutions, pastors could be forced by the courts to recognize and even perform same-sex unions.

Question: I don't think the Bible teaches that homosexual behavior is wrong.

Answer: Read Romans 1:18-32, Leviticus 20:13, and I Corinthians 6:9-11. In fact, the five major world religions — Buddhism, Christianity, Hinduism, Islam and Judaism — all recognize and uphold the natural, heterosexual understanding of marriage, and teach that homosexual behavior is not natural.

Question: Doesn't God tell us to love everyone?

Answer: It would not be a loving act to withhold the truth from someone, especially from someone who is living a life that is detrimental to their physical and emotional health.

For Houses of Worship and Their Leadership

Question: We are a religious organization. I don't think we should be involved in political affairs. Our main mission is to preach the gospel.

Answer: While your main mission is to preach the gospel, God tells us to be not only the light, but also the "salt" in society. Marriage is a sacred union, a divine reflection of Christ and the church. Speaking out in support of preserving the sacred institution of marriage is congruent with the foundational purpose of spreading the gospel.

If the government endorsed same-sex relationships, the full force of the government, bound to enforce the law, would necessarily be brought against the church. People of faith would no longer be able to speak out publicly against homosexuality without being charged with a hate crime. They would be subject to hiring requirements. Taxpayers' children would be indoctrinated to reject the religious teaching of their parents.²

Question: Will our tax status be in jeopardy if we mobilize our congregation to engage in the battle to preserve marriage?

Answer: While government restrictions do impose certain limitations, churches and pastors can still speak out on the moral issues of our day.³ They can influence legislation, initiatives, ballot questions and the like. According to the Internal Revenue Code, pastors and churches may engage in activities designed to influence legislation as long as the total sum of these activities does not reflect a "substantial part" of their church's overall activity in a given year.

The IRS has not defined "substantial" but court rulings have held that expenditures of less than 5 percent of a 501(c)(3) organization's time and finances devoted toward activities intended to influence legislation were not substantial and therefore permissible.

For Businesses

Question: Why wouldn't you want to provide equal treatment to homosexual couples by providing them with the benefits that come from marriage?

Answer: Homosexuality is not marriage, and therefore there is no reason to believe that by supporting their unions, I, as an employer would benefit as I do from promoting traditional marriage in my policies (see pages 1-2, "Why the Preeminence of Traditional Marriage Must Be Preserved"). In fact, the cost of insurance for my business would go up, and perhaps be disproportionately higher based on the health risks associated with homosexual behavior (see p. 6, "Implications for Businesses").

For Legislators

Question: Many argue that homosexuals are a civil minority class in need of "equal" protection. Why wouldn't you want to see them receive equal benefits?

Answer: There is no proof that homosexuals are born that way, therefore they should remain subject to the same lawful restrictions as everyone else regarding marriage. In addition, the New Jersey Constitution does not expressly recognize a "right to marry." Although the decision to marry raises a privacy interest that is protected under the Constitution, it is subject to reasonable state regulation. No demand supersedes "the general welfare," therefore legislators are entitled to lawfully define marriage for the protection and benefit of society and children (see p. 3, "It's not a civil rights issue").

Question: Why shouldn't government endorse homosexual relationships and validate them in law?

Answer: First, for health reasons — it would give a signal to society and young people that homosexual acts were acceptable, thereby endorsing their practice. Second, it would diminish marriage and marriage rates would decrease. This is not good for adults, children or the state (see p. 5, "Redefining Marriage: What Will It Cost Us?").

ENDNOTES

- 1 Concerned Women for America Alert, May, 28, 2004; Dr. James Dobson, Focus on the Family broadcast, Nov. 26, 2004.
- 2 Wendy Herdlein, Marriage Law Project, Washington, D.C., telephone conversation, Mar. 11, 2003; and Peter LaBarbera, Concerned Women for America, e-mail communication, Mar. 11, 2003.
- 3 *Political and Legislative Guidelines for Churches and Pastors* (Focus on the Family, February 1996). Note: The dos and don'ts in this section are based on requirements by the Federal Election Campaign Act and Section 501(c)(3) of the Internal Revenue Code. As they are general guidelines, it is always a good idea to seek legal advice as you make specific plans for your church.

