

# FAMILY FINDINGS

NEW JERSEY FAMILY POLICY COUNCIL



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## So What?

## How Will Same-Sex 'Marriage' Affect Me?

### 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 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 stated that the couples suing the state were not seeking "equal access to marriage, but a fundamental change in the meaning of marriage itself," and "the power to define marriage rests with the Legislature."

The case, *Lewis v. Harris*, was heard on Dec. 7, 2004, in the New Jersey Superior Court, Appellate Division. On June 14, 2005, justices rendered a 2-1 decision upholding the definition of marriage, ruling that although "the right to marry is a fundamental right that is subject to the privacy protections of article I, paragraph 1, of the New Jersey Constitution, this right extends only to marriages between members of the opposite sex. Plaintiffs' claim of a constitutional right to State recognition of marriage between members of the same sex has no foundation in the text of the Constitution, this Nation's history and traditions or contemporary standards of liberty and justice."

Although both lower courts' decisions have made it clear that it is the role of the legislature — not the courts — to address the definition of marriage, marriage still hangs by the thread of a single judge's decision. On July 22, 2005, this case was appealed to the New Jersey Supreme Court, which has a reputation as one of the most activist courts in the country. It is predicted that they may usurp the legislature's role and rewrite marriage law, rather than interpreting existing law as did the lower courts.

**ABSTRACT:** This report explains how the legalization of same-sex "marriage" in New Jersey would affect individuals and their families. It presents data to show how legitimization of same-sex marriage would affect public health and welfare and the costs of associated programs, as well as freedom of speech and religion. It also outlines how such a change in marriage laws would further degrade family law and would eventually require public schools to teach our children that homosexual "marriage" is equivalent to heterosexual marriage.

Some people think homosexual relationships are merely private matters between consenting adults. Would same-sex "marriages" really make a difference in society or affect marriage, themselves or their families? "I have never understood how gays threaten the institution of marriage," wrote one New Jerseyan in a recently published editorial. "When they [gays] began marrying in Massachusetts ... I didn't feel the slightest inclination to divorce my wife."<sup>1</sup>

Those who hold this "live and let live" opinion misunderstand the nature of marriage. Marriage is both a private and public institution that has many public ramifications. That is why government is always involved in it.

If New Jersey citizens allow the courts or legislature to legalize same-sex "marriage," the effects would be significant and far-reaching. It would permanently change the very definition of marriage for everyone. It would have an impact on healthcare costs, family law, religious institutions, sex education curricula, sexually transmitted disease rates, childrearing and ultimately, the overall state of marriage itself. The reality is that gay marriage would surely affect you and your family.

### Healthcare Premiums Will Rise

**Healthcare costs will inevitably rise for everyone, because the high-risk behaviors associated with homosexuality typically lead to higher rates of disease.**

One conservative estimate shows that some employers can expect to pay 3 to 5 percent more, but some analysts say that eventually, drastic increases in premiums could result, and it may not be profitable for some healthcare companies to stay in business.<sup>2</sup> One small group plan in California paid 17 percent more in 2002 for same-sex couples than for heterosexual couples.<sup>3</sup>

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One can assume that health insurance premiums have already been severely affected as a result of AIDS, and everyone shares in these increased costs, even though only 13 percent of AIDS cases are caused by heterosexual contact or blood transfusions.<sup>4</sup>

Homosexuals have the highest incidence of AIDS (45 percent of all cumulative cases in the U.S.), and over 62 percent of all male AIDS cases are found in homosexual men.<sup>5</sup> According to a 2002 study, the estimated cost of treating a patient with AIDS is \$34,000 annually.<sup>6</sup>

**If same-sex “marriage” becomes legal in New Jersey, every business that provides healthcare for their employees would be forced to extend full coverage to homosexual couples.**

Every HIV-positive patient would need only to find a partner to receive the same type of premiums currently reserved for married heterosexual couples. While insurance costs may or may not rise drastically as a result of this change alone, if more young people and adults began experimenting with homosexual sex, who knows what the long-term increase might be? (See page 3, How Your Children Will Be Affected.) Can we afford to risk these increases now, when many New Jerseyans cannot even afford healthcare and many retirees are losing benefits due to rising costs?

## Taxpayers Will Bear the Burden

**If people (particularly teens) become more comfortable about experimenting with homosexual sex, the incidence of disease will likely increase — and the cost to society will rise exponentially.**

Do laws really influence behavior? Think back to the 1950s when sex education was not taught in schools and premarital sex, cohabitation, out-of-wedlock births, sexually transmitted diseases and abortion were rare.

Between 1960 and 1980, penalties for sex offenses were weakened, and the now-discredited research of Alfred Kinsey influenced sex education curricula for our children, portraying deviant sexual practices as “normal.” Since then, public health costs for sexual disease and dysfunction have skyrocketed.<sup>7</sup>

For example, a cost analysis was conducted for the state of Missouri, comparing their social services budgetary expenditures in 1950 versus expenditures in 2000. In 1950, the budget was \$35.8 million (\$265.8 million in current dollars). By 2000, the budget was \$4.78 billion with an observable shift in spending emphasis from the aged and disabled in 1950, to the violent, criminal and promiscuous in 2000.<sup>8</sup>

## Welfare Costs and Out-of-Wedlock Births

**Same-sex “marriage” would bring increased welfare costs because it would precipitate an accompanying rise in out-of-wedlock births and cohabitation, resulting in more broken families.**

In Scandinavia, the mainspring of the decline in marriage was an increasing separation between marriage and parenthood through rising out-of-wedlock births and cohabitation. However, their decade-long experiment with *de facto* same-sex “marriage” has brought an even sharper increase in that separation, yielding a further decrease in marriage rates and an increase in cohabitation. (See *Family Findings*, Vol. 5, Issue 2, “A Look at Scandinavia with an Eye on New Jersey.”)

Scandinavian governments are subsidizing these cohabiting families, which reinforces that separation and adds to the cost of already burgeoning Nordic welfare systems. Marriage is now widely seen as an inconvenience with few benefits, imposing too great a commitment on families.

**Rather than affirming marriage, as gay activists have argued, same-sex “marriage” has weakened the institution altogether.**

Out-of-wedlock births in the Scandinavian countries now range from 45 to 56 percent, compared to the U.S. rate of 35 percent.<sup>9</sup> Implementing this Scandinavian experiment in our U.S. system would be disastrous. Prior to 1996, U.S. taxpayers were already shouldering a staggering \$21 billion-a-year burden just to support unwed teen mothers on welfare.<sup>10</sup>

## Soaring Medicaid Costs for HIV/AIDS

Medicaid and ADAP (California’s state Medicaid program), currently pay for drugs for 70 percent of all people receiving treatment for HIV. Should the government risk adding to this cost by sanctioning homosexual “marriage” and sexual behaviors that increase the risk of HIV/AIDS?

As of 2003, there were 351,614 patients living with HIV in the U.S. The new HIV inhibitor drug Fuzeon (used in conjunction with other HIV treatments) costs about \$20,500 per patient per year. Treating the existing HIV-positive public assistance patients with this new drug would cost the public over \$5 billion per year.

## More Broken Families Will Cost All Families

Same-sex “marriage” would precipitate an increase in unmarried families, requiring all tax-paying citizens to shoulder the burden of increased family dissolution through higher welfare costs, taxes and crime.

In the Netherlands, registered partnerships have been legal since 1998 and same-sex “marriage” has been legal since 2001. By 2002, the



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number of unmarried couples with children had increased by 60 percent.<sup>11</sup> This is bad news for children, since studies throughout Scandinavia and the West have shown that unmarried/cohabiting couples break up at a rate 2 to 3 times higher than married couples with children.

In England, where the rate of cohabitation is 11 percent (compared to 6 percent in the U.S.),<sup>12</sup> new research indicates that family breakdown is no longer driven by divorce, but by the collapse of unmarried partnerships.

Now, three-quarters of all family breakdowns affecting young children involve unmarried parents.<sup>13</sup> An estimated 88,000 children under five years of age suffered the separation of their unmarried parents in 2003, compared with about 31,000 children under age five whose married parents divorced.

This same pattern of less heterosexual marriage and rising cohabitation is already observable in Canada, where same-sex “marriage” has been legal for only about two years.<sup>14</sup> In the U.S., divorces alone are already costing taxpayers \$33.3 billion annually, or \$312 per household, according to a recent study by Utah State University.<sup>15</sup>

## How Your Children Will Be Affected

**Once same-sex “marriage” is legal, it would become a part of every sex-education curricula, even at the elementary school level, and same-gender sex would be given equal status with heterosexual sex.**

Activists are already using the legalization of same-sex “marriage” in Massachusetts to force students to listen to graphic glorification of homosexuality while stifling any and all objections.

Superintendent of Boston schools Thomas Payzant instructed all staff in a May 13, 2004 memo that, due to the “historic moment” of same-gender couples receiving marriage licenses, he was instituting a “zero tolerance policy” toward “inappropriate or hateful speech” on the subject. The penalty would be termination or, in the case of students, expulsion.

Some advocates in Massachusetts say teachers now have an obligation to talk about gay and lesbian relationships. How are some teachers applying this “obligation”?

A National Public Radio reporter talked with one eighth-grade sex-ed teacher, Deb Allen, who happens to be a lesbian. “Teaching about homosexuality is more important now,”

Allen said, “and gay marriage is prompting kids to ask a lot more questions, which I answer thoroughly and explicitly with a chart.”

Allen told NPR that she makes a drawing of various sexual activities for the kids, “like kissing and hugging and different kinds of intercourse.” When her students claim two women can’t have intercourse, Allen tells them “Hold it. Of course they can. They can use a sex toy.”<sup>16</sup> If someone challenges her teaching methods, she responds with “give me a break. It’s legal now.”

### All Relationships Are Not Equal

Teaching our young people that same-sex “marriage” is an equal alternative would be highly irresponsible. Although those seeking same-sex “marriage” attempt to portray their lifestyle as normal and healthy, and the media propagates the image of the fit and well-adjusted homosexual relationship, the reality is at polar opposites.

**In addition to the high risk of AIDS, substance abuse and mental illness, homosexuals/bisexuals are at an extreme risk for a host of sexually transmitted diseases.**

Some of these diseases are either rare or virtually nonexistent among the heterosexual population. For example, anal cancer occurs in only about 0.9 in 100,000 people, but homosexuals acquire this disease at over 35 times that rate (3700 percent more).<sup>17</sup> For a complete report on the higher rates of sexually transmitted diseases in homosexuals, go to [www.frc.org/get.cfm?i=IS01B1](http://www.frc.org/get.cfm?i=IS01B1).

Homosexuals are less likely to enter into long-term partnerships, less likely to remain faithful, and less likely to remain committed for a lifetime. According to data from Sweden, same-sex couples who did enter into *de facto* marriages had higher rates of divorce (males were 50 percent more likely than heterosexual couples to divorce; lesbians, 167 percent more likely).<sup>18</sup>

Same-sex couples also experienced higher rates of marital unfaithfulness (an average of eight outside sexual partners per year), as opposed to heterosexual couples where 75 percent of men and 85 percent of women remain monogamous throughout marriage.<sup>19</sup>

### The Fallacy and Danger of ‘Born That Way’

**Teaching adolescents who are in the throes of sexual development that whatever they may be feeling in the teen years (including homosexual interest) reveals one’s sexual identity for life is physically and emotionally dangerous.**

Over the past 20 years, homosexual activists have worked hard to convince the public that homosexuals are “born that way” and that one’s sexual orientation is fixed for life. In reality, there is no scientific proof that those living a homosexual lifestyle were born that way.

Typical sex-education materials teach young people that some are born with a same-sex “orientation” that should be accepted. But there is strong disagreement within the psychological community regarding the concept of fixed sexual orientation versus sexual choice or preference.

Even the homosexual researchers Hamer and Levay (who have individually attempted to show genetic predisposition towards homosexuality) say that sexual orientation is not fixed or unchangeable, and that genes “give us a disposition one way or the other but whether we act on that or don’t is very much a matter of our free will.”<sup>20</sup>

**Based on the accepted biological science concerning adolescent sexual development, telling youth that homosexual relationships are acceptable could open the door to experimentation.**

During adolescent development, young people are predisposed to take more risks, and are more vulnerable to impulsivity and influences from peers and the media. This is due to temporary changes taking place in the brain that shift decision-making to regions that are governed by emotional reactivity.<sup>21</sup>

A new study illustrates just how invulnerable teens think they are. Teens infected with HIV are engaging in risky behavior twice as often as people did in the years before more effective therapies were introduced. “Despite drug treatments kids today are doing worse,” remarked research psychologist Marguerita Lightfoot who conducted the study.<sup>22</sup>

Children should not be taught that feelings they experience during development signal something reliable about their adult sexual identity. Instead they should be aware that uncertainty in their feelings and experiences is common, and that having same-sex feelings in no way means one is innately homosexual.

In fact, one study showed that over 25 percent of seventh graders in one large urban city were unsure of their sexual orientation.<sup>23</sup> Note that currently only about 2 percent of the population identify themselves as homosexual.

## Further Redefinitions of Marriage Are Inevitable

If emotional attachment is the only standard by which we judge fitness to marry, then no sexual arrangement is off the table.

Equating same-sex relationships to marriage will open the legal floodgates to those who practice polygamy and polyamory (group marriage). Lawsuits have already been filed in American and Canadian courts using the same rationale to argue for legal polygamy. In January 2004, a Salt Lake City civil rights attorney filed a federal lawsuit on behalf of a couple demanding recognition of a plural marriage.

Laws could eventually protect a full range of sexual activities including transvestitism, transgenderism, bestiality, incest, and eventually pedophilia. As a result, our children could be taught that these "alternate" sexual acts and relationships are "normal" and equally valid. The government would be bound to dole out benefits to even more types of relationships, decreasing the incentive for people to marry at all and creating an overburdened welfare state.

## People of Faith Will Lose Freedoms

According to statewide research conducted by the New Jersey Family Policy Council

in 1997, 86 percent of New Jerseyans are people of faith.<sup>24</sup> These citizens, and particularly clergy, could be denied freedom of speech concerning their beliefs about homosexuality if same-sex marriage is legalized. Any speech against homosexual behavior could be prosecuted under hate-crime laws, which would likely be enacted, as they were in Sweden and Canada after same-sex "marriages" became legal.

**When "homosexual rights" are imposed, other longer-standing rights, such as religious liberty, are trampled.**

In Canada, a Saskatchewan court determined that the Bible was "hate" literature and fined a man who placed a newspaper advertisement containing Bible verses on homosexuality (2003). Before an appeals court recently overturned his conviction, a Swedish pastor was arrested and sentenced to a month in prison for preaching on Scripture passages that speak against homosexuality (Romans 1).<sup>25</sup> A family-owned bed-and-breakfast on Prince Edward Island went out of business because its owners refused to allow a homosexual couple to share a bed in the family's own home.<sup>26</sup>

## Legalizing Homosexual 'Marriage' — Not Worth the Risk

If same-sex "marriage" were to

become legal, the government would be legitimizing high-risk behavior that should not be normalized for adults, let alone our children.

Legalizing same sex "marriage" would have an impact on every New Jerseyan. Taxes and healthcare costs would increase at an accelerated rate due to the further degradation of marriage and the resulting family breakups.

Free speech on this issue would be curtailed, and children would be taught that homosexual "marriage" and the behaviors associated with it are the equivalent of heterosexual marriage.

Marriage is a public institution that provides societal good, bringing men and women together and giving children loving and committed mothers and fathers. It is the glue that holds communities together, regulates sexuality, civilizes the home, and provides for the healthy development of the next generation.

"The consequence of our retreat from marriage will not be a flourishing libertarian social order, but a vast increase in social disorder and human suffering," warns Maggie Gallagher, president of the Institute for Marriage and Public Policy in Washington, D.C. Same-sex marriage *will* affect you and your family. The well-being of our families and future generations depends on how we meet this challenge.

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## 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 September 2005.