

file c.o.

COMMITTEES

CHILDREN & YOUTH, CHAIRMAN  
JUDICIARY

JERRY BIRMELIN, MEMBER  
303 COMMERCIAL STREET  
HONESDALE, PENNSYLVANIA 18431  
PHONE: (570) 253-5533  
  
HOUSE POST OFFICE BOX 202020  
MAIN CAPITOL BUILDING  
HARRISBURG, PENNSYLVANIA 17120-2020  
PHONE: (717) 783-2037



House of Representatives  
COMMONWEALTH OF PENNSYLVANIA  
HARRISBURG

MAR 05 2004

**Memorandum**

**Date:** March 3, 2004  
**Subject:** Debate on amendments to House Bill 345  
**To:** Supporters of my amendments to HB 345 pertaining to definition of marriage, etc.  
**From:** Representative Jerry Birmelin

Thank you for your positive response in regard to helping with the floor debate on March 15<sup>th</sup>. Listed below are some suggested websites you can access for information, as well as some printed articles that may help you formulate points for debate.

I think that we should, as much as is possible, frame our remarks along the lines that we are in support of these measures because they re-affirm the historic practices that have served our families well in Pennsylvania for over 300 years. We offer this language because of the "controversial" actions of others who have attempted to redefine marriage (San Francisco Mayor and Massachusetts Supreme Court), circumvent the General Assembly (Governor Rendell's granting of same sex benefits to state workers) and distort the Pennsylvania Adoption Law (Pennsylvania State Supreme Court ruling to allow homosexual adoptions).

We represent the vast majority of Pennsylvanians on these issues and are asserting these positions, as they should, through their elected representatives.

**Additionally!!** Please meet with me in my office, Room 41B East Wing, at 11:00 AM on March 15<sup>th</sup> to coordinate debate topics and to zero in on the specific amendment(s) that will be offered later that day.

Websites to view: [familyresearchinst.org](http://familyresearchinst.org)  
[frc.org](http://frc.org)

JB/bjj  
cc: District Office with attachments  
Attachments

JERRY BIRMELIN, MEMBER  
303 COMMERCIAL STREET  
HONESDALE, PENNSYLVANIA 18431  
PHONE: (570) 253-5533

HOUSE POST OFFICE BOX 202020  
MAIN CAPITOL BUILDING  
HARRISBURG, PENNSYLVANIA 17120-2020  
PHONE: (717) 783-2037



House of Representatives  
COMMONWEALTH OF PENNSYLVANIA  
HARRISBURG

COMMITTEES

CHILDREN & YOUTH, CHAIRMAN  
JUDICIARY

*[Handwritten signature]*  
Ake C.O.  
- Same Sex Marriage  
FEB 20 2004

February 24, 2004

Allan Egolf  
401 Irvis Office Building  
Harrisburg, Pennsylvania 17020-2020

*3-1  
responded  
J.*

Dear Representative Egolf, *Allan*

By now, you are aware that I am going to offer an amendment, or amendments, to House Bill 345 on March 15<sup>th</sup>, our first day of session next month, that deal with the definition of marriage, put an end to government employees getting same-sex benefits and disallow homosexuals from adopting.

Given your opposition to House Bill 1493 on November 26, 2002, I feel that you would be supportive of my legislation. That was the bill that added persons of "different sexual orientation" to Pennsylvania's Ethnic Intimidation Law.

I'm writing to ask you to consider working with me so that we can make comprehensive and rational debating points in support of this language on March 15<sup>th</sup>. Rather than appearing as "gay bashers," we who favor these legal protections for the traditional family need to point out the positive virtues of historic opposite sex marriage partners in achieving the best societal environment for the procreation and rearing of children. We also can show the very negative consequences of homosexual behavior on children.

Please let me know by March 1<sup>st</sup> if you would be willing to be a part of this coordinated debate process.

Sincerely,

A handwritten signature in black ink, appearing to read "Jerry Birmelin".

Jerry Birmelin  
State Representative  
139<sup>th</sup> Legislative District

JB/bjj

cc: District Office

**JERRY BIRME LIN, MEMBER**  
303 COMMERCIAL STREET  
HONESDALE, PENNSYLVANIA 18431  
PHONE: (570) 253-5533

HOUSE POST OFFICE BOX 202020  
MAIN CAPITOL BUILDING  
HARRISBURG, PENNSYLVANIA 17120-2020  
PHONE: (717) 783-2037



COMMITTEES

CHILDREN & YOUTH, CHAIRMAN  
JUDICIARY

FEB 27 2004

*House of Representatives*  
COMMONWEALTH OF PENNSYLVANIA  
HARRISBURG

**Memorandum**

**Date:** February 26, 2004  
**Subject:** Amendments to House Bill 345  
**To:** All Republican Members  
**From:** Representative Jerry Birmelin

A handwritten signature in black ink that reads "Jerry Birmelin".

As you may now know, I am putting together legislation in the form of amendments to House Bill 345 that will do several things to protect and strengthen marriages and traditional families in this Commonwealth. While I have filed more than 50 amendments, all of the amendments essentially address the four issues listed below in different combinations. It is my hope that as dialogue and debate continue in this area we can arrive at a consensus on this issue and that I will have filed the appropriate amendment.

1. In light of activity by the Supreme Court in Massachusetts and the Mayor of San Francisco, my amendments will strengthen Pennsylvania's Defense of Marriage Act by preventing Pennsylvania's recognition of spousal equivalent relationships in this Commonwealth.
2. In light of Governor Rendell's unilateral extension of fringe benefits to partners of unmarried state employees, my amendments will prevent this Governor or any future Governor from taking this sort of action in the future. It is my strong belief that the General Assembly, not the Governor, should decide who does and who doesn't receive certain benefits, particularly when these benefits are provided with state funds. My amendments come at this issue in three different ways by using different terms for employer and employee in an effort to permit dialogue on this issue and arrive at the appropriate approach. The different terms used are "Commonwealth agency," "Local agency" and "Public Employer." As dialogue continues I will be able to determine the proper approach.
3. In light of court cases interpreting the terms "marriage," "spouse," "husband" and "wife" to include relationships and persons never intended to be included by the use of these terms to extend specific statutory benefits to non-traditional relationships, my amendments will specifically state that this may not occur. It is my strong belief that this is not what the General Assembly intendeds when it enacts legislation using these terms. My amendment language in this area is modeled after a similar law recently enacted in Ohio.
4. Finally, in light of a recent Pennsylvania court case permitting second-parent adoptions, my amendments address who may and may not adopt in this Commonwealth. My amendments address this issue in three different ways. One version limits adoption to married persons, another prevents homosexuals from adopting and is modeled after the recently upheld Florida statute, and the final version aims to overturn the PA court case to prevent second-parent adoption.

At your request, I will send to you a brief summary of each of the amendments.

If you are interested in helping out with the floor debate, I would appreciate hearing from you by March 3<sup>rd</sup>.

JB/bj

# BRIAN O'NEILL

612 Cattell Street, Easton, PA 18042  
610-252-5783 Phone / 610-252-1663 Fax  
www.oneillforcongress.com

FEB 27 2004

February 24, 2004

Hon. Allen Egolf  
18 West Main St  
New Bloomfield, PA 17068

Dear Representative Egolf,

At exactly 12:40 AM on June 21, 2001, State Senator Charlie Dent voted for House Bill 1493, which extended protections under Pennsylvania's Ethnic Intimidation Act to "actual or perceived sexual orientation, gender, or gender identity."

A press release (dated 6/22/01) issued by the state's largest gay rights lobby, SPARC, had this to say about the vote:

"After weeks of uncertainty and nearly continuous lobbying and advocacy efforts by a broad coalition of activists led by organizational and individual members of SPARC (the Statewide Pennsylvania Rights Coalition) and PAGALA (the Pennsylvania Gay and Lesbian Alliance for Political Action), the state has seen the passage in one house of the legislature of its first, and truly historic, piece of pro-active legislation protecting the rights of its lesbian, gay, bisexual, and transgender citizens. The State Senate in the Commonwealth has now passed what is thought to be the most inclusive language of any hate crimes bill in the country."

The SPARC press release goes on to read:

"Many individuals and elected officials contributed to this extraordinary effort and deserve recognition and support for this remarkably unified campaign to achieve the first of our many rights in Pennsylvania. In the LGBT community this effort was led by the heads of a number of organizations (Steve Black from PAGALA, Steve Glassman from SPARC, Stacey Sobel from the Center for Lesbian and Gay Civil Rights, David Greer from the Log Cabin Republicans of Pennsylvania, Mara Keisling from the Pennsylvania Gender Rights Coalition and SPARC's co-ordinator, along with many others who gave significantly of their time at various points in the process). Among our elected officials, Senators Joe Conti (R.), **Charlie Dent (R.)** and Allen Kukovich (D.), deserve special recognition and acknowledgement for their tireless efforts and unwavering commitment to this issue."

On November 26, 2002, the State House of Representatives passed House Bill 1493, despite the great majority of Republican members having voted against it. A few days later, it was signed into law.

The *Philadelphia Inquirer* (12/15/02) described the new law's passage this way:

"A remarkable thing has happened in Pennsylvania. The state legislature passed an amendment to the hate-crimes law that made Pennsylvania only the fifth state in the union to protect not only gays, lesbians, and bisexuals, but also those who are transgendered.

In a state renowned for its heartland conservatism, many people were stunned that the controversial bill could triumph. The successful lobbying campaign, which spanned nine years, showcases the power of political savvy, grassroots organizing and perseverance. It puts the lie to the notion that culturally liberal issues will not fly outside Philadelphia...

What made the bill extraordinary was its inclusion of the transgendered. Transgender refers to people whose sense of their sexual identity differs from their gender. The category can include cross-dressers and people who have sex-change operations...

Early on they realized they could count on the support of the 20 Democrats in the Senate. But they would need the help of Republicans to get the legislation passed. In the Senate, Allen Kukovich (D., Westmoreland) took the lead and strategized the bill's trajectory. Then Joe Conti (R., Bucks) and **Charles W. Dent** (R., Lehigh) joined the effort."

On January 7, 2003, Senators Tom Daschle (D-SD), Ted Kennedy (D-MA), and Hillary Clinton (D-NY) proposed legislation in the United States Senate that is nearly identical to House Bill 1493. President George W. Bush and Senator Rick Santorum oppose this legislation –Senate Bill 16 – and not one Republican member of the United States Senate has moved to support it.

I'm a former Assistant District Attorney and member of the Pennsylvania District Attorneys Association (PDAA), having served in both Philadelphia and Lehigh Counties.

I'm also a candidate for the Republican nomination for Congress in Pennsylvania's 15<sup>th</sup> district, which is being vacated by Congressman Pat Toomey. My opponents for the Republican nomination are State Senator Charlie Dent and Dr. Joe Pascuzzo.

Earlier this month a put out a piece of literature that stated: "Charlie Dent voted to give gays and lesbians more protection from crime than children and seniors."

This was my honest reading of the effect of House Bill 1493. Unlike other states – including New Jersey – Pennsylvania's hate crimes law does not extend protection based on age. Before making this statement, I carefully researched the law with several trial attorneys and came up with two hypothetical cases on which to base my statement.

(1) A criminal who threatens to kill a four-year old child and is convicted of terroristic threats, faces a misdemeanor sentence. If the same criminal threatens to kill a twenty-five year old homosexual male leaving a gay bar and is convicted of the "hate-crime" terroristic threats, it's a felony.

(Source: 18 Pa.C.S.A. Sec.2706, 2710, HB 1493 of 2001)

(2) A criminal who stabs an eighty-year old woman in the arm with a knife and is convicted of aggravated assault (as a Felony 2), faces a maximum sentence of ten years. If the same criminal commits the exact same act against a homosexual and is convicted of the "hate-crime" aggravated assault, the maximum penalty is twenty years.

(Source: 18 Pa.C.S.A.2702(a)(4), 2710, and HB 1493 of 2001)

In response to my literature, I was attacked by Lehigh County District Attorney Jim Martin and the Pennsylvania District Attorneys Association, in mailings and radio ads paid for by State Senator Dent. I have attached a copy of a mailer for your review.

You may ask yourself why Jim Martin would attack me. I don't know, but note the fact that Charlie Dent, Jim Martin, and a national Gay Republican group – The Log Cabin Republicans – all share the same political consultant, David Murray of New Jersey. Maybe Martin is getting bad advice?

The Pennsylvania District Attorneys Association (PDAA) – a largely Republican group – issued the following statement that appeared in the Martin-Dent literature:

“O’Neill says Charlie Dent voted to give gays and lesbians more protection from crime than children and seniors, but the Pennsylvania District Attorneys Association says that ‘is simply not true.’”

Now I believe that each legislator who voted against House Bill 1493 would agree with my assessment and disagree with PDAA’s statement. And I’m very concerned that the literature built on the PDAA’s statement could be used by liberals as a template with which to bash the 94 Republican legislators who voted against House Bill 1493 – as well as a template with which to bash President Bush and Senator Santorum and the Republicans in Congress – while providing cover for Democrats like Ted Kennedy and Hillary Clinton.

My candidacy has been endorsed by national conservatives and organizations like the American Conservative Union, the Campaign for Working Families, BAMPAC, and the Madison Project. I’ve discussed this matter with them and they’ve expressed shock that elected Republican prosecutors would willingly provide cover for the gay rights lobby that pushed through the grossly unfair House Bill 1493.

They suggested that I write to each elected District Attorney in Pennsylvania – the voting members of the PDAA – to establish **(1) whether they personally support House Bill 1493, and (2) whether they authorized the use of the PDAA in the attached mailer.**

My campaign has been in touch with national prosecutors like former Attorney General Edwin Meese, who served under President Ronald Reagan, and former federal prosecutor and Congressman Bob Barr. They are plainly surprised at what is going on.

I’m writing to you for your assistance in asking the elected Republican District Attorneys of Pennsylvania not to stand with the radical liberals who want to destroy our traditional institutions. With what’s happening across the country, elected Republicans shouldn’t be providing cover for the gay rights lobby. Not now, not at a time like this.

I hope to hear from you soon.

Sincerely,



Brian O’Neill, Esq.  
Republican candidate for Congress

*File*

MAJORITY LEGAL STAFF



SUITE B-6  
MAIN CAPITOL BUILDING  
HOUSE BOX 202228  
PHONE: (717) 783-1510

*House of Representatives*

COMMONWEALTH OF PENNSYLVANIA  
HARRISBURG  
17120-2228

January 28, 2004

TO: Honorable Allan Egolf  
FROM: Edward C. Hussie, Chief Counsel ECH  
RE: Defense of Marriage Laws

As a follow-up to our conversation, I am enclosing the Nebraska constitutional amendment and the Ohio legislation (that is on the verge of being signed into law) which have expanded or adopted defense of marriage laws that also include Vermont-style civil unions. I am also enclosing three court decisions from New York, Connecticut, and Georgia, which address some of the difficult legal issues that arise when a civil union couple from Vermont moves to another state. In addition, I am enclosing a newspaper article on the anticipated Ohio law.

It should be noted that New York and Connecticut are among the few states which lack a defense of marriage law and that the Connecticut Supreme Court has agreed to hear the same-sex couple's appeal of the intermediate court's ruling. As previously noted, it is questionable whether the courts will include Vermont style same-sex unions within the scope of their states' defense of marriage laws, and if the courts fail to do so, the potential impact of Vermont-style civil unions on other states remains in a murky area of the law. I anticipate a multitude of court decisions on this issue over the next few years.

If I can be of any further assistance, please let me know.

ECH:kag

Enclosures

JUL 7 2004

CLYMER & MUSSER P C

ATTORNEYS AT LAW

23 NORTH LIME STREET

POST OFFICE BOX 1766

LANCASTER PA 17608-1766

(717) 299-7101

FAX (717) 299-5115

E-MAIL law@clymer.net

210 NORTH STATE STREET

EPHRATA PA 17522

(717) 733-7471

16 SOUTH HESS STREET

QUARRYVILLE, PA 17566

(717) 786-0500

FAX (717) 786-2111

DIRECT ALL CORRESPONDENCE  
TO THE LANCASTER OFFICE

JAMES N CLYMER  
ROBERT F MUSSER  
JEFFREY D MOHLER  
LEONARD G BROWN III \*  
RANDALL L. WENGER  
ANDREA L. SHAW

\*ALSO ADMITTED IN NORTH CAROLINA

July 2, 2004

Hon. Allan Egolf  
Irvis Office Building, Room  
Harrisburg PA 17120-2020

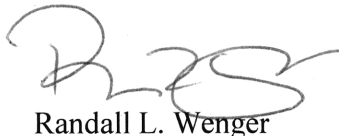
**RE: Pennsylvania Marriage Case**

Dear Hon. Allan Egolf:

You may recall from my June 18th letter that the defendants in the marriage case filed preliminary objections. The enclosed document is our paragraph by paragraph answer to their preliminary objections. Please review this document and return the signed verification to our office stating essentially that the facts contained in our answer are true to the best of your knowledge. You will soon find that there are very few facts contained in the answer. After our answer is filed, the other side will brief the issues contained in the preliminary objections. We will plan to respond to their brief after which the court will make a determination as to the procedural issues of whether this is a proper use of the Declaratory Judgment Act and whether you have standing as plaintiffs.

As always, if you have any questions, I will be more than happy to answer them.

Sincerely yours,



Randall L. Wenger

RLW:rac  
Enclosures