



file
HB 2604

House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

MEMORANDUM

TO: The Honorable Allan C. Egolf
House of Representatives

The Honorable Stephen R. Maitland
House of Representatives

FROM: Dan Fellin, Esq., Research Analyst *DF*
House Judiciary Committee (R)

RE: Federal Legislation Pertaining to Same Sex Marriage

DATE: May 14, 1996

Recently, identical bills entitled the "Defense of Marriage Act" have been introduced in both the United States House (H.R. 3396) and Senate (S. 1740). These bills would amend the United States Code so that states would not be bound by the full faith and credit doctrine to recognize same sex marriages which are performed in states where such marriages are legal. In addition, the bills define "marriage" and "spouse" so that only opposite sex marriages would be valid for purposes of federal statutes.

These bills do not negate the utility of H.B. 2604, since it is not certain if or when this federal legislation may be enacted, and the definition of "marriage" would not apply to Pennsylvania law. However, I thought you should be aware that the U.S. Congress is acting to ensure that states are not forced to recognize other states' same sex marriages.

Copies of the bills are attached. If you would like any additional information, please do not hesitate to contact me.

JERRY A. STERN, MEMBER
HOUSE POST OFFICE BOX 202020
MAIN CAPITOL BUILDING
HARRISBURG, PA 17120-2020
PHONE: (717) 787-9020

DISTRICT OFFICE:
324 ALLEGHENY ST.
HOLLIDAYSBURG, PA 16648
PHONE: (814) 695-2398
(814) 276-9192



House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

COMMITTEES

APPROPRIATIONS
AGING & YOUTH
ENVIRONMENTAL RESOURCES &
ENERGY
VETERANS AFFAIRS & EMERGENCY
PREPAREDNESS

PENN STATE FORUM
FIREFIGHTER & EMERGENCY
SERVICES CAUCUS

**REMARKS FOR THE HOUSE JOURNAL
by REPRESENTATIVE JERRY A. STERN
JUNE 28, 1996**

Mr. Speaker,

I rise in support of the Egolf Amendment to Senate Bill 434. I believe that it is imperative that we in Pennsylvania should stand up for traditional marriage for the benefit of families and children in the Commonwealth and our future. What began in Hawaii from the Commission on Sexual Orientation and their recommendation as a denial of basic human rights under their constitution by five unelected individuals has spurred the debate on same-sex marriages.

The Full Faith and Credit Clause of the United States Constitution would force Pennsylvania to recognize same-sex marriages in Pennsylvania because of a liberal court ruling in Hawaii. Pennsylvania, if need be, needs to re-emphasize Pennsylvania's current policy that marriage is a fundamental institution in a civil society between a man and a woman. We should not allow a decision in another state that has been determined by an appellate court to dictate what we must abide by here in the Commonwealth. In this day and age, we hear much rhetoric and discussion on family values. This is a vote about family values and traditional beliefs and we should all support the Egolf Amendment.

Also, for the record, I would like to submit a statement by the Hawaii Catholic Conference on the Report of the Commission on Sexual Orientation and the Law dated December 13, 1995:

On Pearl Harbor Day, 1995, the State of Hawaii was attacked. This time the target was not a military base, but the State itself. Five unelected individuals, sitting on a commission, decided that government should forcibly redefine the institution of marriage.

No government on planet earth has done this, and none should. The five individuals think it would be a great idea. As citizens, as neighbors, and as Catholics, we strongly disagree.

Marriage between a man and a woman is the fundamental institution of civil society. It is the basis for healthy individuals, a peaceful community, and responsible citizenship. Government cannot simply "redefine" it. This commission is directly attacking our most crucial institution.

We are not fooled by the rhetoric of "civil rights" and "equality". Hawaii is a very tolerant State. The Catholic Church has strongly supported civil rights. We are publicly committed to a pluralistic society with liberty and justice for all.

This commission, however, is up to something very different. In the name of "equality" for individuals, it seeks to redefine marriage as an institution. This mixes apples and oranges. Every individual is equal before the law, and rightfully so. But marriage is not a creation of the law; it precedes the law.

Religion, Catholic or otherwise, did not create the institution of marriage. Nor did the State. Neither can simply "redefine" marriage, and both should be wise enough to know this. Just as we have learned to respect the natural ecology of our island State, we should respect its social ecology as well.

What are the lessons of marriage which have been given to us? There are at least four. First, children enter society through the union of a man and a woman, not just a sperm and an egg. This is obvious! A sperm bank is not the equivalent of a real father. The people of Hawaii know that our children are our future. If children are not a "compelling interest" of the State, what is?

Second, a committed, faithful and lifelong relationship between a woman and a man is the best environment for children. Every child deserves a stable home with her real mother and father. Single parents can raise children well through heroic efforts, yet they know, perhaps better than anyone, that there is a difference. We all know the results when stable families begin to break down: disoriented children, domestic violence, and increased crime.

Third, a formal commitment between a man and a woman encourages them to take joint responsibility for their children and for each other. Marriage is a formal commitment, made in the presence of society. Because this

commitment is essential to our biological and social future, it is preserved, protected, and promoted by the law of the State. The law of marriage connects sex, commitment, and children. It holds parents responsible for supporting and educating their children, both within marriage and even if a marriage breaks down. If the law redefines marriage and sends a message that marriage has no relationship to sex, commitment, or children, it will only add to our current troubles, and undermine what health still remains.

Fourth, these benefits to society are only made possible and reach their greatest fruition because of the obvious complementary natures of a woman and a man. The relationship between a man and a woman is special and beneficial to both the individuals in the relationship and to society as a whole. Man and woman, equal yet different, complement one another, and in marital love humanize and civilize each other and society. No same-sex relationship can mimic the genuine potential of a relationship between a woman and a man. Nor should society expect it to through governmental fiat.

The Catholic Church does not believe that the citizens of Hawaii must choose between liberty, privacy, and equality. We have a tradition of protecting individual liberties. We respect the private choices of others, even if we disagree with them. We treat each individual with equal rights and dignity before the law. To use these great traditions of our people to attack the crucial institution of marriage is to treat our people as a group of fools. To pretend that same-sex relationships are on the same level as the institution of marriage not only goes against the facts, but also denigrates the men and women who make their special contribution to society through their marriages.

We know the difference between males and females. We know the difference between individuals and institutions. We know the difference between friendships and marriages. We know the difference between tolerance and endorsement. We know the difference between "broadening" and redefinition. No government commission can change reality.

We call upon the legislature to reject this report as a direct attack on the institution of marriage. We call upon our fellow citizens, including our Catholic brothers and sisters, to make their voices heard in the halls of

government. And our voice must be clear: We are not fooled by this report.

The Church did not define marriage, but it will defend it. To our neighbors and public officials, we say, "Give marriage the justice it deserves. Do not redefine marriage. Respect marriage!"



PENNSYLVANIA CATHOLIC CONFERENCE

223 North Street • Box 2835 • Harrisburg, PA 17105 • (717) 238-9613 • FAX (717) 238-1473

September 9, 1996

The Honorable F. Joseph Loeper
Chairman of Rules & Executive Nominations
Senate of Pennsylvania
Senate Box 203026
Harrisburg, PA 17120-3026

Dear Senator Loeper:

The Pennsylvania Catholic Conference strongly supports Senate Bill 434 (P.N. 2220) which currently resides in the Senate Rules and Executive Nominations Committee. Specifically, we support that provision in the bill which would ban same-sex "marriages" in Pennsylvania. This provision was introduced as an amendment on the House floor by Representative Allan Egolf and passed by a vote of 177-16 on June 28.

As you may know, the Supreme Court of Hawaii is expected to legalize same-sex "marriages" when it rules on a related case sometime soon. If that happens as anticipated, other states could be forced to recognize such "unions" under the, "full faith and credit clause" of the U.S. Constitution. To help prevent the courts of Hawaii from dictating policy in Pennsylvania, Senate Bill 434 contains language defining marriage as "a civil contract by which one man and one woman take each other for husband and wife." It also invalidates in Pennsylvania "marriages" of same-sex couples which were entered into in another state or foreign jurisdiction.

Marriage between one man and one woman has been the cornerstone of just and civil societies for thousands of years. Government has a definite responsibility to protect and preserve traditional marriage in the interest of strengthening families and maintaining the common good. Redefining marriage to allow for the recognition of same-sex "unions" can only lead to a deterioration of a cherished moral tradition. It could open the door for a further redefinition of marriage whereby any variety of "family arrangements" between siblings, fathers and daughters or multiple partners would be considered acceptable. In addition, allowing same-sex "marriage" to be put on the same plane as heterosexual marriage would have profound moral and social implications, especially with respect to sexuality education in public schools.

The Honorable F. Joseph Loeper
Page 2

Our Conference's support for this legislation is not motivated by malice. The Catholic Church strongly condemns any acts of unjust discrimination directed at the homosexual community. We are motivated by a desire to uphold the dignity and inherent good of traditional marriage and family. In our opinion, the vast majority of Pennsylvanians would support us in this effort.

In view of these concerns, it is essential that Senate Bill 434 (P.N. 2220) be voted out of committee and sent to the Senate floor for a vote on concurrence as soon as the Senate reconvenes later this month. Your cooperation in helping to bring this about will be deeply appreciated.

Sincerely,

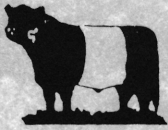
A handwritten signature in cursive script that reads "Francis J. Viglietta".

Francis J. Viglietta
Interim Executive Director

FJV/jmh

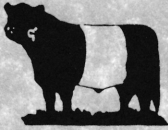
JUN 12 1996

file
2604



Robert A. Boyer

Cattle Management and Marketing Consultant
Specializing in Minor Breeds



June 10, 1996

Rep Thomas Garunon, Chairman
House Judiciary Committee
P O Box 202020
Harrisburg, PA 17120-2020

Dear Rep Egolf;

I strongly urge you not to support House Bill 2604. This bill represents the worst kind of bigotry and prejudice in our society. It is an attempt to deny the legal right to marriage to certain citizens and to allow only those who they see fit to be able to be married. It is an evil, immoral, bigoted piece of legislation and I urge you to do everything you can to stop this hateful legislation from becoming law.

Sincerely,

Robert A. Boyer

CC:Rep. Allan Egolf
Rep. Stephen Maitland

May 21, 1996

file
HB 2604

Pennsylvania State Representative
Allan Egolf
Pennsylvania House Box 202020
Harrisburg, PA 17120-2020

MAY 24 1996

What is it about same-sex marriage that bothers heterosexuals?

Do they oppose adult couples pledging their love to eachother?

Are they against a lifetime commitment of responsibility to and for a loved one?

Are they repulsed by a ceremony celebrating the union of two people in love?

Do they think the ability to love is limited to heterosexuals?

If what you believe about same-sex marriage is limited by lack of knowlege or information about homosexuality why not go to the library or book store and read IS IT A CHOICE?, ARE YOU STILL MY MOTHER?, DIFFERENT DAUGHTERS, MY SON ERIC. You could also write to PARENTS, FAMILIES, AND FRIENDS OF LESBIANS AND GAYS, 1012 Fourteenth St., N.W., Suite 1030, Washington, D.C., 20005 or call (610) 820-9838, (215) 368-2473, or (215) 234-4049.

Or you could get to know a neighbor, fellow employee or employer, banker, dentist, lawyer, teacher, construction worker, basketball star or family member who happened to be born gay or lesbian. The percentage of our neighbors who are gay is approximately the same percentage as those born left handed.

One of my four children was born homosexual and, incidentally, left handed. She received the same love and support from her parents, the same education, religious training, and respect of her peers as our other three. Why should she be denied rights available to her siblings? She supports herself, pays taxes, obeys the laws of the land, loves and is loved. It is my hope that when she finds that "special someone" she wants to spend the rest of her life with she can be married in a legal ceremony as her sisters and brother were.

Verda M. L. Keenan

[REDACTED]
[REDACTED]
Allentown, PA 18103

Verda M. L. Keenan

file
HB2604

April 29, 1996

Representative Robert W. Godshall
Main Capitol Bldg., House Box 202020
Harrisburg, PA 17120

Dear Representative Godshall:

I have recently become aware that the State of Hawaii is considering the licensing of homosexual marriages. Although this may seem to have nothing to do with our own state of Pennsylvania, our constitution requires that states recognize and honor all legal marriages that have taken place in other states. If Hawaii decides to legalize these homosexual marriages, Pennsylvania would have to recognize them as well. In fact, homosexual "couples" from Pennsylvania could make a trip to Hawaii, get married, return to Pennsylvania, and this state would have to honor their unions as true and legal.

If nothing is done in our state legislature to prevent this from happening it will have far-reaching effects. Homosexual "couples" will have the right to receive state welfare benefits that, as of this time, are reserved for heterosexual married couples. They will receive tax "breaks" and be eligible to adopt and provide foster care. Also, if the State of Pennsylvania endorses these homosexual marriages then there will be no reason why homosexuality cannot be taught in the schools as simply another lifestyle.

Out of respect for the citizens of Pennsylvania and the institution of marriage, I am urging you to introduce an amendment that would state that marriage is the legal union of a man and a woman and will only be recognized as such in the State of Pennsylvania.

Thank you for your consideration of this important matter. I am looking forward to your reply.

Sincerely,

Mrs. Lisa Konscics

ALLAN EGOLF, MEMBER
HARRISBURG OFFICE:
HOUSE BOX 202020
MAIN CAPITOL BUILDING
HARRISBURG, PENNSYLVANIA 17120-2020
PHONE: (717) 783-1593
FAX: (717) 787-0860

DISTRICT OFFICE:
POST OFFICE BOX 759
18 WEST MAIN STREET
NEW BLOOMFIELD, PA 17068
PHONE: (717) 582-8119
1-800-959-8119
FAX: (717) 787-7103



House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

COMMITTEES

VETERANS' AFFAIRS & EMERGENCY PREPAREDNESS
MAJORITY VICE CHAIRMAN
EDUCATION
AGING & YOUTH
INTERGOVERNMENTAL AFFAIRS

APPOINTMENTS:

VIETNAM VETERANS' HEALTH
INITIATIVE COMMISSION
PA INTERSTATE COMPACT COMMISSION
FOR EDUCATION
CHILDREN AND FAMILIES TASK FORCE

April 10, 1996

TO: All House Members
FROM: Rep. Allan Egolf *ae*
SUBJECT: Same Sex Marriage Legislation

As you may be aware, the state of Hawaii may soon legalize same sex marriages. According to the Full Faith and Credit Clause of the U.S. Constitution, we may be forced to recognize them in Pennsylvania, as well.

The Full Faith and Credit Clause would allow an exception where the marriage is "repugnant to the public policy" of Pennsylvania. See Com. v. Custer, 145 Pa.Super. 535 (1941). I plan to introduce legislation which would prohibit the legal recognition of these marriages for that very reason. At least thirty other states are working toward, or have already enacted similar legislation.

If you are interested in co-sponsoring this legislation, please contact Teri at 3-1593.

AE/tcr



House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

MEMORANDUM

TO: The Honorable Allan C. Egolf
House of Representatives

FROM: Dan Fellin, Esq., Research Analyst **D7**
House Judiciary Committee (R)

RE: Same Sex Marriage

DATE: April 2, 1996

Paula from your New Bloomfield office called on April 2 to find out if any bills have been drafted on same sex marriage. Yours is at least the eighth inquiry into the topic the Judiciary Committee has received, and I understand the Majority Chief Counsel's Office is also looking into the possibility of legislation prohibiting the recognition of same sex marriages in Pennsylvania. While I do not believe such legislation is necessary for the reasons detailed below, it could not hamper the effort to deny the legal sanction of same sex marriages.

Under the Full Faith and Credit Clause of the U.S. Constitution, the general rule is: if a marriage is valid where it is contracted, then it is valid everywhere. However, there is an exception where the marriage is repugnant to the public policy of the home state of the parties. There is only anecdotal authority as to the validity of various marriages prohibited by Pennsylvania statute. (For example, even though first cousins may not contract to marry in Pennsylvania, their marriage must be recognized if it was performed in a jurisdiction that allows such marriages.) Since no state has ever allowed same sex marriages before, it would be a case of first impression for Pennsylvania courts. There is enough evidence, with or without legislative action, for a court to come down either way on the issue.

This issue has received much attention lately, and several states have enacted or are working to enact similar legislation. A bill based on other states' legislation would be relatively easy to draft and would likely enjoy widespread support in the Legislature. However, it is my belief, based on Pennsylvania case law, that such legislation is not necessary to prevent the recognition of same sex marriages in the Commonwealth.

Pennsylvania's leading case on same sex marriage is DeSanto v. Barnsley, 476 A.2d 952 (Pa.Super. 1984). In DeSanto, the Superior Court held that to persons of the same sex cannot contract a common law marriage. Even though there was no specific statutory or case law definition of "marriage," the court examined cases from other jurisdictions, the implications of Pennsylvania decisions, and the common usage of words to arrive at the conclusion, "Marriage in Pennsylvania is a civil contract by which a man and a woman take each other for husband and wife." Id. at 954. The court went on to write, "[W]e have no doubt that under our Marriage Law it is impossible for two persons of the same sex to obtain a marriage license." Id. at 956.

Even though Pennsylvania statutes tend to use the generic term "applicants" instead of specifying "man and woman," our longstanding common law approach will carry more weight in determining whether same sex marriages are repugnant to our public policy. See, e.g., Raja v. Raja, 54 D.& C. 2d (1971), citing Schofield v. Schofield, 51 Pa.Super. 564 (1912). Other states, which do not have the benefit of decisions detailing the nature of marriage as one between a man and a woman, may indeed need legislation on this controversial matter.

Please advise me how you would like to proceed. I have obtained copies of several other states' legislation on which to base a bill. If you would like any additional information, please contact me at 787-8514.