

April 2000

Alternatives to Marriage Update:

April 2000

Second Anniversary Edition!

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Out and About

LA Times Article Calls Unmarried Couples "A Quiet Revolution"

ATMP Executive Director Dorian Solot was quoted in a wonderful article in the Los Angeles Times Magazine last Sunday (4/9/00). The article told the stories of several long-term, loving unmarried male-female couples, revealing the similarities they have to long-term, loving married couples and discussing the marital status discrimination that unmarried couples can experience. An abstract of the article can be accessed for free on the LA Times website; visitors may pay to view the full article.

MSNBC Airs Cohabitation Segment

The segment that aired on NBC last month, which included interviews with

ATMP founders Marshall Miller and Dorian Solot, was shown again on MSNBC. We had not been aware that the piece would air again, but we figured it out quickly when the e-mails started to pour in!

Book Buzz

Queer Family Values, by Valerie Lehr (Temple University Press, 1999)

Reviewed by Paul S. Christensen (Thanks, Paul!)

Queer Family Values examines the historical, political, social, and economic contexts surrounding marriage and family in the United States. One of Lehr's concerns is that lesbians and gays, by fighting for marriage rights, sidestep the real issues involved. Gaining such rights "would serve to foreclose serious questioning of the values embedded within current understandings of marriage and family," she writes. Fundamentally, marriage sets up inequalities among people. Since the government grants social and economic privilege to just one kind of relationship, those who are not allowed to marry or simply do not wish to marry are left out. Lehr is afraid that too many people are tricked into perceiving marriage as a choice, while it is clear that marriage will be a "nonchoice" as long as it receives so much status. "Given that it can bring clear economic benefits, it is difficult for those who have the right to marry to resist doing so, even if they do not believe in the institution of marriage."

For Lehr, an acceptance of this institutional value of marriage is an immense and dangerous concession to the power of others to determine for us what constitutes normality. For this reason, marriage rights are more a problem than a solution. "For those who choose to not be monogamous or who organize their private relationships around a network of friends rather than or in addition to a lover or partner, the problem remains." Rather than ameliorating the disparity of privilege, Lehr argues, marriage rights simply perpetuate the abuse of a system that grants benefits to some and not to others on the basis of having a particular form of relationship. A fairer system would be one in which rights were granted to individuals -- in any kind of relational interdependency -- rather than as participants in state-sanctioned relationships. That is to say, the "freedom" to petition the government for a license to engage in behavior favored by the government, following rules provided by the government, adopting roles supported by the government, and using definitions furnished by the government, is a dubious freedom indeed.

Lehr believes that true reform can come only with fundamental structural change. She holds that we must be "able and willing to question central institutional structures, rather than to seek equality by acting virtually normal enough to fit in with only minimal change." We pay a high price by keeping the marriage-based system: "marriage rights may secure protection for some, but at the cost of ignoring more comprehensive social changes that might provide real options and real freedom."

The only drawback to this otherwise wonderful book is that Lehr's writing style may prove to be overly academic for a number of readers. Nevertheless, the book is well worth reading, slowly if necessary, so as not to miss the slightest nuance in Lehr's impressively argued, comprehensively insightful, and refreshingly reasonable ideas. At a time when the phrase "family values" is on the lips most of those who seem to have none, Lehr's awareness and compassion are most welcome.

If you've read a book that you think might interest others who like to ponder marriage and non-marriage, we invite you to write a couple of paragraphs about it for this section of our newsletter!

Sizzling Statistics

Baby Boomlet in 1998 Also Sees More Out-of-Wedlock Births

According to a new government report, births in the US were up 2% in 1998, the first increase after years of decline. Nearly one-third of the infants were born to unmarried women. Although births to unwed teens decreased, 20- to 30-year old unmarried women were having more babies. Many of these women are living with, but not marrying, their partners. Another government study showed about 4% (approximately 2.6 million) of women are cohabiting with a different-sex partner.

Britain Said to be Turning Into "A Nation of Loners"

The Family Policy Studies Centre (FPSC) in the UK has published a study showing that fewer people are now getting married than at any time in the past 40 years, and more than 6.5 million people -- about 28% of households in Britain -- now live on their own. Among Britain's 16.3 million families, 1.6 million are headed by lone parents. More than two in five marriages end in divorce; an increasing number of couples are choosing to marry later in life, and there are also rising numbers of step-families and people cohabiting outside marriage.

Tidbits

Unmarried Partners Counted in Census

The Census of 2000 included an "unmarried partner" category along with "husband/wife" and various other options for defining relationship(s) between household members. It was first created in 1990 to count unwed different-sex couples and their children, but increasingly, same-sex couples are also choosing to place themselves in the "unmarried partner" category, instead of identifying as "housemates/roommates," "other relative," or "other non-relative." The Institute for Gay and Lesbian Strategic Studies and the Policy Institute of the National Gay and Lesbian Task Force launched a special campaign encouraging same-sex couples to be counted as unmarried partners.

Revitalizing Marriage Conference Held in Utah

A conference on "Revitalizing the Institution of Marriage for the 21st Century" brought together legal scholars and social scientists for three days in Provo, Utah. The original goal was to create a game plan for changing public policy to strengthen the institution of marriage, but many participants agreed that legislation would be ineffective without social and cultural change to buttress it. Among the various topics discussed at the meeting was the promotion of "covenant marriage."

News From the United States

House Approves "Civil Unions" in Vermont

A bill calling for the creation of "civil unions" for same-sex couples was passed overwhelmingly by Vermont's House Judiciary Committee, and went on to gain approval by the full House of Representatives. The bill stops short of giving gays and lesbians the right to marry legally, and in fact specifies that marriage can only be between a man and a woman, but members of certified civil unions would be granted extensive benefits and protections equivalent to those conferred to married spouses. Couples wanting to establish a civil union would need to obtain a license from a town clerk, and breakups would be handled in Family Court. The bill also provides for a "reciprocal beneficiaries" system that would extend a limited set of benefits, mainly concerned with medical decisions and funeral arrangements, to other people who are unable to marry, which includes blood relatives living together.

California Approves Ban on Same-Sex Marriages

In the March primary election, 61% of Californian voters backed Proposition 22 (the Knight initiative), which declares that only unions performed between a man and a woman are valid in the state. Like every other state, California currently does not license same-sex unions; this measure further erects a pre-emptive block against California having to recognize same-sex marriages if they are ever permitted in another state. Similar ballot measures passed in Alaska and Hawaii in 1998, and signatures are being gathered in Nevada.

Controversial Adoption Law Approved in Utah

Utah's House Bill 103, which prevents placement of children in homes where unmarried adults are living together, has been signed by the governor. The new law mirrors a rule adopted by the Division of Child and Family Services (which is being hit with a civil rights lawsuit), but it more clearly targets gay and lesbian partners and requires DCFS case workers to determine if applicants have a intimate relationship outside of marriage. The DCFS rule will be modified so as to be in line with the state law, thus putting any future legal challenges onto the state's shoulders.

Co-Adoption Bill Advances Through Connecticut Legislature

The Connecticut Legislature's Judiciary Committee has approved a bill that would allow second-parent adoptions by unmarried partners, and has sent it on to the House for consideration. The bill is the second such measure to make its way through the General Assembly (the previous one was killed in the Senate). It was written after the state Supreme Court ruled, in an lesbian adoption case, that adoption and family policy must be established by the Legislature, not the courts. Both same-sex and different-sex unmarried people are covered, but an amendment was included to specify that, if enacted, the bill would not impact existing marriage law.

Massachusetts Inmate Drops Marriage-Rights Suit

A Massachusetts man awaiting trial for his wife's murder filed a lawsuit against the county sheriff, asserting that his civil rights were being violated by the jail's policy of banning inmate marriages. Prosecutors maintained that the man only wanted to marry to keep his girlfriend from being used as a witness in the murder trial. The lawsuit was later withdrawn following the girlfriend's marriage to another man.

New Mexico Couple Charged With Cohabitation

An unmarried couple residing in Valencia County, New Mexico, were charged under the state's cohabitation law which prohibits unwed people from living together as "man and wife". The charges were filed by the ex-wife of one of the partners. The state's district attorney has filed an intent not to prosecute the case, saying he doesn't want "to have the courts clogged with this kind of case."

Landlords' Claim of Religious Intrusion Being Heard in Court

Federal appeals court judges are hearing a case filed by Alaskan landlords who claim their religious rights are being violated by state laws that prohibit housing discrimination against unmarried cohabitants. State and local authorities have not yet filed complaints against any of the property owners in the suit, so the court is to decide whether landlords can challenge the law before it is even enforced against them. The case could affect laws barring discrimination based on sexual orientation as well as marital status in the nine states covered by the 9th U.S. Circuit Court of Appeals.

Senate Democrats Block "Marriage Penalty" Tax Cut

Although ending the so-called "marriage tax penalty" (getting married causes some couples to pay more in taxes, though others get a "marriage bonus" and pay less) has support across the political spectrum, there is disagreement about how best to change the tax code. Senate Democrats recently voted against a Republican proposal that would have gradually reduced income taxes for all married couples, reducing the penalty for some while increasing the bonus for others.

News From Around the World

Canada Moves to Extend DP Benefits Nationally

The Canadian federal government is considering legislation to amend dozens of laws to ensure that same-sex couples receive the same benefits as different-sex couples in common-law relationships. The measure comes after the Supreme Court of Canada struck down Ontario's definition of "spouse" last year because it excluded gay men and lesbians. The bill would,

however, not change the meaning of "marriage" in federal statutes, which continues to be defined exclusively as the legal union of a man and a woman. A move to extend rights and obligations to economically dependent roommates, such as friends, elderly siblings or children living with an aging parent, is also being examined by the federal government, though it has been suggested that this issue is best left to the individual provinces.

Canadian Province Resists Recognition of Same-Sex Relationships

The Legislative Assembly of the Canadian province of Alberta has approved a Marriage Amendment Act, which both reserves marriage for "one man and one woman" and provides for use of the so-called "notwithstanding" clause to deny marriage licenses to same-sex couples despite any court's civil rights decision to the contrary.

Draft Plan in Morocco Would Give Women More Rights in Marriage

The Moroccan government has unveiled a plan it says will give women more rights by banning polygamy, raising the legal age of marriage from 14 to 18, allowing women half their husband's wealth in case of divorce or his death, and transferring the right to divorce from the hands of the husband to a judge. Supporters held a march in the capital city Rabat, but it was dwarfed by a rally in Casablanca organized by opponents of the plan. Muslim theologians denouncing the plan claim that it would discourage men from marriage and incite "prostitution and debauchery."

South Africa Debates Residency Status of Unmarried Partners

Following a Johannesburg police raid during which hundreds of illegal immigrants were arrested, the Democratic Party of South Africa requested urgent discussions with the government on the granting of residency to foreign unmarried partners of South African citizens. A high court had ruled that a foreign partner living with a SA citizen or permanent resident in a same-sex relationship could apply for permanent residency by proving they had been together for two years; however, it refused to extend the same benefit to unmarried partners in permanent different-sex relationships. The Democratic Party sees this as discriminatory and unconstitutional.

Plans Under Way to Enshrine the Value of Marriage in UK Law

The British government has announced a wide-ranging package of concessions to family-values campaigners as it plans to scrap "Section 28," a law that bans the "promotion of homosexuality" in school teaching. Among other rules, schools will be required to teach about the nature of marriage and its importance for family life and bringing up children. Secondary schools will also have a legal duty to encourage pupils to avoid early sexual activity. The concessions are likely to win over many of the peers who have been opposing the attempt to scrap Section 28, and Anglican bishops believe that the amendment means marriage is enshrined as the ideal model for society despite the recognition of the value of "stable relationships" of other kinds.

Anglican Bishop Criticizes Childfree Couples

In Britain, a senior bishop of the Anglican church has condemned married couples who decide not to have children as "self indulgent" and "incomplete." The bishop, also chairman of the Human Fertilisation and Embryology Authority's ethics committee, said that having children was a fundamental duty of married couples, and the church needed to be seen to take a moral lead in of "personal, sexual and family morality."

Married Couple Allowance to be Phased Out in the UK

In Britain, the married couples' allowance, having been cut back by successive governments, will be abolished this April. Couples with one partner born before April 1935 are still entitled to the allowance, but eventually, since the cut-off date is set to remain unchanged, this benefit will vanish.

Sweden May Extend Partnership Registry to Foreigners

Sweden's Ministry of Justice announced plans to amend the nation's registered partnership law to cover foreign residents. Registered partnerships carry nearly all the benefits of marriage, but currently, for a same-sex couple to be eligible for the registry, at least one partner must be a Swedish citizen. If parliament approves the amendment, the requirement will be only that at least one partner has lived in Sweden for at least two years, regardless of either party's nationality.

Politician Tries to Legalize Bigamy in Sweden

A Swedish politician is attempting to legalize bigamy, saying society has no business to interfere in an individual's family life. A Liberal Party councillor in the southern Swedish city of Malmoe, she is pushing her party colleagues to introduce legislation that would legalize bigamy or polygamy. Current laws dictate that if a person has more than one spouse, they could face two years' imprisonment and be forced to drop one spouse.

Domestic Partner News (U.S.)

California Considers Bills Aimed at Expanding DP Benefits

Three bills intended to expand legal benefits to domestic partners in cases of death, injury or illness have passed the Assembly Judiciary Committee of California. The bills would allow registered partners to be included in the definition of "family member" for the purposes of making medical decisions and funeral arrangements, inheriting property, and recovering damages for negligent infliction of emotional distress or wrongful death. One bill also includes a provision that would recognize registered domestic partnerships from other jurisdictions.

Colorado DOMA Leaves DP Benefits Intact

The Colorado Senate passed a so-called "Defense of Marriage Act" earlier in its current term, and has given preliminary approval to another such measure, in an effort to deny legal recognition to same-sex marriages another state may someday perform (marriages performed within the state are already restricted to one man and one woman). The state's former governor twice vetoed such, but the current governor has said he will sign. However, an amendment has been won that would ensure the new DOMA bill does not lead to legal challenges against domestic partner benefits already offered by some local governments and private employers; it still needs to be approved by the House.

Gore Would Appoint Domestic Partnership Commission If Elected

Democratic presidential candidate Al Gore has said that, if elected president, he will set up a commission to study how best to establish domestic partnerships giving same-sex couples the same rights and privileges as marriage. Gore stated that he does not support "changing the institution of marriage from the way it has been traditionally understood as between a man and a woman", but that he does support extending to domestic partners the legal and economic benefits that accrue to married couples.

Connecticut Offers Benefits to State Employees -- 5th State To Do So

Under an arbitrator's ruling settling a three-year dispute, the state of Connecticut is now required to offer health benefits to the same-sex partners of state employees. This makes Connecticut the fifth state to offer DP benefits to state employees, following New York, California, Vermont and Oregon. Meanwhile, the town of West Hartford has already announced DP benefits.

Hawaii Lawmakers Want to Restore Same-Sex DP Benefits

The co-chairs of the Hawaii Senate Judiciary Committee are moving to restore the "reciprocal beneficiary" benefits for public employees that ended in June 1999. The Legislature approved the reciprocal beneficiary law to give same-sex couples some of the same benefits as married couples. The Hawaii Supreme Court ruled last year that gay couples' claims that they are entitled to marriage licenses were moot because of a state constitutional amendment banning gay marriages. However, it left untouched its 1993 ruling that gay couples are entitled to the same rights and benefits as heterosexual couples.

Legality of Arlington County DP Policy Under Debate

Arlington County, Virginia, began granting health insurance benefits to the domestic partners of its employees in July 1997, but a circuit court judge struck down the policy in March 1999. The legal issue is whether or not the county has the authority to define the term "dependents" to include unmarried partners of its employees. The Virginia Supreme Court has been hearing arguments from both sides. Opponents claim that because the requirements to qualify for domestic partner benefits echo the requirements of marriage, the domestic partnership policy is a "marriage-like relationship," which can be legally defined only by the state legislature.

Two Groups Sue Cambridge to Halt DP Benefits

The Catholic Action League and the American Center for Law and Justice are suing the City of Cambridge, Massachusetts, arguing that its ordinance providing benefits to city employees' domestic partners is unlawful. The two groups already successfully challenged Boston's DP policy before the state Supreme Judicial Court, which ruled that the Boston policy conflicted

with a state law that limits "dependents" to children and married spouses. The current suit also seeks to dismantle the domestic partner registry of Cambridge, which allows any unmarried resident couples to register for such privileges as access to children's school records and hospital visitations. Cambridge officials have vowed to fight the lawsuit.

Boeing, Cummins Engine Co., U. of Miami, City of Albuquerque, Others Offer DP Benefits

After a strike that lasted 5 1/2 weeks, Boeing engineering workers approved a new contract. One of the key elements of the settlement is the extension of health coverage to the domestic partners of union employees, a provision that Boeing offered to non-union employees.

Cummins Engine Co., a diesel-engine manufacturer based in Indiana, is to grant health and other benefits to long-term domestic partners of employees, defined as people of same or different sex who live together in a committed relationship and are older than 17. Following the announcement, a large crowd gathered in front of the company's headquarters to protest the decision.

The University of Miami has become the first college in Florida and the 100th in the country to offer health and various other benefits to same-sex domestic partners of its employees. Domestic partners enrolling in the program must provide proof of commitment, such as joint ownership of significant assets or power of attorney. If the domestic partner relationship ends, a written declaration of termination is required, and an employee has to wait 12 months before filing for partner benefits again -- a longer waiting period than at most other universities.

The city of Albuquerque, New Mexico will begin to offer insurance benefits to the same-sex and different-sex partners of city employees. It is believed the policy will help the city stay competitive with other local employers who offer the benefits, including US West and the University of New Mexico.

Other employers that recently announced they will offer DP benefits include the American Academy of Pediatrics, Andersen Consulting, and Applied Materials.

DP Benefits Debated at Universities of Colorado, Nebraska and Carnegie Mellon

A debate has been resurrected at the University of Colorado on whether to provide DP health benefits to gay, lesbian, bisexual, or transgendered employees. Since 1995, students signing up for insurance can qualify for benefits for their same-sex partners, but in 1997 the board of regents voted against extending similar benefits to the partners of faculty and staff.

At the University of Nebraska-Lincoln, the Academic Senate endorsed health benefits for domestic partners in 1996 and 1999, and is trying to get the measure implemented, but such a policy change has yet to be approved by the board of regents.

A faculty and staff panel at Carnegie Mellon University has produced a draft report recommending that the school extend health benefits to same-sex domestic partners of its employees. The recommendation will soon be deliberated by the board of trustees.

Supporters of DP benefits at the universities argue that it is an issue of human rights and fairness, as well as an important factor in the recruitment and retention of faculty and staff.

Pitt Requests Halt to Anti-Discrimination Proceedings

The University of Pittsburgh has requested an injunction to stop the Pittsburgh Commission on Human Relations from proceeding with a discrimination case against the school. The case arose from a lawsuit filed by Pitt employees who were denied health benefits for their domestic partners. A judge will decide whether the commission has jurisdiction; the ruling would impact other local and county non-discrimination ordinances in Pennsylvania. Protesters at the university continue to criticize the university for refusing to offer DP benefits.

Northwest Airlines Considers Benefits

Contract talks between Northwest Airlines and its flight attendants are reportedly focused on pay, retirement, and domestic partner benefits.

Florida DP Bill Dies Quietly

Florida legislators are expected to let a contentious domestic partnership bill languish this year without it even hitting a committee. The bill's sponsor, Rep. Tracy Stafford, says she hopes her proposal will promote "healthy" dialogue to aid its passage in the future. The bill would establish a statewide registry that would grant hospital- and jail-visitation rights, health-insurance benefits and disability-insurance coverage to same-sex and different-sex domestic partners.

Activists Worry Washington Governor May Oppose Benefits

Activists working to provide domestic partner benefits to state employees expressed concerns after meeting with the state's governor that he may use cost as a reason to oppose the benefits. An aide said the governor has yet to take a position and was merely expressing concerns. It is not clear at this point whether a policy would include all unmarried partners or be limited to same-sex couples.

Special thanks to Alice Yew for compiling and editing the news in this issue!