

# Constitutional Discrimination Hurts Unmarried People

Last Updated Thursday, 04 December 2008

Most state constitutional amendments go far beyond banning same-sex marriage. They undermine the legal status of existing domestic partnerships and civil unions. They will immediately affect all previously recognized unmarried relationships within those states. Nationwide, local governments and the private sector have been eagerly expanding civil rights and fair labor practices for unmarried people-these amendments terminate and reverse that trend. Ultimately, all unmarried people may be affected.

To summarize a variety of critiques offered by advocacy organizations, lawyers, and political representatives, the dangers to unmarried people fall into three categories which are described, with some potential examples, below.

## \* EXISTING LEGAL PROTECTIONS WILL BE STRIPPED AWAY

o Domestic Partnerships: Thousands of couples (different-sex as well as same-sex) have legally registered their domestic partnerships in dozens of localities. Their legal documents will be instantly devalued. Domestic partners legally registered in other states become legal strangers when they visit states that have amended their constitutions.

o Domestic Violence: In Ohio, where the state constitution was amended in 2004 to exclude unmarried people from "legal status ... that intends to approximate the ... effect of marriage", unmarried victims of domestic violence are no longer eligible for protective orders, and unmarried abusers are not being charged for domestic violence because DV laws are being strictly limited to married couples. In one case, an appeal court ruled that domestic violence is not marriage specific, but other cases are still awaiting decisions.

o Adoption: In November 2008, the Arkansas voters passed the Anti-Adoption Act, which prohibits all cohabiting people from adopting and fostering children. This act locks children into the temporary, sometimes overcrowded foster system, and locks them out of potentially better situations, for no reason except bias against unmarried people.

## \* EMPLOYERS WILL BE FORCED TO CUT BENEFITS

o Government agencies and public institutions (such as universities and hospitals) will be forbidden to offer benefits to partners of unmarried employees. In Michigan, where in 2004 the state constitution was amended so that marriage is "the only agreement recognized ... for any purpose", the American Family Association has sued Michigan State University to rescind benefits from employees' domestic partners.

o Many private companies offer domestic partnership benefits. Some of these companies also receive government contracts. If the amendments are passed these companies will be challenged to choose between offering equitable employee benefits and maintaining their lucrative contracts.

## \* INTERPERSONAL CONTRACTS WILL BE CHALLENGED IN COURT

o Governor Timothy Kaine of Virginia opposed amending his state's constitution. He publicly stated "the amendment...threaten[s] the constitutional rights of individuals to enter into private contracts and the discretion of employers to expand benefits-like health insurance coverage-to unmarried couples."