

<http://www.dailypress.com/services/site/premium/access-registered.intercept>

OPINION

OPINION: It's about more than marriage

BY CLAIRE GUTHRIE GASTAÑAGA

May 7 2006

Del. Bob Marshall and state Sen. Steve Newman want Virginians to amend our state constitution by rewriting George Mason's bill of rights to prohibit legal recognition of any and all unmarried relationships (gay or straight) that intend to "approximate" the "design," "qualities," "significance" or "effects of marriage."

What, you say? "I support Virginia's law prohibiting 'same sex' marriage, but what's all this other stuff?"

No wonder you're confused. Marshall, Newman and their supporters keep talking about their proposal as if it doesn't do anything more than define marriage as a union between one man and one woman.

Nothing could be further from the truth. The only thing clear about the language of the proposed amendment is that it goes well beyond banning gay marriage - which, by the way, is and has been against the law in Virginia for more than three decades.

Here's what the proposed Marshall/Newman amendment actually says:

That only a union between one man and one woman may be a marriage valid in or recognized by this Commonwealth and its political subdivisions.

This Commonwealth and its political subdivisions shall not create or recognize a legal status for relationships of unmarried individuals that intends to approximate the design, qualities, significance, or effects of marriage. Nor shall this Commonwealth or its political subdivisions create or recognize another union, partnership, or other legal status to which is assigned the rights, benefits, obligations, qualities, or effects of marriage.

The first sentence is clear enough. But it's the second and third sentences that open Pandora's box, cast us into the void of legal ambiguity and a morass of litigation, and threaten to upend the status quo.

If passed, the Marshall/Newman amendment would prohibit the state and its localities from providing any legal recognition to any relationship between "unmarried individuals" (gay or straight) that "approximates the design, qualities, significance or effects of marriage."

No civil "unions," no domestic "partnerships," no "other legal status."

Because Virginia would be amending the constitution, we would be divesting the legislature (elected by

<http://www.dailypress.com/news/opinion/dp-19267sy0may07,1,508333,print.story>

6/2/2006

Compass Bank

Get an
XM® RADIO
with a new
COMPASS
FREE
CHECKING
account!

GET STARTED ▶

the people) of the ultimate authority to define what it means to "approximate the effects of marriage," and we'd be giving this job to the courts.

If the amendment is adopted, a judge could decide that the law passed in 2005 that allows small businesses and insurers to agree on health insurance plans that cover all household members including in-laws or domestic partners is unconstitutional.

If the amendment is adopted, a judge could find (as has been the case in Ohio) that the amendment prohibits enforcement of Virginia's domestic violence laws where violence is between two unmarried people who are living in the same household (perhaps with children common to both or belonging to one).

There is no need to rush to amend our bill of rights in the face of such ambiguity about the consequences. There is no need to take this issue away from our elected officials and give it to the courts. Virginia has banned same sex marriage by statute since 1975. In the three decades since, the law has been amended so that it also prohibits recognition of same sex marriages entered into in other states. In 2004, the legislature outlawed civil unions and domestic partnerships. These laws have never been challenged in any court, and none of these laws will be affected in any way by a "no" vote on the proposed amendment.

The right question to ask yourself about the Marshall/Newman amendment is not "do you support a marriage amendment that defines marriage as between a man and a woman?"

That's not the question that will be before you when you vote in November.

The right questions are:

Do you want to ban all legal arrangements between unmarried couples whether gay or straight?

Do you want to jeopardize the safety of domestic violence victims who aren't married to their abusers?

Do you want to encourage intra-family legal battles about wills, the guardianship of children, hospital visitation, and end-of-life decisions where unmarried couples are involved?

If your answer to any of these questions is no, you should join Gov. Timothy M. Kaine, former governor and U.S. Sen. Chuck Robb, and members of the Virginia Sexual and Domestic Violence Action Alliance and vote "no" in November.

Gastañaga is the executive director and campaign manager of The Commonwealth Coalition, a non-partisan organization advocating that Virginia vote against the Marshall/Newman amendment.

Copyright © 2006, Daily Press