

VIEWPOINT

Newsletter of the Pennsylvania Catholic Conference

SPECIAL EDITION: Protecting Marriage

Nationwide, activist groups are asking courts to redefine marriage as something other than a relationship between one man and one woman. The legalization of same-sex marriages in Massachusetts and the creation of “civil unions” in Vermont have created an urgent need to protect the institution of marriage. An amendment to the Pennsylvania Constitution is proposed:

PA MARRIAGE AMENDMENT

Only a marriage between one man and one woman shall be valid or recognized as a marriage in this Commonwealth, and neither the Commonwealth nor any of its political subdivisions shall create or recognize a legal status identical or substantially equivalent to that of marriage for unmarried individuals.

If passed, Pennsylvania will join the 19 other states with constitutional amendments defining marriage as the union between one man and one woman.

A similar amendment is proposed on the federal level to the U.S. Constitution:

U.S. MARRIAGE AMENDMENT

Marriage in the United States shall consist only of the union of a man and a woman. Neither this Constitution, nor the constitution of any State, shall be construed to require that marriage or the legal incidents thereof be conferred upon any union other than the union of a man and a woman.

Bishops Urge Support for the Marriage Protection Amendment

The Catholic Bishops of Pennsylvania recently issued the following pastoral appeal regarding the upcoming state and national legislative actions to support the protection of the institution of marriage through an amendment to the Constitution of the Commonwealth of Pennsylvania and the Constitution of the United States:

“Deeply concerned about preserving and protecting the divinely ordained institution of marriage, as reflected in the natural order of creation, we, the Catholic Bishops of Pennsylvania, renew our call for the support of an amendment to the Constitution of the Commonwealth of Pennsylvania and the Constitution of the United States of America, defining marriage as the exclusive union of one man and one woman. Marriage, so understood by diverse cultures and peoples throughout millennia of history, is a natural and universal institution, the foundation of family life, and the bedrock of our society and civilization. The preservation and protection of the identity of marriage, as it has always been understood, is a moral imperative of the highest order, and a requirement of the common good. We urge our legislators, both on the state and national levels, to support the marriage protection amendment. We appeal to our Catholic faithful and indeed all the citizens of our Commonwealth to make their voices heard and to contact their elected state and federal representatives to support these amendments.”



Marriage Questions

Constitutional amendments to define marriage are proposed in both the Pennsylvania legislature and the U.S. Congress. The threat to redefine marriage as something other than a union between one man and one woman raises new concerns -- will religious liberty be challenged? Will faith based organizations have to give up their tax-exempt status if they do not comply with laws and regulations that go against the tenets of their faith?

Maggie Gallagher is president of the Institute for Marriage and Public Policy, whose motto is “strengthening marriage for a new generation” and whose unique mission is research and public education on ways that law and public policy can strengthen marriage as a social institution. Drawing upon this expertise, Gallagher regularly writes and speaks about the topic. Recently she and other experts discussed these concerns:

RELIGIOUS LIBERTY

Gallagher spoke about Catholic Charities in Boston deciding to stop providing adoption services because state law required them to place children with same sex couples or lose their license. She said, “If you follow the racial analogy being made here — that opposing gay marriage is akin to racial bigotry — then ultimately the law is going to pressure Catholic and other religions’ institutions and punish those that fail to conform to its new vision of marriage. I’m talking about things like broadcasting licenses and ultimately tax exempt status for Catholic schools and other faith-based organizations.

“This may sound incredible. But who would ever have imagined that here in the United States a government would prevent Catholics from helping poor, abandoned, needy babies, unless they

agree with the government’s position on gay adoptions?”¹

Gallagher further discussed the question of religious liberty with Marc Stern, general counsel for the American Jewish Congress, in a recent issue of *The Weekly Standard*.²

Stern sees the coming conflicts as pervasive. The problem is not that clergy will be forced to perform gay marriages or prevented from preaching their beliefs. “No one seriously believes that clergy will be forced, or even asked, to perform marriages that are anathema to them. Same-sex marriage would, however, work a sea change in American law. That change will reverberate across the legal and religious landscape in some ways that are today unpredictable,” he writes in his Becket Fund paper.

Same-sex marriage will affect religious educational institutions, he argues, in at least four ways: admissions, employment, housing, and regulation of clubs. One of Stern’s big worries right now is a case in California where a private Christian high school expelled two girls who (the school says) announced they were in a lesbian relationship. Stern is not optimistic. And if the high school loses, he tells me, “then religious schools are out of business.” Or at least the government will force religious schools to tolerate both conduct and proclamations by students they believe to be sinful.

Stern agrees that public accommodation laws can and should force truly commercial enterprises to serve all comers. But, he asks, what of other places, such as religious camps, retreats, and homeless shelters? Will they be considered by courts to be places of public accommodation, too? Could a religious summer camp operated in strict

conformity with religious principles refuse to accept children coming from same-sex marriages? What of a church-affiliated community center, with a gym and a Little League, that offers family programs? Must a religious-affiliated family services provider offer marriage counseling to same-sex couples designed to facilitate or preserve their relationships?

“Future conflict with the law in regard to licensing is certain with regard to psychological clinics, social workers, marital counselors, and the like,” Stern wrote last December—well before the Boston Catholic Charities story broke.

Of all the experts gathered to forecast the impact of gay marriage on religious organizations, no one, not even Stern, brought up adoption licenses. “Government is so pervasive, it’s hard to know where the next battle will be,” he says. “I thought I had a comprehensive catalog, but the adoption license issue didn’t occur to me.”

TAX EXEMPTION

Gallagher discussed this concern with Jonathan Turley, a George Washington University law professor who is a First Amendment specialist. Before 1970 the law was “viewpoint neutral” with regard to the tax exempt status of all charitable, religious, and public interest organizations under section 501(c)(3), he says. The tax exemption was viewed not as a public subsidy, but as a means of encouraging private donations and charitable conduct in general. In 1971, the IRS issued a decision redefining the tax exemption as a public endorsement or subsidy. This meant that the IRS would strip an organization of its exempt status if its purposes, although legal, were “contrary to public policy.” The goal at the time was to use legal pressure to end private racial discrimination. But why stop there?

Religious bodies may be as simple as the small, independent congregations that

exist all over America, but often they are large and complex institutions with extensive property and multiple missions, notably saving souls. Even a slight risk of anything so damaging as the loss of tax-exempt status will persuade many such groups to at least mute their marriage theology in the interest of preserving the rest of their activities. Such a self-imposed muting on the part of faith communities would change our culture of marriage, and our understanding of the free exercise of religion, without necessarily creating visible martyrs.

Precisely because support for marriage is public policy, once marriage includes gay couples, groups who oppose gay marriage are likely to be judged in violation of public policy, triggering a host of negative consequences, including the loss of tax-exempt status. Because marriage is not a private act, but a protected public status, the legalization of gay marriage sends a strong signal that orientation is now on a par with race in the nondiscrimination game. And when we get gay marriage because courts have declared it a constitutional right, the signal is stronger still.

¹ *ZENIT News Service*, April 10, 2006, www.zenit.org

² All excerpts from *The Weekly Standard* are from May 15, 2006, Volume 011, Issue 33

Maggie Gallagher is president of the Institute for Marriage and Public Policy (www.iMAPP.org), whose motto is "strengthening marriage for a new generation" and whose unique mission is research and public education on ways that law and public policy can strengthen marriage as a social institution.

For more information, log on to www.marriage Debate.com.

Legislative Review

The Pennsylvania Catholic Conference supports the following active Pennsylvania legislation:

House Bill 2381 This bill proposes the marriage protection amendment to the Pennsylvania Constitution: *Only a marriage between one man and one woman shall be valid or recognized as a marriage in this Commonwealth, and neither the Commonwealth nor any of its political subdivisions shall create or recognize a legal status identical or substantially equivalent to that of marriage for unmarried individuals.*

Education-----

Senate Bill 1087 This legislation adds the sum of \$20 million to the aggregate amount of tax credits that can be awarded annually for K-12 scholarships. It further provides for the maximum amounts of educational improvement tax credits (EITC).

Social Concerns-----

Senate Bill 1069 This bill would create the Innocence Commission Act. It would establish a commission to study the underlying causes of wrongful conviction in order to make recommendations intended to reduce or eliminate the possibility that innocent persons will be wrongly convicted in this Commonwealth. The bill passed the Senate and will now be considered by the House of Representatives.

Pennsylvania Catholic Health Association-----

House Bill 2584 This bill would create the Umbilical Cord Blood Banking Act. It would require health care facilities and providers to give pregnant patients information regarding umbilical cord blood donations, and permit patients to arrange for such donations.

House Bill 2480 This bill assures that Medical Assistance and General Assistance recipients who are not able to afford co-payments for prescription drugs because of their limited resources will get needed medication. The bill would require the Department of Public Welfare (DPW) to pay the provider the amount of the co-payment the recipient is unable to pay.

House Bill 2495 This bill would require large employers to expend a certain amount of their budget for health care coverage for their workers.

Senate Bill 997 This bill passed both the House and the Senate and is now in the hands of the governor for signature. It repeals the authority given to DPW in Act 42 of 2005 to amend the Medical Assistance reimbursement for public comment or oversight by the General Assembly and the Independent Regulatory Review Commission.



Put your faith in action...tell your legislator to support this legislation. Log on to www.pacatholic.org and click "contact legislators." You can type in your zip code and send an e-mail directly to your state representative, state senator or the governor.



CALL FOR ACTION

Pennsylvania Marriage Protection Amendment

Your support is urgently needed to protect marriage as a union between one man and one woman.

The Pennsylvania Catholic Conference (PCC) urges you to contact your state representative and state senator. Call, write or e-mail ASAP with the following message:

As a concerned citizen, I urge you to support the marriage protection amendment to the Pennsylvania Constitution. Pass House Bill 2381. The amendment language is critical to protecting the definition of marriage that is best for families.

Contact information for legislators in the local telephone directory, or concerned Catholics can send an e-mail directly to legislators simply using their zip code by logging on to

www.pacatholic.org



Viewpoint is published at least four times a year by the Pennsylvania Catholic Conference, the public affairs agency of Pennsylvania's Catholic bishops. For more information, contact Amy L. Beisel, APR, editor, at (717) 238-9613 or email at abeisel@pacatholic.org. Visit our website at www.pacatholic.org.

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