



*The Future of Marriage is in Our Hands,  
Ask a Child if it Matters.*

## **10 Reasons Why Marriage Should be Protected with a Constitutional Amendment**

**To Protect Parental Rights for School Children**

**To Protect Democracy from Activist Judges**

**Marriage is a Social Institution**

**To Create More Families with a Mother and a Father**

**To Decrease Out of Wedlock Births**

**If Marriage is Everything, Then it is Nothing**

**To Uphold Federal Marriage Law**

**To Preserve Religious Freedom**

**To Sustain the Population**

**Marriage Leads to Prosperity**



# 10 Reasons to Restore California's Marriage Law with an Amendment

**Reason #1 To Protect Parental Rights for School Children** In a Massachusetts school a second grade teacher read a fairy tale to her students called "King & King." In this fairy tale a prince chooses to marry another prince. The story ends with the two princes kissing. When parents complained that they were not notified ahead of time so they could opt their child out, school officials were

unresponsive. In fact the superintendent insisted on "teaching children about the world they live in, and in Massachusetts same-sex marriage is legal."

**Reason #2 To Protect Democracy from Activist Judges Seeking to Redefine Marriage** On May 15, 2008 four judges on the California Supreme Court overturned Prop 22--California's existing marriage statute defining marriage as the union of one man and one woman. Prop 22 was passed by 61 percent of voters in 2000. In response to the attacks on marriage laws, 27 states have passed constitutional marriage amendments.

**Reason #3 Marriage is a Social Institution** Same-sex marriage does NOT broaden the social institution of marriage; it leads to fewer man/woman marriages and less legal recognition for the terms "Mother" and "Father." For example, soon after same-sex marriage became legal in Massachusetts activists began challenging the state's birth certificates to replace the terms "Mother" and "Father" with "Parent A" and "Parent B."

**Reason #4 To Create More Families with a Mother and a Father** Same-sex marriage deliberately creates motherless or fatherless families. If same-sex marriage becomes common, social scientists predict the majority of same-sex couples with children would probably be lesbians. This means there would be more children growing up apart from fathers. Studies prove that fatherless households increase crime. Boys whose parents divorced or never married are two to three times more likely to end up in jail as adults based on the population as a whole. Many single parents work hard to beat the odds.

**Reason #5 To Decrease Out of Wedlock Births** Several European countries have already shown that same-sex marriage results in fewer total marriages and more children born out of wedlock--as high as 70 percent. Here in the United States, one-third of children are born out of wedlock. Decades of social science and government data are absolutely conclusive that overall children have the best physical, cognitive and social outcomes when raised in a home by a married mother and father in a low conflict marriage.

**Reason #6 If Marriage is Everything, Then it is Nothing** If the institution of man/woman marriage is subject to redefinition based on "equality for all," then what legal argument can be posed to prohibit polygamy or polyamory (group marriage)? This is the slippery slope of redefining marriage.

**Reason #7 To Uphold Federal Marriage Law** In 1996 under President Bill Clinton Congress declared, "Marriage is the foundation of a successful society" and overwhelmingly passed the Defense of Marriage Act (DOMA). DOMA defines marriage as a legal union between one man and one woman for purposes of all federal laws, and provides that states need not recognize same-sex marriages from another state.

**Reason #8 To Preserve Religious Freedom** In December of 2005, the Becket Fund for Religious Liberty hosted a conference of noted First Amendment scholars from across the political spectrum to assess the religious freedom implications of legalized same-sex marriage. Although some of the scholars support same-sex marriage and others oppose it, they all shared one conclusion--legalized same-sex marriage will create an unprecedented level of legal confusion and invite a tidal wave of lawsuits in public accommodation law, employment law, and over government funding. All agreed it would challenge the workings of religious institutions like never before.

**Reason #9 To Sustain the Population** All citizens need the rising generation to sustain the government, the military, the economy and other systems and institutions for which all of society depends. To sustain the population a country needs a birth rate of 2.1 percent children per woman. Countries that have legalized same-sex marriage have some of the lowest fertility rates in the world hovering around 1.6 children per woman.

**Reason #10 Marriage Leads to Prosperity** Nearly 80 percent of children suffering long-term poverty come from broken or never-married families.

## **Reason #1 To Protect Parental Rights for School Children**



The fallout of the Massachusetts Supreme Court's decision to legalize same-sex marriage was quickly seen in the schools. In October of 2005 just 17 months after Massachusetts started issuing marriage licenses to same sex couples, a Boston College law professor testified before the United States Senate Judiciary Committee on this subject.

Scott FitzGibbon stated that **since the legalization of same-sex marriage in Massachusetts, public schools have increasingly taught about the normalcy of homosexuality and the merits of same-sex marriage.**

For example, in Massachusetts a second grade teacher read a fairy tale to her students called "**King & King.**" In this fairy tale a prince chooses NOT to marry a princess but rather another prince. The story ends with the two princes kissing. When parents complained that they were not notified ahead of time so they could simply opt their child out of that instruction, school officials were unresponsive. In fact **the**

**superintendent insisted on "teaching children about the world they live in, and in Massachusetts same-sex marriage is legal."** When school officials were unresponsive parents took their case to court and lost.

In February, 2007, U.S. District Judge Mark L. Wolf dismissed a civil rights lawsuit brought by elementary school parents. Judge Wolf agreed with the lawyers representing the school district that teachers at Estabrook Elementary School have a "legitimate state interest" in teaching the homosexual lifestyle and parents have no input into those decisions.

They also explained to the judge that, in their opinion, **parents have no right to control what ideas the school presents to elementary school children**, and if parents disagree with that dictate, they can take their children elsewhere. "**Once I have elected to send my child to public school, my fundamental right does not allow me to direct what my child is exposed to in the public school," said the school's lawyer.**

This is a frightening example of the government stealing from parents the right to shape the upbringing of their children especially their very young children. There is no justification for imposing a controversial ideology on children against the wishes of their parents in taxpayer funded schools. Yet this is one of the tragic consequences where marriage is not protected by law.

The right of parents to teach, guide and protect their children has long been an inalienable right protected by the U.S. Constitution.



## Reason #2 To Protect Democracy from Activist Judges



On May 15, 2008 four judges on the California Supreme Court overturned Prop 22--California's existing marriage statute defining marriage as the union of one man and one woman. Prop 22 was passed by 61 percent of voters in 2000.

DOMAwatch.org states, "There have been **approximately 68 lawsuits** over the issue of same-sex 'marriage' since the first cases were filed in about 1971. **Fifty or more lawsuits** have been filed since the U.S. Supreme Court's sodomy decision in *Lawrence v. Texas* on June 26, 2003."

It is a miracle how many states like New York, Washington and Maryland have narrowly escaped court rulings overturning existing state marriage laws.

DOMAwatch.org concludes, "One of the most troubling developments over the past two years is the judicial perspective on same-sex 'marriage.' Many of the judges that reject constitutional claims express their personal

support for redefining marriage, albeit through the democratic process."

This trend reinforces the urgent need for state constitutional marriage amendments and ultimately a federal marriage amendment. In response to the attacks on marriage laws, 27 states have passed constitutional marriage amendments.

### Government Of the People, By the People, and For the People

Thomas Jefferson said, "**(It is) the people, to whom all authority belongs.**" Our system of government grants citizens the right to govern themselves.

The logical reason why laws must be determined by the voice of the people is that no law can be effective unless the vast majority of the people follow it voluntarily. Whether or not someone agrees with a particular law he/she is more likely to obey it if he/she believes that the law has been adopted through legitimate means. Since the legislative branch writes the laws, citizens are rightly upset when a court "legislates from the bench."

Thankfully our Founding Fathers wisely established a system of checks and balances preventing any branch of government from dominating the others. For example, when a judge rules that an existing marriage law is unconstitutional, the legislative branch has two choices. First they can vote to impeach the judge or second they can pass legislation that overrides the judge's decision like a state constitutional marriage amendment. Both Alaska and Hawaii passed marriage amendments to override court decisions that overturned their existing marriage laws. In contrast, the Massachusetts legislature voted down a marriage referendum and let the court have the final word.

## **Reason #3 Marriage is a Social Institution**



In a letter to U.S. Senators in May of 2006, prior to voting on the federal marriage amendment, former Massachusetts Governor Mitt Romney wrote, "Although the full impact of same-sex marriage may not be measured for decades or generations, we are beginning to see the effects of the new legal logic in Massachusetts just two years into our state's social experiment. For instance, **our birth certificate is being challenged: same-sex couples want the terms 'Mother' and 'Father' replaced with 'Parent A' and 'Parent B.'**"

Imagine after the birth of their first baby, a married couple sitting in a hospital room trying to figure out who should be "Parent A" and "Parent B?" If the words "Mother" and "Father" are removed from birth certificates, how long will it take to remove them from any legal document,

like wills, school registration forms, health and financial policies? Where does the confusion stop?

### **Six Social Goods of Man/Woman Marriage**

In Family Leader's "friend of the court" brief to the California Supreme Court and other states, it argues that "man/woman marriage is constitutional under any standard of review because society has compelling interests in perpetuating the valuable social goods produced materially and even uniquely by the man/woman meaning at the institution's core."

1. "Society's best and probably only effective means to make real the right of a child to know and be brought up by his or her biological parents (with exceptions justified only in the best interests of the child, not those of any adult)."
2. **"The most effective means humankind has developed to maximize the private welfare provided to children** conceived by passionate, heterosexual coupling (with "private welfare" meaning not just the basic requirements like food and shelter but also education, play, work, discipline, love, and respect)."
3. "The indispensable foundation for that child-rearing mode - that is, married mother/father child-rearing - that correlates (in ways not subject to reasonable dispute) with the optimal outcomes deemed crucial for a child's - and therefore society's - well-being."
4. "Society's primary and most effective means of bridging the male-female divide."
5. "Society's only means of conferring the identity and status of, and transforming a male into, husband/father, and a female into wife/mother, statuses and identities particularly beneficial to society."
6. "Social and official endorsement of that form of adult intimacy - married heterosexual intercourse - that society may rationally value above all other such forms."

"Those are not all the social goods produced by the marriage institution, but for purposes of adjudicating the marriage issue they are the relevant ones. They are relevant exactly because they are the social goods produced materially and even uniquely by the man/woman *meaning* and that must therefore disappear when that *meaning* is de-institutionalized."

Monte Stewart, president of the Marriage Law Foundation, explains "Given the role of language and meaning in constituting...institutions, two 'coexisting' social institutions known society-wide as marriage amount to a factual impossibility."

## **Reason #4 To Create More Families with a Mother and Father**



Same-sex marriage deliberately creates motherless or fatherless families. If same-sex marriage becomes common, social scientists predict the majority of same-sex couples with children would probably be lesbians. This means there would be more children growing up apart from fathers.

Studies are conclusive that **fatherless households increase crime**. Boys whose parents divorced or never married are two to three times more likely to end up in jail as adults. Although there many single parents heroically raising wonderful children who do not fall into these statistics, they are likely to be the first to say their situation is not ideal.

The federal government is well aware of these alarming trends and started the Healthy Marriage Initiative (HMI). The Department of Health and Human Services spends \$150 million annually on the HMI to promote marriage and specifically fatherhood. It is hard to fathom that a state government could put its stamp of approval on the deliberate creation of fatherless homes by legalizing same sex marriage when the federal government is spending millions of dollars to help prevent fatherless homes.

### **The Unique Role of Fathers**

For decades social scientists have studied the powerful roles of fathers in shaping children's lives.

"Fathers excel in reducing antisocial behavior/delinquency in boys and sexual activity in girls...Fathers exercise a unique social and biological influence on their children. A study of father-absence on girls found that girls who grew up apart from their biological father were much more likely to experience early puberty and a teen pregnancy than girls who spent their entire childhood in an intact family. This study, along with David Popenoe's work, suggests that a father's pheromones influence the biological development of his daughter, that a strong marriage provides a model for girls of what to look for in a man, and gives them the confidence to resist the sexual entreaties of their boyfriends." (Does Father Absence Place Daughters at Special Risk for Early Sexual Activity and Teenage Pregnancy? and David Popenoe. 1996. Life Without Father. Harvard.)

### **How Father Absence Hurts Children**

- 24 million children in America live apart from their fathers.
- 68 percent of all African-American children are born to single women.
- 80 percent of children living in poverty come from broken or never-married families.
- A child whose mother lives with a man who is not the child's father is 33 times more likely to suffer serious physical abuse than is a child living with both biological parents in an intact marriage.
- Boys who grow up without fathers are more likely to become unmarried fathers themselves at a young age, perpetuating the cycle of absentee fatherhood.
- Girls growing up without fathers are more likely to fall victim to early sexual involvement and teenage pregnancy, perpetuating the cycle of single-parenthood.

## **Reason #5 To Decrease Out of Wedlock Births**



Several European countries have already shown that same-sex marriage results in fewer total marriages and more children born out of wedlock--as high as 70 percent. Here in the United States, one-third of children are born out of wedlock. Decades of social science and government data are absolutely conclusive that overall children have the best physical, cognitive and social outcomes when raised in a home by a married mother and father in a low conflict marriage.

In an article entitled "**The End of Marriage in Scandinavia**" author Stanley Kurtz makes the case that marriage is slowly dying in Scandinavia. A majority of children in Sweden and Norway are born out of wedlock. Senator Sam Brownback says **in some parts of Norway the**

**out of wedlock birth rate is a staggering 80 percent.** Sixty percent of first-born children in Denmark have unmarried parents.

Kurtz says, "Not coincidentally, these countries have had something close to full gay marriage for a decade or more. Same-sex marriage has locked in and reinforced an existing Scandinavian trend toward the separation of marriage and parenthood. The Nordic family pattern - including gay marriage - is spreading across Europe. And by looking closely at it we can answer the key empirical question underlying the gay marriage debate. **Will same-sex marriage undermine the institution of marriage? It already has.**"

Kurtz continues, "More precisely, **it has further undermined the institution.** The separation of marriage from parenthood was increasing; gay marriage has widened the separation. Out-of-wedlock birthrates were rising; gay marriage has added to the factors pushing those rates higher. Instead of encouraging a society-wide return to marriage, **Scandinavian gay marriage has driven home the message that marriage itself is outdated, and that virtually any family form, including out-of-wedlock parenthood, is acceptable.** "

He concludes that "Scandinavian countries have proved that once same-sex marriage or its legal equivalents are established, it's only a matter of time before marriage loses meaning in society, hetero-sexual couples are less inclined to marry altogether, out-of-wedlock birth rates skyrocket, and huge populations of **children once protected by the shelter of married parents in a stable relationship find themselves at risk for poverty, abuse, behavioral and emotional problems, lower academic achievement, depression and drug use.**

### **Marriage is Principally about the Nurturing and Development of Children**

In June of 2006 then Massachusetts Governor Mitt Romney wrote a letter to U.S. Senators urging them to pass the federal Marriage Protection Amendment. He warned, "Attaching the word marriage to the association of same sex individuals mistakenly presumes that marriage is principally a matter of adult benefits and adult rights. In fact, **marriage is principally about the nurturing and development of children. And the successful development of children is critical to the preservation and success of our nation.**"

## **Reason #6 If Marriage is Everything, Then Marriage is Nothing**



If the institution of man/woman marriage is subject to redefinition based on "equality for all," then what legal argument can be posed to prohibit polygamy or polyamory (group marriage)?

Where does the confusion stop?

Some advocates have an agenda far beyond same-sex marriage. They seek government and legal recognition for any combination of relationships involving two, three or more people regardless of gender or children.

If you think these possibilities are far-fetched, think again.

As Americans we don't need to look any further than Canada to see **the slippery slope of same-sex marriage**. In July of 2005 after Canada legalized same-sex marriage nationwide, Prime Minister Paul Martin commissioned a \$150,000 study to debunk the argument that the next step was going to be to legalize polygamy. Just six months later to the prime minister's surprise the study gave two reports recommending that Canada repeal its anti-polygamy law or in other words legalize polygamy. In response to this report, one Canadian lawyer reasoned "after all adultery is legal."

Within a year of Canada redefining traditional marriage, some in government started to consider legalizing polygamy.

## **Reason #7 To Uphold Federal Marriage Law**



In 1996 Congress declared, "Marriage is the foundation of a successful society" and overwhelmingly passed the Defense of Marriage Act (DOMA). DOMA passed in the U.S. House of Representatives by a vote of 342-67 and in the Senate by a vote of 85-14. It was signed by President Bill Clinton on September 21, 1996.

DOMA defines marriage as a legal union between one man and one woman for purposes of all federal laws, and says that states need not recognize a marriage from another state if it is between persons of the same sex. Here's a brief history from DOMAwatch.org on why DOMA was passed in the first place.

Congress passed DOMA...particularly in response to a Hawaii court decision that suggested there is a right to same-sex "marriage" in the Hawaii Constitution. The legislative history reflects a congressional concern about the effect that legalizing same-sex "marriage" in Hawaii would have on other states, federal laws, the institution of marriage, traditional notions of morality, and state sovereignty.

The first section of DOMA states that for purposes of federal law, marriage means a legal union between a man and a woman:

"In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the word "marriage" means only a legal union between one man and one woman as husband and wife, and the

word "spouse" refers only to a person of the opposite sex who is a husband or a wife."

The second section reaffirmed the power of the states to make their own decisions about marriage:

"No State, territory, or possession of the United States, or Indian tribe, shall be required to give effect to any public act, record, or judicial proceeding of any other State, territory, possession, or tribe respecting a relationship between persons of the same sex that is treated as a marriage under the laws of such other State, territory, possession, or tribe, or a right or claim arising from such relationship."

As important as DOMA is in protecting marriage, it is not enough. The ultimate protection for marriage must come in the form of a federal constitutional marriage amendment. In 2006, there were not enough votes in the House or Senate to pass it. Hence, the battle to protect the legal definition of marriage must be fought on the state level for now.

## **Reason #8 To Preserve Religious Freedom**



Harvard Law professor Mary Ann Glendon wrote in 2004, during the same-sex marriage debate in Massachusetts, "the experience in other countries reveals that once these arrangements become law, there will be no live-and-let-live policy for those who differ. Gay-marriage proponents use the language of openness, tolerance, and diversity, yet one foreseeable effect of their success will be to usher in an era of intolerance and discrimination...**The ax will fall most heavily on religious persons and groups that don't go along.**"

One example of the ax falling on religious groups came in Massachusetts during the spring of 2006 regarding church adoption agencies. Boston Catholic Charities, after a century of service to needy children, closed its doors to doing adoptions. Why? Because adoption agencies have to be licensed by the state, and after same-sex marriage became legal in Massachusetts it

would not license an agency that would not place children with same-sex couples. **Boston Catholic Charities was left with no choice. Rather than go against its religious beliefs, it was forced to stop doing adoptions.**

In December of 2005, the Becket Fund for Religious Liberty, a top law firm that defends all faith groups, hosted a conference of noted First Amendment scholars from across the political spectrum to assess the religious freedom implications of legalized same-sex marriage. Although some of the scholars support same-sex marriage and others oppose it, they all shared one conclusion--**legalized same-sex marriage will create an unprecedented level of legal confusion and invite a tidal wave of lawsuits in public accommodation law, employment law, and over government funding.** All agreed it would challenge the workings of religious institutions like never before. Anthony Picarello, president of the Becket Fund says, "The impact of gay marriage will be severe and pervasive. This is going to affect every aspect of church-state relations...the church is surrounded on all sides by the state. The boundaries are usually peaceful, so it's easy sometimes to forget they are there. But because marriage affects just about every area of the law, gay marriage is going to create a point of conflict at every point around the perimeter."

### **What are Some of the Areas of Conflict?**

**Tax-Exemptions and Government Benefits:** Religious groups could find themselves suffering along with the Boy Scouts, as access to public facilities is stripped away. Gay-rights lawyers will likely challenge groups' federal tax-exempt status charging that such an exemption "subsidizes discrimination." Maggie Gallagher, president of the Institute for Marriage and Public Policy says, "Religious groups that take government funding will almost certainly be required to play by the nondiscrimination rules, but what about groups that, while receiving no government grants, are tax-exempt?" Marc Stern, general counsel for the American Jewish Congress, says "**That is the 18 trillion dollar question.**"

**Professional Licenses:** Professional licenses might also be denied to psychological clinics, social workers, marriage and family counselors, and others who believe same-sex relationships are "objectively disordered." Would family service providers affiliated with a religion that opposes same-sex marriage have to give marriage counseling to same-sex couples to help them preserve their marriage?

**Religious Employers:** Suppose a Catholic summer camp refuses to hire or retain employees in same-sex marriages, they could be sued on the basis of "marital status discrimination."

**Religious Colleges:** Colleges that refuse admission to same-sex couples could face civil lawsuits and loss of accreditation. Marc Stern says that "same-sex marriage will affect religious educational institutions, in at least four ways: admissions, employment, housing, and regulation of clubs."

**Public Accommodation Laws:** Many legal scholars agree that public accommodation laws can require all commercial enterprises to serve all customers. However, if same sex marriage is legal Marc Stern asks, "What about religious camps...? 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? ..."

Ultimately, "Twenty years ago it would have been inconceivable that a Christian or Jewish organization that opposed gay marriage might be treated as racist in the public square," says Maggie Gallagher. "Today? It's just not clear."

## **Reason #9 To Sustain the Population**



Imagine a world where swings sit empty on vacant playgrounds, where the government has to plead and offer financial incentives for women to bear children.

**Countries that have turned away from marriage are also beginning to depopulate.** This is a natural consequence when countries adopt laws and policies that focus on adult rights instead of the development of children and preserving the next generation. Sustaining the population is a very serious issue for all members of society but is one that pundits and politicians rarely talk about in the same-sex marriage debate.

All of us need the rising generation to sustain the government, the military, the economy and other industries (especially healthcare) and institutions for which all of society depends. To sustain the population a birthrate of 2.1 children per woman is required. The average birthrate for the world is 2.6 children per woman.

**Countries that have legalized same-sex marriage have some of the lowest fertility rates in the world.** The Netherlands, Sweden and Canada all have birthrates around 1.6 children per woman.

Although the United States has a birthrate of 2.1, there are areas of the United States where adult rights and alternative lifestyles are trumping the preservation of the traditional family. In such areas there is a dramatic drop in the number of children per household. For example, **in San**

**Francisco County only 15 percent of households have children under age 18 versus 26 percent for the state of California.**

If the state of California adopts the values, attitudes and lifestyles that are accepted or celebrated in San Francisco, it is safe to predict that California will face a depopulation crisis down the road. Sustaining the population is another valid reason why marriage laws are indeed a serious public issue versus simply a "private matter."

## **Reason #10 Marriage Leads to Prosperity**

Ben Franklin quipped that early to bed and early to rise makes a man healthy, wealthy and wise. The same can be said about marriage.



Marriage has proven to be a productive economic relationship. Studies are conclusive that men and women who marry are healthier, wealthier and exhibit fewer signs of mental illness.

Because married couples share the responsibilities of domestic work and market work, they produce more together than either one could alone. In fact, labor economists have tracked that married men earn 10 to 40 percent more than single men even after controlling for other factors. Economists have named this phenomena the "**marriage premium.**"

Data shows that married men have lower quit rates, adopt healthier lifestyles, tend to choose higher paying careers and seek on the job training more often than their single counterparts.

### **Economic Benefits of Marriage for Society**

The bottom line for society is that marriage leads to prosperity. "Marriage is a powerful generator of human and social capital," says Maggie Gallagher, President of the Institute for Marriage and Public Policy. "**Marriage boosts wealth in part because it points men and women toward productive, sober, steady behavior that pays off for families, for businesses and for society,**" says Gallagher. (*Why Supporting Marriage Makes Business Sense*)

In a given five year period the government spends a staggering \$200 billion on welfare programs. It is important to understand that \$150 billion of these tax dollars go to broken families. For this reason state and federal government should do all they can to protect and promote man/woman marriage and not even consider diluting its role in society by redefining it.

In fact, state and federal government officials should be leading the way to protect marriage to help prevent welfare. As former U.S. Ambassador Michael Novak wisely said, "**The family is the original department of health, education and welfare.**"

**The key to winning the war on poverty and welfare dependency is to create a culture of healthy marriages.**

### **Economic Benefits of Marriage for Children**

Looking at the population as a whole, research shows that children raised in a home with their married mom and dad in a low conflict marriage have the best outcomes. One of these outcomes is financial stability. In contrast, **nearly 80 percent of children suffering long-term poverty come from broken or never-married families.** (*The Positive Effects of Marriage: A Book of Charts*)