

## **Think Passage of the Virginia Marriage Amendment is a Shoo-In?** 6/19/2006

Do you think passage of the Virginia Marriage Amendment is a shoo-in? Read this:

A May 22 Gallop Poll reported that Americans Still Oppose Gay Marriage, but only half favor a constitutional amendment to bar it. The on-line article by Lydia Saad reported:

"The close party-line vote in the Senate Judiciary Committee last week on a constitutional amendment to define marriage as a heterosexual-only institution strongly reflects public opinion on the issue. Americans split about evenly in their reactions to such an amendment, with most Republicans in favor and a majority of Democrats opposed. More generally, about three in five Americans oppose making gay marriages legally valid."

Explanatory Language for Virginia Marriage Amendment

On the good news front: here is the language the House and Senate Committees approved for the state board of elections to explain the constitutional amendment.

### EXPLANATION

#### Present Law

The Constitution does not define marriage. Under current statutory law in Virginia, persons who marry must have a license and be married by a licensed minister, judge, or other person authorized by law to perform marriages. Present law prohibits marriages between certain individuals. For example, the law prohibits a marriage between a brother and sister, between a couple where one of the parties is married to someone else, and between couples of the same sex.

In 1975, the General Assembly enacted a statute (present Code of Virginia § 20-45.2) that states "A marriage between persons of the same sex is prohibited." In 1997, the General Assembly added a sentence to § 20-45.2 that states that:

Any marriage entered into by persons of the same sex in another state or jurisdiction shall be void in all respects in Virginia and any contractual rights created by such marriage shall be void and unenforceable.

In 2004, the General Assembly passed a law to prohibit certain civil unions or other arrangements between persons of the same sex. That law (Code of Virginia § 20-45.3) states that:

A civil union, partnership contract or other arrangement between persons of the same sex purporting to bestow the privileges or obligations of marriage is prohibited. Any such civil union, partnership contract or other arrangement entered into by persons of the same sex in another state or jurisdiction shall be void in all respects in Virginia and any contractual rights created thereby shall be void and unenforceable.

Thus, civil unions or other arrangements which purport "to bestow the privileges or obligations of marriage" are prohibited by statute.

#### Proposed Amendment

If approved by the voters, this proposed amendment will become part of the Constitution of Virginia. The proposed amendment adds a definition of marriage as the "union between one man and one woman" to the Constitution's Bill of Rights and prohibits Virginia and its counties, cities, and towns from creating or recognizing any legal status by any name which is comparable to marriage.

Marriage in the Commonwealth creates specific legal rights, benefits, and obligations for a man and a woman. There are other legal rights, benefits, and obligations which will continue to be available to unmarried persons, including the naming of an agent to make end-of-life decisions by an Advance Medical Directive (Code of Virginia § 54.1-2981), protections afforded under Domestic Violence laws (Code of Virginia § 18.2-57.2), ownership of real property as joint tenants with or without a right of survivorship (Code of Virginia § 55-20.1), or disposition of property by will (Code of Virginia § 64.1-46).

A "yes" vote on the proposed amendment will result in the addition of the proposed Section 15-A to Article I, the Bill of Rights. A "no" vote will mean that there will be no change made in Article I, the Bill of Rights.