

Dear Wisconsin Senator or Representative:

You soon will be revisiting a proposed constitutional amendment to ban civil unions and marriage for gay and lesbian couples (the Proposed Amendment).¹ We urge you to vote against the Proposed Amendment because it is not in the interest of Wisconsin or its families.

Wisconsin law defines marriage as “between two equal persons, a husband and wife.” Wis. Stats. §765.001(2). It is widely agreed that our current laws would not recognize the marriage of a same-gender couple. Nevertheless, as experienced family law attorneys throughout Wisconsin, we urge you to reject the Proposed Amendment because we are deeply concerned about the far-reaching, negative impact we anticipate it could have on thousands of Wisconsin individuals, families and children.

As family law attorneys, we often assist same-gender couples seeking legal protections for each other and their children in the absence of their access to the rights and responsibilities of marriage. These families are truly representative of every socioeconomic, racial, ethnic and religious group in the state. They are school teachers, doctors, computer technicians, office workers, police officers, fire fighters, accountants, stock brokers, small business owners, laborers, university employees, corporate executives, and even other lawyers. According to 2000 U.S. census data, there are same-gender couples living together in every county in Wisconsin.

Every day, we see the real consequences of putting the children of same-gender couples at significant risk and disadvantage because they have only one “legal” parent.² Regardless of the depth of their emotional connection with and financial dependence on both of their parents, those children may, for example:

- Be denied health insurance coverage.
- Have no right to child support from one of their parents, even if the family was completely dependent on that parent’s income.
- Have no legal right to maintain a parent-child relationship with one of their parents in the event of dissolution of the parents’ relationship.³
- Be taken from their surviving parent upon the death of the other parent.
- Have no right to inherit from both of their parents.
- Be denied the financial security and benefit offered by social security payments upon the death or disability of a parent.

¹ The proposed amendment states: “*Only a marriage between one man and one woman shall be valid or recognized as a marriage in this state. A legal status identical or substantially similar to that of marriage for unmarried individuals shall not be valid or recognized in this state.*”

² Current Wisconsin law does not allow the same-gender partner of a biological or adoptive parent to adopt that parent’s child, even if the child has equally no other biological or adoptive parent, the biological or adoptive parent consents, and the partners have shared equally in the decision to have a child and in all other financial and emotional aspects of childrearing.

³ Under current Wisconsin law, a court has no authority to order joint legal custody (decision-making), even if the court finds that would be in the child’s best interest. Similarly, a court has no authority to prevent a biological or adoptive parent from moving a child out of the state and away from the child’s other (non-legal) parent, regardless of the impact on the child.

- Be denied the comfort and care of one of their parents if the child is hospitalized.

Our overwhelming concern is that the Proposed Amendment may well destroy the limited protections that Wisconsin lawyers have been able to provide these families through guardianships, wills, powers of attorney, co-parenting agreements and other tools that can protect a partner's and a child's welfare and security. In addition, we believe that the second sentence of the Proposed Amendment is so overly broad that it will have a chilling effect on any further advances that might have been made toward offering children from same-gender families full protection under the law.

As family law attorneys, we also are concerned that the Proposed Amendment could be used to threaten other important protections available to Wisconsin families and children. Recent developments in Utah and Ohio reveal what is likely only the tip of the iceberg. In those states, constitutional amendments with similarly broad language passed in November 2004, and have already been used to challenge the validity of criminal and civil restraining order statutes aimed at protecting unmarried victims of domestic abuse. It is simply unacceptable that the validity of Wisconsin's anti-domestic violence statutes could be called into question, even if they ultimately are upheld.

You may claim that voting for the Proposed Amendment simply gives the people of Wisconsin an opportunity to decide the issue by popular vote. However, we urge you to remember that a primary purpose of our constitutional system is to protect the minority from the prejudices, fears and misconceptions of the majority. Targeting certain children and families to make them more insecure is not a legitimate government interest.

You stand at a crossroads today. Please act courageously to protect the minority, even in the face of strong opposition. The Proposed Amendment is a drastic measure that will have intended as well as unintended negative consequences for our State and its citizens for decades to come. Before you cast your vote, we ask that you stop to consider who would be hurt by this constitutional amendment. It most certainly will be families and children in Wisconsin who wish nothing more than to be treated the same as any other loving, committed family. Please do not let this happen. Vote against the Proposed Amendment.

Respectfully submitted,

Steven A. Bach
Jennifer Lyn Binkley
Amelia L. Bizzaro
Mark F. Borns
Professor Tonya Brito
Christy Brooks

Dawn R. Caldart
Prof. Nina L. Camic
Rachel L. Caplan
Sarah Davis
Peter J. Dewind
Prof. Howard Erlanger

Michelle B. Fitzgerald
Lisa Friedrich
Martha E. Gaines
Chris K. Gawart
Peter D. Goldberg
Sarah Helvey
Sandra L. Holtzman
Margit Kelley
Prof. Jane Larson
Kerry A. Lemke
Melissa J. Malott
Marsha M. Mansfield
Kathleen G. Mc Neil
Professor Judith G. McMullen
Prof. Elizabeth E. Mertz
Marta T. Meyers
Carrie Michelson
Paul Milakovich
Rachel L. Murray
Bonnie S. Musial
Michele Perreault
Kathleen Quinlan
Cari Anne Renlund
Kat Riley
Linda Roberson
Theresa L. Roetter
Lauri Roman
Kelda Helen Roys
Elise Clancy Ruoho
William S. Sample
John P. Schuster
Phyllis Lathrope Schwahn
Megan A. Senatori
Leslie D. Shear
Scott Sussman
Alison TenBruggencate
Lucy H. Terry
Arthur Thexton
Ellen Thorn
Geoffrey S. Trotier
Gretchen G. Viney
Anne Wadsack
Carrie L. Watkins

Daphne Webb
Rebecca R. Weise
Keith R. Wessel
Nancy Wettersten