

Promoting Civil Unions to Undermine Marriage



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For several years, the proponents of legislation codifying civil unions in Illinois have insisted their efforts are not about same-sex marriage. They insist access to certain domestic benefits – such as hospital visitation rights, healthcare decision-making, and survivor benefits – for all unmarried people are the real motivator. Moreover, they employ oratorical tricks of reduction and oversimplification to assure legislators and the media that same-sex marriage is not the issue and their efforts will not impinge upon religious freedom.

Unfortunately, such assertions are belied by two important factors: (1) the actual text of the legislation introduced in Illinois; and (2) the pattern of political and legislative tactics pursued in other states.

Illinois Civil Union's Legislation

In 2009, Representative Greg Harris (D-Chicago) was the primary sponsor of civil union legislation. After first introducing and then abandoning legislation to codify same-sex marriage (House Bill 178), Representative Harris introduced House Bill 2234 – The Illinois Religious Freedom Protection and Civil Union Act. Later in the session, in an effort to secure a surprise vote and overcome significant opposition, the exact text of House Bill 2234 was amended onto Senate Bill 1716. Despite the efforts of an impressive conglomeration of highly paid contract lobbyists, the maneuver was unsuccessful.

Notwithstanding the legislation's title (which will be addressed later), one need only examine the text of the legislation to grasp its true intention. House Bill 2234 redefines "spouse" to include "a party to civil union." In Illinois law, the term "spouse" has always been defined as a married person, namely a husband or a wife. No longer if this bill becomes law. There would be wholesale changes to this term by establishing that a "party to a civil union means, and shall be included in, any definition or use of the terms 'spouse', 'family', 'immediate family', 'dependent', 'next of kin', and other terms that denote the spousal relationship, as those terms are used throughout the law."

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It is difficult to appreciate the far-reaching consequences of such a profound change. A search on the Illinois General Assembly web site on March 1, 2009 revealed there are more than 500 statutory provisions that contain the term “spouse.” This does not include the significant volume of regulations and other legal provisions that would also be directly altered. It is clear the intention of this legislation is not to ensure access to targeted benefits but instead to establish same-sex civil unions as the equivalent of marriage in law.

If the expansion of the definition of the term “spouse” were not evidence enough, the legislation provides much more. It explicitly grants equivalent legal rights bestowed on married couples to a party to a civil union. The language reads: “a party to a civil union is entitled to the same legal obligations, responsibilities, protections, and benefits as are afforded or recognized by the law of Illinois to spouses, whether they derive from statute, administrative rule, policy, common law, or any other source of civil or criminal law.”

These two central provisions of the legislation remove all doubt: the effect of its adoption will be no legal difference between the two legal relationships – marriages and civil unions. Why? Would not the proponents then be satisfied? They will not. **The object of providing equal benefits and protections to civil unions is not to settle the question but to advance the drive to same-sex marriage by framing the perception of same-sex relationships as “separate but equal!”** They will (and do) argue that if the benefits become the same so must the name; thus, civil unions become a means to an end and same-sex marriage a perceived civil right. The evidence for this assertion will be found in the description of the situation in other states.

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Religious Freedom?

As to the legislation's so-called protection of religious freedom: the only protection the bill offers is the guarantee that a particular church would not be required to solemnize a civil union between persons of the same-sex. There are other concerns. Will it be possible for religious institutions that fundamentally believe in the sacred nature of traditional marriage to deny parties to a civil union access to our institutions and services? Where will the line be drawn? Employee benefits? Adoption services? The legislation provides no further boundaries.

Moreover, an individual's right to religious freedom enjoys no protection in the legislation. A person of faith might be forced to participate in same-sex civil union ceremonies upon demand. The mere existence of personal religious or moral belief will not be enough for a person, in his or her professional capacity, to deny working for or otherwise participating in civil unions ceremonies. Religious liberty will be replaced by government coercion.

In short, by reducing the concept of religious liberty – guaranteed in the Constitutions of the United States and Illinois – to an ability to deny solemnization of civil unions, the bill actually works to cynically undermine and devalue the free exercise of religious belief.

The Pattern of Pursuing Same-Sex Marriage by Civil Union

As described earlier, the pursuit of legislation codifying civil unions represents a political tactic designed to further the goal of legalizing same-sex marriage. Where successful, the establishment of civil unions is not celebrated as new access to important benefits but rather as a rallying cry against a “separate but equal” system of recognizing relationships among people of the same sex. Occurrences in the following states prove the point. The evidence is clear and the cycle too often repeated to be coincidental.

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Maine adopted legislation legalizing civil unions in 2005. Building on that victory, the supporters of the civil union bill earlier this year introduced and passed legislation enabling same-sex marriage. The proponents explained how and why they followed this course:

Betsy Smith of the homosexual advocacy group Equality Maine said that marriage is a

“worldwide, recognized, honored institution.”

“If you say, ‘we’re married,’ there’s a certain respect and dignity that comes with that. Gay people want the same social recognition for their unions that straight people do. The word means something. The word means a lot.”

Smith said the successful 2005 effort to establish civil unions was part of Equality Maine’s buildup to the marriage bill.

“We weren’t going to win marriage before we won that,” she said, according to SeacoastOnline.com.

The course of events followed similar tracts in Vermont and New Hampshire. Prompted by a ruling of the State Supreme Court, Vermont adopted a law in 2000 to become the first state to offer a civil union status encompassing the same legal rights and responsibilities of marriage. The proponents did not wait long to introduce a bill on same-sex marriage, utilizing the civil union law as basis for an “equal rights” argument, and in 2009 the Vermont legislature overrode a gubernatorial veto to legalize same-sex marriage.

The cycle transpired more quickly in New Hampshire. In 2007, legislation authorizing civil unions became law. However, the proponents were back the next year demanding same sex-marriage (again as a matter of “equality”). In the spring of 2009, the New

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Hampshire legislature agreed, and the Governor – a self-professed opponent of same-sex marriage – switched positions and signed the bill into law.

The legislative process is not the only manner in which the transition from civil union to same-sex marriage is pursued. In 2005, Connecticut (like Maine) adopted a civil union statute. However, unlike other states, the proponents did not use this victory as impetus for further legislative action. Instead, the law was utilized as a basis for legal action against a state statute reserving marriage to a man and a woman. Challenging what they described as the state’s discriminatory exclusion of same-sex couples from the right to marry, proponents used the civil union’s statute to argue the provision of the full benefits of marriage without the term marriage violated the equality and liberty provisions of the Connecticut Constitution. They won, and in October of 2008 the Connecticut Supreme Court ordered same-sex marriage legalized. According to the Court, the civil union statute, passed with the support of same-sex marriage proponents, was thus the origin of equal protection violations mandating the legalization of same-sex marriage.¹

Only in California, has this wry cycle, once begun, been defeated. California adopted a domestic partnership law in 1999 that basically operated in the same manner as the civil union law proposed in Illinois – affording domestic partners “the same rights, protections, and benefits, and shall be subject to the same responsibilities, obligations, and duties under law...” as married spouses. In response, the voters of California adopted a Defense of Marriage Act (DOMA) as an initiative statute with

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1. The courts in Massachusetts and Iowa did not require an existing statute on civil unions to further the ends of same-sex marriage supporters: same-sex marriage began in Massachusetts on May 17, 2004, as a result of the Supreme Judicial Court of Massachusetts ruling in *Goodridge v. Department of Public Health*; and the Iowa Supreme Court, in the case of *Varnum v. Brien*, ruled on April 3rd, 2009, that a state law limiting marriage to a man and a woman violated the state constitution.

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an almost 62 percent majority. The proponents of same-sex marriage then went to work not through the legislative process, but rather, as in Connecticut, through the courts.

In May of 2008, the California Supreme Court struck down the state's DOMA as unconstitutional, saying the state's domestic partnership law conferred "significantly unequal treatment" for same-sex couples by denying them the right to call themselves married. As in Connecticut, the Court did not just strike down DOMA; it ordered the immediate provision of same-sex marriage licenses. In November of the same year, voters once again responded by passing Proposition 8, with 52 percent of the vote, to change the state constitution to define marriage as between a man and a woman. On May 26, 2009, the California Supreme Court upheld Proposition 8 and the issue was finally decided against same-sex marriage.

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State of the Nation

Illinois and the states above are not alone in debating this issue. The citizens of 30 states have seen fit to end the debate by adopting constitutional language defining marriage as between one man and one woman. They are:

Alabama	Hawaii	Montana	South Dakota
Alaska	Idaho	Nebraska	Tennessee
Arizona	Kansas	Nevada	Texas
Arkansas	Kentucky	North Dakota	Utah
California	Louisiana	Ohio	Virginia
Colorado	Michigan	Oklahoma	Wisconsin
Florida	Mississippi	Oregon	
Georgia	Missouri	South Carolina	

Many of these states did so by ballot initiative. **In no state has a ballot question defining marriage as between one man and one woman been ultimately denied by a vote of the citizenry.** There are also an additional 10 states with active law defining marriage as between one man and one woman. They include:

Delaware	Minnesota	West Virginia
Illinois	North Carolina	Wyoming
Indiana	Pennsylvania	
Maryland	Washington	

Unfortunately, the status of these state's laws (including Illinois) is more precarious than might be imagined. The states of Connecticut, Iowa, Maine, New Hampshire and Vermont had state statutes defining traditional marriage until they were attacked and effectively repealed by the tactics described above.

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Conclusion

Forty states have either constitutional or statutory provisions defining marriage as being between one man and one woman, yet those in support of civil unions and same-sex marriage would have it believed it is only a matter of time before marriage is fundamentally redefined throughout the nation. Not true. The majority of Americans still believe in marriage as a sacred union of one man and one woman serving as the foundation of our and any human society.

That said, the effort throughout our nation to question the nature of marriage will continue. Our Catholic faith speaks clearly to this issue: marriage is not just any relationship between human beings. Marriage has been established by our Creator in harmony with the nature of man and woman and with its own essential properties and purpose. No ideology can erase from the human spirit the certainty that marriage exists solely between a man and a woman, who by personal gift, proper and exclusive to themselves, mutually commit to and perfect each other in order to cooperate with God in the procreation and upbringing of new human lives.

The Catholic Church is consistent in its teaching of never denying rights to people. However, in this instance, the Church seeks to articulate that no one is given the authority to change the patterns of human nature, whereby the only authentic union or marriage is one in which the transmission of life is inherently willed as both a sign and a mutual gift of the union which is entered into.

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*“Marriage has been established by our Creator in
harmony with the nature of man.”*
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Illinois' laws and policies should support marriage as the foundation of this society. Attempts to redefine marriage will only serve to weaken the already precarious position of American families and undermine the stability of our society. The state usurps its own power and risks its moral legitimacy when it uses its political will to unravel what is true by nature: marriage is the union of one man and one woman. How can we pass on and protect the importance of marriage and the family if we do not recognize and promote its unique and irreplaceable nature in law? This question must be seriously considered.

Still, there remains room for compromise. Despite all evidence to the contrary, if the proponents of civil union are truly interested in designing a specific legislative package aimed at expanding access to a variety of important benefits there is no doubt progress to be achieved. For example, a commonly cited concern is the denial of hospital visitation rights to non-family members. However, under the Illinois Power of Attorney Act, any person can be designated as an agent for another person under a Power of Attorney for Health Care and would have the ability to make medical decisions, receive medical information and visit the other person in a hospital. Clearly, benefits of this type have been granted through legislative or administrative action without concern for sexual behavior or marital status. This workable approach should continue in areas where legitimate needs are identified.

These matters can be settled without the controversial burden of government sanctioned civil union. The Catholic Conference stands ready to work in good faith on these issues, as we stand ready to defend and promote traditional marriage as the source and promise of our future.



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