



## Marriage Cannot Be Redefined!

### Overview

During the 2011 legislative session, Maryland lawmakers chose not to redefine marriage and stood by their deeply-held moral convictions. They supported our long-standing law defining marriage as the union of one man and one woman. Marriage, recognized by societies throughout human history, originates in a simple biological fact. This unique union of one man and one woman is the only human relationship capable of creating children and nurturing them together as father and mother.

Treating heterosexual and same-sex relationships differently is not unjust discrimination, and upholding the truth of marriage does not ignore the rights or equal dignity of all human persons. Indeed, Maryland already has granted many rights to domestic partnerships. Rather, stripping marriage of its unique connection to parenthood erases a child's birthright to a mother and father, and ignores an essential question of why government favors marriage between one man and one woman over all other relationships.

### 1. How does Maryland law define marriage?

"Only a marriage between a man and a woman is valid in this State."<sup>13333</sup>

### 2. What happened during the last legislative session?

The Maryland House of Delegates rejected legislation to redefine marriage despite the enormous political pressure they were under to vote against their conscience and the interests of their constituents.

The successful coalition of faith communities that upheld marriage in Maryland remains intact and will continue to be active as we approach the 2012 legislative session.

### 3. How did we get to this point?

A 2005 lawsuit claimed that Maryland's marriage law was unconstitutional because it violated the state's equal rights amendment, which bans gender discrimination. The state's highest court disagreed with that claim and, in September 2007, issued a final ruling upholding the law. The court also said, however, that the General Assembly could overturn the law and redefine marriage if it chose to do so. In 2008, the state enacted several measures that grant specific benefits to domestic partners. Then, in February 2010, Maryland Attorney General Doug Gansler issued an opinion that Maryland law does not prohibit the recognition of same-sex marriages that are performed legally in other jurisdictions. As a result, state agencies have been directed to recognize out-of-state same-sex marriages as valid in Maryland.

### 4. Isn't opposing same-sex marriage about discrimination?

Support for marriage between one man and one woman is not based on bigotry against gays and lesbians. All people have inherent dignity as children of God. This includes those who are homosexual. We have a deep commitment to eliminate any form of injustice.

Believing that marriage is to be between a man and a woman is not discrimination. Discrimination is understood as the unjust denial of basic human rights to a certain person or group of persons. The Church stands against all discrimination and seeks to promote justice for all people. However, like "equality," "fairness," and "civil rights," the language of "discrimination" has been artificially inserted into the discussion on marriage. To define marriage as belonging only to the relationship of one man and one woman is simply a matter of recognizing an inescapably unique distinction about this relationship.

### 5. Do same-sex couples already receive benefits?

Under Maryland law<sup>2</sup>, significant benefits are granted to domestic partners, including same-sex partners. They include:

- Health care facility visitation
- Health care decision making, including the capacity to make medical and end-of-life decisions
- Organ donation priority
- The ability to adopt children
- Nursing home room sharing
- Funeral arrangements
- State employee health benefits
- Health and life insurance coverage for domestic partners at request of employer<sup>3</sup>
- Exemption from recordation taxes and, under specific circumstances, state and county transfer taxes
- Exemption from state inheritance taxes<sup>4</sup>

### 6. Isn't civil marriage a civil right that should be available to everyone?

"The fundamental right to marry is not absolute," according to Maryland's high court. Furthermore, the U.S. Supreme Court only recognizes a fundamental right to marry because of marriage's "inextricable link to procreation, which necessarily and biologically involves participation (in ways either intimate or remote) by a man and a woman."<sup>5</sup> The state also protects marriage by considering other limitations before granting a marriage license, including a couple's age, mental competence, and blood relationship.

Redefining marriage is not a question of civil rights. The very reason for marriage – creating and raising children with the gifts of a father and mother – means it must be between a man and woman. If our society is going to dismantle marriage, there is no longer a rational basis for deciding which relationships

should receive special recognition from the government. Why do we need to redefine marriage, when same-sex couples already receive many benefits? Why should we not also grant these benefits to many other loving and committed human relationships, such as two elderly siblings who live together?

It is clear that there are other avenues for granting certain rights and benefits to couples who are not married. Maryland has already granted many rights to domestic partnerships. There are many ways to protect basic human rights; sacrificing marriage is not one of them.

## 7. Why is the Church opposed to redefining marriage?

Christ raised marriage to the dignity of a sacrament, but it is also a natural institution rooted in our biological reality as men and women. The union of one man and one woman is the only human relationship capable of creating children and nurturing them together as father and mother. Marriage is therefore properly entrusted only to them. As such, marriage is not an arbitrary recognition of one relationship among many possibilities.

While marriage benefits both husband and wife, the legal protections afforded this relationship are most important for children. A child deserves a stable and nurturing environment that is best provided by the marriage of his or her biological mother and father. Our focus as a society should be on strengthening marriage, not dismantling it altogether, especially when the harmful effects of the erosion of marriage are so apparent.

## 8. What does the Church say to couples without children or families of divorce?

For many couples, fertility is a struggle, or they find one another later in life. But the fact that a child is not conceived when a husband and wife join together does not make their union lesser. Together in marriage, they still mirror the two parts of society – man and woman.

Clearly it would be intrusive, and unnecessary, for the state to limit marriage only to those couples capable of procreation. The state merely seeks to

ensure a stable environment for the children that do result from this union.

We know that families struggle and that the ideal of an intact family with father and mother is not always possible. We need to do all we can to help couples have healthy marriages and support single parents in their heroic roles. But mothers and fathers are not interchangeable and up to the present time, society has never intentionally deprived children of their birthright to a mother and a father.

## 9. What about our religious freedom?

Despite the limited measures some states have taken to protect religious institutions, none have recognized the religious freedom of individuals. It is hard to believe that any measure can avoid the inevitable collision that redefining marriage will bring between government and people of faith. Neither can we seriously guarantee that efforts to promote “religious exemptions” will survive future judicial or legislative reversals.

## 10. Why does marriage matter to the state?

As the Maryland Court of Appeals stated in its 2007 ruling upholding Maryland’s marriage statute, “In light of the fundamental nature of procreation, ... safeguarding an environment most conducive to the stable propagation and continuance of the human race is a legitimate government interest.”<sup>6</sup>

The state grants privileges to, and demands responsibilities of, marriage between man and woman to promote the procreation of children and provide for their proper care. The legal union and the benefits that come with it provide an impetus for couples to stay together. There is no compelling reason for the state to involve itself in a sexual relationship that by its very nature cannot naturally lead to children.

## 11. So, marriage helps keep society intact?

The stability of marriage is inextricably connected to the stability of the social order, and to the continued stability of future generations.<sup>7</sup> “The U.S. Supreme

Court has traditionally viewed marriage, not as a vehicle for satisfying the adult couple or individuals, but as ‘the foundation of the family and of society, without which there would be neither civilization nor progress.’”<sup>8</sup> And the U.S. Department of Health and Human Services reports that children raised by parents in healthy marriages are more likely to succeed academically and are physically and emotionally healthier. They also are less likely to attempt or commit suicide, be a victim of physical or sexual abuse and abuse drugs or alcohol.<sup>9</sup> The federal government even invests \$150,000,000 a year to promote healthy marriages, recognizing that marriage serves as a strong and stable foundation for society.

## Conclusion

Drastically altering marriage’s legal definition by recognizing same-sex marriage is not necessary to achieve benefits because they already exist in law. Instead, passing such a bill would significantly undermine the legal, social, and cultural status of marriage that is appropriately assigned only to the union of one man and one woman.

**Contact your legislators NOW and encourage them to preserve marriage in Maryland.**

[www.marylandmarriagealliance.com](http://www.marylandmarriagealliance.com)

1 Maryland Family Law §2–201.

2 SB 566 and SB 597 passed into law in 2008.

3 See the Insurance Article of the Maryland Code, Section 15-403.2 and Section 17-209.

4 SB 785 passed into law in 2009.

5 *Conaway v. Deane*, Court of Appeals of Maryland, September, 2007.

6 *Ibid.*

7 W. Bradford Wilcox et al. 2005. *Why Marriage Matters, Second Edition: Twenty-Six Conclusions from the Social Sciences*. Institute for American Values at [www.americanvalues.org](http://www.americanvalues.org).

8 *Maynard v. Hill* 125 U.S. 190, 211 (1888), quoted in *How Does Legalizing “Same-Sex Marriage” Deny the True Nature of Marriage?* USCCB

[www.usccb.org/laity/marriage/samesexeng.shtml](http://www.usccb.org/laity/marriage/samesexeng.shtml).

9 *Maynard v. Hill* reported in U.S. Department of Health and Human Services;

<http://www.acf.hhs.gov/healthymarriage/about/mission.html#background>.

