

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE DRH70087-LBx-136 (02/18)

Short Title: Defense of Marriage. (Public)

Sponsors: Representatives Lewis, Crawford, Burris-Floyd, and Hill (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CONSTITUTION TO PROVIDE THAT MARRIAGE BETWEEN A MAN AND A WOMAN IS THE ONLY DOMESTIC LEGAL UNION THAT SHALL BE VALID OR RECOGNIZED IN THIS STATE.

Whereas, of the 15 states in the Southeastern U.S., only one has failed to pass constitutional amendments defining marriage as "the union of one man and one woman." Florida voters approved the question on the ballot in 2008, leaving North Carolina as the only state in the Southeast that has taken no decisive action to pass a marriage amendment; and

Whereas, the 14 states in the Southeast that have passed marriage amendments have done so with an average rate of passage exceeding 75%; and

Whereas, in statewide poll numbers released May 20, 2008, by the John William Pope Civitas Institute, 71% of North Carolina voters support the passage of a State Marriage Amendment, while 26% are opposed. Among African-American voters, support for the marriage amendment was at 86%; and

Whereas, for the last five years, bills calling for a State Marriage Amendment have been introduced in the North Carolina House and the North Carolina Senate, but state lawmakers and the public have not been given the opportunity to vote on this critically important legislation; and

Whereas, the California Supreme Court's May 15, 2008 ruling that recognized a constitutional right to same sex marriage in that state will have significant implications across the nation, although it was reversed in that state with a constitutional amendment approved by the voters; and

Whereas, the threat of similar lawsuits in North Carolina increased significantly in 2008 when the North Carolina Court of Appeals granted visitation rights to the estranged same sex partner of a lesbian woman who conceived a child through artificial insemination. (Mason v. Dwinnell.) In the introductory remarks to the opinion, Judge Martha Geer writes, "It is important to first observe that the factual context of this case — involving same sex domestic partners — is immaterial to the proper analysis of the legal issues involved." In other words, the court considers the "sexual orientation" of the parties involved in this child custody case to be irrelevant. This rationale is strikingly similar to that used by the California Supreme Court when they said, "Furthermore, in contrast to earlier times, our state now recognizes that an individual's capacity to establish a loving and long-term committed relationship with another



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1 person and responsibly to care for and raise children does not depend upon the individual's
2 sexual orientation..."; Now, therefore,

3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** Article 14 of the North Carolina Constitution is amended by adding
5 the following new section:

6 **"Sec. 6. Marriage.**

7 Marriage between a man and a woman is the only domestic legal union that shall be valid
8 or recognized in this state."

9 **SECTION 2.** The amendment set out in Section 1 of this act shall be submitted to
10 the qualified voters of the State at an election on November 3, 2009, which election shall be
11 conducted under the laws then governing elections in the State. Ballots, voting systems, or both
12 may be used in accordance with Chapter 163 of the General Statutes. The question to be used in
13 the voting systems and ballots shall be:

14 FOR AGAINST

15 Constitutional Amendment to provide that marriage between a man and a woman is
16 the only domestic legal union that shall be valid or recognized in this state."

17 **SECTION 3.** If a majority of votes cast on the question are in favor of the
18 amendment set out in Section 1 of this act, the State Board of Elections shall certify the
19 amendment to the Secretary of State. The Secretary of State shall enroll the amendment so
20 certified among the permanent records of that office.

21 **SECTION 4.** The amendment set out in Section 1 of this act becomes effective
22 January 1, 2010.