

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 1220
Judiciary

(Delegate Boutin, *et al.*)

Valid Marriages

This bill proposes an amendment to the Maryland Constitution that provides that only a marriage between a man and a woman is valid in this State.

Fiscal Summary

State Effect: None.

Local Effect: If approved by the General Assembly, this constitutional amendment will be submitted to the voters at the 2006 general election. It should not result in additional costs for the county election boards.

Small Business Effect: None.

Analysis

Current Law: The Maryland Constitution does not define a valid marriage. State law provides that only a marriage between a man and a woman is valid in the State of Maryland.

Background: In 1993, the Hawaii Supreme Court ruled that denial of marriage to same-sex couples violated the state's constitution. In 1998, Hawaii became one of the first states to adopt a constitutional amendment that authorizes its legislature to reserve marriage to couples of the opposite sex. In April 2000, Vermont became the first state to recognize civil unions that provide to same-sex couples virtually all the rights and privileges provided to married couples.

In November 2003, the Massachusetts Supreme Judicial Court, that state's highest court, ruled that under the state constitution, same-sex-couples have the right to marry. In February 2004, the court ruled that authorizing civil unions for same-sex couples while prohibiting them from marrying was also unconstitutional. As a result, Massachusetts began issuing marriage licenses to same-sex couple in May 2004 and remains the only state that permits marriage between individuals of the same sex. Efforts are underway in Massachusetts to place a constitutional amendment on the election ballot which defines marriage as a legal union between a man and a woman. However, the earliest an amendment to the Massachusetts Constitution could be presented to voters for ratification is November 2006.

Same-sex marriage is legal in the Canadian provinces of Ontario and British Columbia and in the countries of Belgium and the Netherlands. The countries of Denmark, France, and Germany permit civil unions between same-sex couples.

The Maryland law defining marriage as only between a man and a woman was enacted in 1973. In July 2004, nine homosexual couples sued Maryland claiming that its law prohibiting marriage between individuals of the opposite sex violates State constitutional rights. In Maryland, Montgomery County, Baltimore City, Greenbelt, and Takoma Park extend domestic partner benefits to their employees. Montgomery County advises that its provision of domestic partner benefits is not contingent on the marital status of the partners.

Local Fiscal Effect: The Maryland Constitution requires that proposed amendments to the constitution be publicized either: (1) in at least two newspapers in each county, if available, and in at least three newspapers in Baltimore City once a week for four weeks immediately preceding the general election; or (2) by order of the Governor in a manner provided by law. State law requires local boards of elections to publicize proposed amendments to the constitution either in newspapers or on specimen ballots; local boards of elections are responsible for the costs associated with these requirements. It is anticipated that the fiscal 2006 budgets of local election boards will contain funding for notifying qualified voters about proposed constitutional amendments for the 2006 general election in newspapers or on specimen ballots.

Additional Information

Prior Introductions: This bill is a reintroduction of HB 16/SB 673 of the 2004 session. HB 16 received an unfavorable report from the Judiciary Committee and SB 673 was heard in the Judicial Proceedings Committee, but received no further action.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), National Conference of State Legislatures, Department of Legislative Services

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mam/jr

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