

Urgent lawsuit filed with Wis. Supreme Court to stop violation of marriage amendment

Thursday, July 23, 2009

MADISON, Wis. — Alliance Defense Fund attorneys together with allied attorneys representing [Wisconsin Family Action](#) board members filed an [original action lawsuit](#) with the Wisconsin Supreme Court Thursday to stop the governor and state legislature from skirting a voter-approved constitutional amendment protecting marriage. The lawsuit asks the high court to halt the state's "domestic partnership" scheme because it creates a legal status identical or substantially similar to that of marriage, which directly violates Article 13, Section 13, of the state constitution.

"Politicians shouldn't be trying to skirt the will of voters who legitimately amended the Wisconsin Constitution in a fair election," said ADF Senior Counsel Brian Raum. "This new domestic partnership scheme is precisely the type of marriage imitation that the constitutional amendment approved by Wisconsin voters was intended to prevent. Those who are determined to redefine marriage in Wisconsin are attempting an end-run assault on marriage hoping they can evade the clear language of the state constitution."

The scheme, proposed and signed into law by Gov. Jim Doyle after passage by the Legislature as part of the 2010-11 state budget, is available only to couples involved in a same-sex relationship. The governor and Legislature created the requirements and eligibility language simply by inserting the words "domestic partnership" next to "marriage" in state statutes that govern how a man and woman are married. "Domestic partners" receive "declarations" instead of "marriage licenses," but otherwise, the procedures for becoming domestic partners and becoming husband and wife are virtually the same.

In November 2006, 59 percent of Wisconsin voters approved an amendment to the state constitution that reads, "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."

"Our system of government serves no purpose if our elected officials can completely and capriciously ignore the will of the people with impunity," said Wisconsin Family Action President Julaine Appling, lead plaintiff in the lawsuit, *Appling v. Doyle*. "A reasonable person observing this registry would easily conclude that it mimics marriage and is a test of the marriage amendment and the express will of the people. It borrows the requirements and eligibility standards for marriage, even to the point of requiring that the price of the registry certificate be the same as for a marriage license."

Alliance Defense Fund attorneys represent Appling and other Wisconsin Family Action board members together with ADF-allied attorney Mike Dean with the First Freedoms Foundation and lead counsel Richard M. Esenberg, also an ADF-allied attorney. Wisconsin Family Action was the primary proponent of the Wisconsin marriage amendment before voters adopted it into the state constitution.

ADF is a legal alliance of Christian attorneys and like-minded organizations defending the right of people to freely live out their faith. Launched in 1994, ADF employs a unique combination of [strategy, training, funding, and litigation](#) to protect and preserve religious liberty, the sanctity of life, marriage, and the family.

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