

## STATES WITH MARRIAGE RECOGNITION STATUTES

April 28, 2000

### Alabama (1998)

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and may be cited as the "Alabama Marriage Protection Act.

Section 2. (a) Marriage is inherently a unique relationship between a man and a woman. As a matter of public policy, this state has a special interest in encouraging, supporting, and protecting the unique relationship in order to promote, among other goals, the stability and welfare of society and its children. A marriage contracted between individuals of the same sex is invalid in this state.

(b) Marriage is a sacred covenant, solemnized between a man and a woman, which, when the legal capacity and consent of both parties is present, establishes their relationship as husband and wife, and which is recognized by the state as a civil contract.

(c) No marriage license shall be issued in the State of Alabama to parties of the same sex.

(d) The State of Alabama shall not recognize as valid any marriage of parties of the same sex that occurred or was alleged to have occurred as a result of the law of any jurisdiction regardless of whether a marriage license was issued.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or its otherwise becoming a law.

*1998 Alabama Laws Act 98-500 (H. B. 152) (approved May 1, 1998)*

### Alaska\* (1998)

Same-sex marriages.

(a) A marriage entered into by persons of the same sex, either under common law or under statute, that is recognized by another state or foreign jurisdiction is void in this state, and contractual rights granted by virtue of the marriage, including its termination, are unenforceable in this state.

(b) A same-sex relationship may not be recognized by the state as being entitled to the benefits of marriage.

*Alaska Stat. §25.05.013*

To be valid or recognized in this State. a marriage may exist only between one man and one woman.

*1998 SJR 42 (constitutional amendment)*

Arizona (1996)

Void and prohibited marriages

A. Marriage between parents and children, including grandparents and grandchildren of every degree, between brothers and sisters of the one-half as well as the whole blood, and between uncles and nieces, aunts and nephews and between first cousins, is prohibited and void.

B. Notwithstanding subsection A, first cousins may marry if both are sixty- five years of age or older or if one or both first cousins are under sixty-five years of age, upon approval of any superior court judge in the state if proof has been presented to the judge that one of the cousins is unable to reproduce.

C. Marriage between persons of the same sex is void and prohibited.

*Ariz. Rev. Stat. Ann. §25-101*

Arkansas (1997)

Validity of foreign marriages.

All marriages contracted outside this state which would be valid by the laws of the state or country in which the marriages were consummated and in which the parties then actually resided shall be valid in all the courts in this state. This section shall not apply to a marriage between persons of the same sex.

*Arkansas Code Ann. §9-11-107*

Validity of same-sex marriages.

Marriage shall be only between a man and a woman. A marriage between persons of the same sex is void.

*Ark. Code Ann. §9-11-109*

License not issued to persons under age or to persons of the same sex.

(a) No license shall be issued to persons to marry unless and until the female shall attain the age of sixteen (16) years and the male the age of seventeen (17) years and then only by written consent by a parent or guardian until the male shall have attained the age of eighteen (18) years and the female the age of eighteen (18) years. <sup>y</sup>

(b) It shall be the declared public policy of the State of Arkansas to recognize the marital union only of man and woman. No license shall be issued to persons to marry another person of the same sex and no same-sex marriage shall be recognized as entitled to the benefits of marriage.

(c) Marriages between persons of the same sex are prohibited in this state. Any marriage entered into by persons of the same sex, where a marriage license is issued by another state or by a foreign jurisdiction, shall be void in Arkansas and any contractual or other rights granted by virtue of that license, including its termination, shall be unenforceable in the Arkansas courts.

*Ark. Code Ann. §9-11-208*

California (2000)

SEC. Section 308.5 is added to the Family Code, to read:

308.5 Only marriage between a man and a woman is valid or recognized in California.

*Proposition 22 (2000)*

Colorado (2000)

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. *14-2-104*, Colorado Revised Statutes, is amended to read:

*14-2-104*. Formalities. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3) OF THIS SECTION, a marriage is valid in this state IF:

(a) IT IS LICENSED, SOLEMNIZED, AND REGISTERED AS PROVIDED IN THIS PART 1; AND

(b) IT IS ONLY BETWEEN ONE MAN AND ONE WOMAN.

(2) NOTWITHSTANDING THE PROVISIONS OF SECTION *14-2-112*, ANY MARRIAGE CONTRACTED WITHIN OR OUTSIDE THIS STATE THAT DOES NOT SATISFY PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION SHALL NOT BE RECOGNIZED AS VALID IN THIS STATE.

(3) NOTHING IN THIS SECTION SHALL BE DEEMED TO REPEAL OR RENDER INVALID ANY OTHERWISE VALID COMMON LAW MARRIAGE BETWEEN ONE MAN AND ONE WOMAN.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

*2000 Colorado H.B. 1249 (SN)*

Delaware (1996)

Void and voidable marriages.

(a) A marriage is prohibited and void between a person and his or her ancestor, descendant, brother, sister, uncle, aunt, niece, nephew, first cousin or between persons of the same gender.

(b) A marriage is prohibited, and is void from the time its nullity is declared by a court of competent jurisdiction at the instance of the innocent party, if either party thereto is:

(1) A person of any degree of unsoundness of mind;

(2) A patient in a mental hospital, unless such person first files with the clerk of the peace to whom he makes application for a marriage license a certificate signed by the superintendent of the mental hospital in which such person is a patient stating that such person is fit to marry, and unless such person in other respects may lawfully marry;

(3) Venereally diseased or is suffering from any other communicable disease the nature of which is unknown to the other party to the proposed marriage;

(4) An habitual drunkard;

(5) A confirmed user of a narcotic drug;

(6) Divorced, unless a certified copy of the divorce decree (last decree if he has been divorced more than once) or a certificate of such divorce from the clerk of the court granting the divorce is inspected by the clerk of the peace to whom he makes application for a marriage license, and unless such person may in other respects lawfully marry, and, if such decree or certificate cannot be obtained, the Resident Judge of the county where such license is desired or the person designated by the Resident Judge to grant such certificates as may be accepted under this paragraph may grant a certificate of the facts as stated by the applicant and the

certificate may, for the purposes of this chapter, be accepted in lieu of a certified copy of a divorce decree;

(7) On probation or parole from any court or institution, unless such person first files with the clerk of the peace to whom he makes application for a marriage license a written consent to his proposed marriage from the chief officer of such court or institution or from someone who is appointed by such officer to give such consent, and unless in other respects the applicant may lawfully marry.

(c) A marriage between paupers is prohibited and is void from the time its nullity is declared by a court of competent jurisdiction at the instance of the innocent party.

(d) A marriage obtained or recognized outside the State between persons prohibited by subsection (a) of this section shall not constitute a legal or valid marriage within the State.

*13 Del. Code Ann. §101*

Florida (1997)

Marriages between persons of the same sex

(1) Marriages between persons of the same sex entered into in any jurisdiction, whether within or outside the State of Florida, the United States, or any other jurisdiction, either domestic or foreign, or any other place or location, or relationships between persons of the same sex which are treated as marriages in any jurisdiction, whether within or outside the State of Florida, the United States, or any other jurisdiction, either domestic or foreign, or any other place or location, are not recognized for any purpose in this state.

(2) The state, its agencies, and its political subdivisions may not give effect to any public act, record, or judicial proceeding of any state, territory, possession, or tribe of the United States or of any other jurisdiction, either domestic or foreign, or any other place or location respecting either a marriage or relationship not recognized under subsection (1) or a claim arising from such a marriage or relationship.

(3) For purposes of interpreting any state statute or rule, the term "marriage" means only a legal union between one man and one woman as husband and wife, and the term "spouse" applies only to a member of such a union.

*Florida Stat. Ann. §741.212*

Georgia (1996)

Marriages between persons of same sex prohibited; marriages not recognized.

(a) It is declared to be the public policy of this state to recognize the union only of man and woman. Marriages between persons of the same sex are prohibited in this state.

(b) No marriage between persons of the same sex shall be recognized as entitled to the benefits of marriage. Any marriage entered into by persons of the same sex pursuant to a marriage license issued by another state or foreign jurisdiction or otherwise shall be void in this state. Any contractual rights granted by virtue of such license shall be unenforceable in the courts of this state and the courts of this state shall have no jurisdiction whatsoever under any circumstances to grant a divorce or separate maintenance with respect to such marriage or otherwise to consider or rule on any of the parties' respective rights arising as a result of or in connection with such marriage.

*Georgia Code 19-3-3.1*

Hawaii\* (1998)

Contracted without the State.

Marriages between a man and a woman legal in the country where contracted shall be held legal in the courts of this State.

*Haw. Rev Stat. §572-3*

The Legislature shall have the power to reserve marriage to opposite-sex couples.

*1998 HB 117 (constitutional amendment)*

Idaho (1996)

Recognition of foreign or out-of-state marriages.

All marriages contracted without this state, which would be valid by the laws of the state or country in which the same were contracted, are valid in this state, unless they violate the public policy of this state. Marriages that violate the public policy of this state include, but are not limited to, same-sex marriages, and marriages entered into under the laws of another state or country with the intent to evade the prohibitions of the marriage laws of this state.

*Idaho Code §32-209*

Illinois (1996)

Prohibited marriages

(a) The following marriages are prohibited:

(1) a marriage entered into prior to the dissolution of an earlier marriage of one of the parties:

(2) a marriage between an ancestor and a descendant or between a brother and a sister, whether the relationship is by the half or the whole blood or by adoption;

(3) a marriage between an uncle and a niece or between an aunt and a nephew, whether the relationship is by the half or the whole blood;

(4) a marriage between cousins of the first degree; however, a marriage between first cousins is not prohibited if:

(i) both parties are 50 years of age or older; or

(ii) either party, at the time of application for a marriage license, presents for filing with the county clerk of the county in which the marriage is to be solemnized, a certificate signed by a licensed physician stating that the party to the proposed marriage is permanently and irreversibly sterile;

(5) a marriage between 2 individuals of the same sex.

(b) Parties to a marriage prohibited under subsection (a) of this Section who cohabit after removal of the impediment are lawfully married as of the date of the removal of the impediment.

(c) Children born or adopted of a prohibited or common law marriage are legitimate.

*750 Iii. Comp. Stat. Ann. §5/212*

#### Indiana (1997)

##### Same sex marriages prohibited

(a) Only a female may marry a male. Only a male may marry a female.

(b) A marriage between persons of the same gender is void in Indiana even if the marriage is lawful in the place where it is solemnized.

*Ind. Code §31-11-1-1*

#### Iowa (1998)

Section 1. Section 595.2. Code 1997, is amended to read as follows:

595.2. Age - gender

1. Only a marriage between a male and a female is valid.
2. Additionally, a marriage between a male and a female is valid only if each is eighteen \_years of age or older. However, if either or both of the parties have not attained that age, the marriage may be valid under the circumstances prescribed in this section.
3. If either party to a marriage falsely represents the party's self to be eighteen years of age or older at or before the time the marriage is solemnized, the marriage is valid unless the person who falsely represented their age chooses to void the marriage by making their true age known and verified by a birth certificate or other legal evidence of age in an annulment proceeding initiated at any time before the person reaches their eighteenth birthday. A child born of a marriage voided under this subsection is legitimate.
4. A marriage license may be issued to a male and a female either or both of whom are sixteen or seventeen years of age if:
  - a. The parents of the underaged party or parties certify in writing that they consent to the marriage. If one of the parents of any underaged party to a proposed marriage is dead or incompetent the certificate may be executed by the other parent, if both parents are dead or incompetent the guardian of the underaged party may execute the certificate, and if the parents are divorced the parent having legal custody may execute the certificate and
  - b. The certificate of consent of the parents, parent, or guardian is approved by a judge of the district court or, if both parents of any underaged party to a proposed marriage are dead, incompetent, pr cannot be located and the party has no guardian, the proposed marriage is approved by a judge of the district court. A judge shall grant approval under this subsection only if the judge finds the underaged party or parties capable of assuming the responsibilities of marriage and that the marriage will serve the best interest of the underaged party or parties. Pregnancy alone does not establish that the proposed marriage is in the best interest of the underaged party or parties, however, if pregnancy is involved the court records which pertain to the fact that the female is pregnant shall be sealed and available only to the parties to the marriage or proposed marriage or to any interested party securing an order of the court.
  - c. If a parent or guardian withholds consent, the judge upon application of a party to a proposed marriage shall determine if the consent has been unreasonably withheld. If the judge so finds, the judge shall proceed to review the application under paragraph "b".

Sec. 2. Section 595.3, subsection 2, Code 1997, is amended to read as follows:

2. Where either party is under eighteen years of age, unless the marriage is approved by a judge of the district court as provided by section 595.2.

Sec. 3. NEW SECTION.

595.20. Foreign marriages--validity

A marriage which is solemnized in any other state, territory, country, or any foreign jurisdiction which is valid in that state, territory, country, or other foreign jurisdiction, is valid in this state if the parties meet the requirements for validity pursuant to section 595.2, subsection 1, and if the marriage would not otherwise be declared void.

Sec. 4. TASK FORCE--DOMESTIC PARTNERS. The legislative council is requested to establish an interim task force to review the issues faced by domestic partners including but not limited to property rights, access to courts, parentage, inheritance, hospital or health care facility visitation, health decisions, contract rights, workplace benefits, insurance coverage, and retirement benefits. The task force shall include representatives of the legal profession, the courts, insurance, business and industry, labor, consumers who are domestic partners, and others with interest or expertise in this area. The task force shall submit a report of recommendations concerning these issues and recommendations for any necessary legislation to the general assembly by January 1, 1999.

*1998 Ia. H.F. 382 (Apr. 15, 1998)*

Kansas (1996)

Nature of marriage relation.

The marriage contract is to be considered in law as a civil contract between two parties who are of opposite sex. All other marriages are declared to be contrary to the public policy of this state and are void. The consent of the parties is essential. The marriage ceremony may be regarded either as a civil ceremony or as a religious sacrament, but the marriage relation shall only be entered into, maintained or abrogated as provided by law.

*Kansas Stat. Ann. §23-101*

Kentucky (1998)

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS chapter 402 is created to read as follows:

(1) A marriage between members of the same sex which occurs in another jurisdiction shall be

void in Kentucky.

(2) Any rights granted by virtue of the marriage, or its termination, shall be unenforceable in Kentucky courts.

Section 2. KRS 402.020 is amended to read as follows:

(1) Marriage is prohibited and void:

(a) With a person who has been adjudged mentally disabled by a court of competent jurisdiction;

(b) Where there is a husband or wife living, from whom the person marrying has not been divorced;

(c) When not solemnized or contracted in the presence of an authorized person or society;

(d) Between members of the same sex;

(e) Between more than two (2) persons; and

(f) When at the time of marriage, the person is under eighteen (18) years of age, if the marriage is without the consent of:

1. The father or the mother of the person under eighteen (18), if the parents are married, the parents are not legally separated, no legal guardian has been appointed for the person under eighteen (18), and no court order has been issued granting custody of the person under eighteen (18) to a party other than the father or mother;

2. Both the father and the mother, if both be living and the parents are divorced or legally separated, and a court order of joint custody to the parents of the person under eighteen (18) has been issued and is in effect;

3. The surviving parent, if the parents were divorced or legally separated, and a court order of joint custody to the parents of the person under eighteen (18) was issued prior to the death of either the father or mother, which order remains in effect;

4. The custodial parent, as established by a court order which has not been superseded, where the parents are divorced or legally separated and joint custody of the person under eighteen (18) has not been ordered; or

5. Another person having lawful custodial charge of the person under eighteen (18), but in case of pregnancy, the male and female, or either of them, under the ages specified in this

paragraph may apply to a District Court Judge for permission to marry, which application may be granted, in the discretion of the judge. There shall be a fee of five dollars (\$5) for hearing each such application.

(2) For purposes of this section, "parent," "father," or "mother" means the natural parent, father, or mother of a child under eighteen (18) unless an adoption takes place pursuant to legal process, in which case the adoptive parent, father, or mother shall be considered the parent, father, or mother to the exclusion of the natural parent, father, or mother, as applicable.

Section 3. KRS 402.040 is amended to read as follows:

(1) If any resident of this state marries in another state, the marriage shall be valid here if valid in the state where solemnized, unless the marriage is against Kentucky public policy.

(2) A marriage between members of the same sex is against Kentucky public policy and shall be subject to the prohibitions established in Section 1 of this Act.

Section 4. A new section of KRS chapter 402 is created to read as follows:

As used and recognized in the law of the Commonwealth, "marriage" refers only to the civil status, condition, or relation of one (1) man and one (1) woman united in law for life, for the discharge to each other and the community of the duties legally incumbent upon those whose association is founded on the distinction of sex.

Section 5. KRS 402.030 is amended to read as follows:

Courts having general jurisdiction may declare void any marriage obtained by force or fraud or, at the instance of any next friend, may declare any marriage void where the person was under eighteen (18) years of age at the time of the marriage, and the marriage was without the consent required by KRS 402.020(1)(e) and has not been ratified by cohabitation after that age.

Section 6. KRS 402.210 is amended to read as follows:

If either of the parties is under eighteen (18) years of age and not before married, no license shall issue without the consent required by KRS 402.020(1)(e), personally given or certified in writing to the clerk over the signature of the person consenting in accordance with KRS 402.020(1)(e), attested by two (2) subscribing witnesses and proved by the oath of one (1) of the witnesses, administered by the clerk. If the parties are personally unknown to the clerk, a license shall not issue until bond, with good surety, in the penalty of one hundred dollars (\$100) is given to the Commonwealth, with condition that there is no lawful cause to obstruct the marriage.

Section 7. **KRS** 402.260 is amended to read as follows:

If any person under eighteen (18) years of age marries without the consent required by KRS 402.020(1)(e), the court having general jurisdiction in the county of his residence shall, on the petition of a next friend, commit his estate to a receiver, who, upon giving bond, shall hold his estate and, after deducting a reasonable compensation for his services, pay out the rents and profits to his separate use during his infancy, under the direction of the court. When the person arrives at the age of eighteen (18), the receiver shall deliver his estate to him, unless the court considers it for his benefit to continue it in the hands of the receiver.

*1998 Kentucky Laws Ch. 258 (H.B. 13) (Apr. 2, 1998)*

Louisiana (1999)

AN ACT to amend and reenact Civil Code Articles 89 and 3520, relative to same sex marriages; to prohibit the recognition of any marriage between persons of the same sex: to provide for any such marriage contracted in another state or jurisdiction; to provide for the effect of any public act, record or judicial proceeding in another state or jurisdiction which authorizes such marriages; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Act 890, § 1

Section 1. Civil Code Articles 89 and 3520 are hereby amended and reenacted to read as follows:

Art. 89. Impediment of same sex

Persons of the same sex may not contract marriage with each other. < < +A purported marriage between persons of the same sex contracted in another state shall be governed by the provisions of Title II of Book IV of the Civil Code. + > >

Art. 3520. Marriage

< < +A. + > > A marriage that is valid in the state where contracted, or in the state where the parties were first domiciled as husband and wife, shall be treated as a valid marriage unless to do so would violate a strong public policy of the state whose law is applicable to the particular issue under Article 3519.

< < +B. A purported marriage between persons of the same sex violates a strong public policy of the state of Louisiana and such a marriage contracted in another state shall not be recognized in this state for any purpose, including the assertion of any right or claim as a result of the purported marriage. + > >

*Louisiana Act No. 890 (1999) (approved July 2, 1999)*

Maine (1997)

Prohibited marriages; exceptions

1. Marriage out of State to evade law. When residents of this State, with intent to evade this section and to return and reside here, go into another state or country to have their marriage solemnized there and afterwards return and reside here, that marriage is void in this State.

1-A. Certain marriages performed in another state not recognized in this State. Any marriage performed in another state that would violate any provisions of subsections 2 to 5 if performed in this State is not recognized in this State and is considered void if the parties take up residence in this State.

2. Prohibitions based on degrees of consanguinity; exceptions. This subsection governs marriage between relatives.

A. A man may not marry his mother, grandmother, daughter, granddaughter, sister, brother's daughter, sister's daughter, father's sister, mother's sister, the daughter of his father's brother or sister or the daughter of his mother's brother or sister. A woman may not marry her father, grandfather, son, grandson, brother, brother's son, sister's son, father's brother, mother's brother, the son of her father's brother or sister or the son of her mother's brother or sister.

B. Notwithstanding paragraph A, a man may marry the daughter of his father's brother or sister or the daughter of his mother's brother or sister, and a woman may marry the son of her father's brother or sister or the son of her mother's brother or sister as long as, pursuant to sections 651 and 652, the man or woman provides the physician's certificate of genetic counseling.

3. Persons under disability. A person who is impaired by reason of mental illness or mental retardation to the extent that that person lacks sufficient understanding or capacity to make, communicate or implement responsible decisions concerning that person's property or person is not capable of contracting marriage. For the purposes of this section:

A. "Mental illness" means a psychiatric or other disease that substantially impairs a person's mental health; and

B. "Mental retardation" means a condition of significantly subaverage intellectual functioning resulting in or associated with concurrent impairments in adaptive behavior and manifested during the developmental period.

4. Polygamy. A marriage contracted while either party is not divorced from a living wife or

husband is void.

5. Same sex marriage prohibited. Persons of the same sex may not contract marriage.

*19-A Maine Rev. Stat. Ann. §701*

Michigan (1996)

Marriage between same sex, invalidity

Sec. 1. Marriage is inherently a unique relationship between a man and a woman. As a matter of public policy, this state has a special interest in encouraging, supporting, and protecting that unique relationship in order to promote, among other goals, the stability and welfare of society and its children. A marriage contracted between individuals of the same sex is invalid in this state.

*Mich. Comp. Laws Ann. §551.1*

Marriages solemnized in another state validated; exclusion of same sex marriages

Sec. 1. (1) Except as otherwise provided in this act, a marriage contracted between a man and a woman who are residents of this state and who were, at the time of the marriage, legally competent to contract marriage according to the laws of this state, which marriage is solemnized in another state within the United States by a clergyman, magistrate, or other person legally authorized to solemnize marriages within that state, is a valid and binding marriage under the laws of this state to the same effect and extent as if solemnized within this state and according to its laws.

(2) This section does not apply to a marriage contracted between individuals of the same sex, which marriage is invalid in this state under section 1 of chapter 83 of the revised statutes of 1846, being section 551.1 of the Michigan Compiled Laws.

*Mich Comp. Laws Ann. §551.271*

Minnesota (1997)

Marriage a civil contract

Marriage, so far as its validity in law is concerned, is a civil contract between a man and a woman, to which the consent of the parties, capable in law of contracting, is essential. Lawful marriage may be contracted only between persons of the opposite sex and only when a license has been obtained as provided by law and when the marriage is contracted in the presence of two witnesses and solemnized by one authorized, or whom one or both of the parties in good

faith believe to be authorized, so to do. Marriages subsequent to April 26, 1941, not so contracted shall be null and void.

*Minn Stat. Ann. §517.01*

Mississippi (1997)

Certain marriages declared incestuous and void.

(1) The son shall not marry his grandmother, his mother, or his stepmother; the brother his sister; the father his daughter, or his legally adopted daughter, or his grand-daughter; the son shall not marry the daughter of his father begotten of his stepmother, or his aunt, being his father's or mother's sister, nor shall the children of brother or sister, or brothers and sisters intermarry being first cousins by blood. The father shall not marry his son's widow; a man shall not marry his wife's daughter, or his wife's daughter's daughter, or his wife's son's daughter, or the daughter of his brother or sister; and the like prohibition shall extend to females in the same degrees. All marriages prohibited by this subsection are incestuous and void.

(2) Any marriage between persons of the same gender is prohibited and null and void from the beginning. Any marriage between persons of the same gender that is valid in another jurisdiction does not constitute a legal or valid marriage in Mississippi.

*Mississippi Code Ann. §93-1-1*

Montana (1997)

Prohibited marriages -- contracts

(1) The following marriages are prohibited:

(a) a marriage entered into prior to the dissolution of an earlier marriage of one of the parties;

(b) a marriage between an ancestor and a descendant or between a brother and a sister, whether the relationship is by the half or the whole blood, or between first cousins;

(c) a marriage between an uncle and a niece or between an aunt and a nephew, whether the relationship is by the half or the whole blood;

(d) a marriage between persons of the same sex.

(2) Parties to a marriage prohibited under this section who cohabit after removal of the impediment are lawfully married as of the date of the removal of the impediment.

(3) Children born of a prohibited marriage are legitimate.

(4) A contractual relationship entered into for the purpose of achieving a civil relationship that is prohibited under subsection (1) is void as against public policy.

*Mont. Code Ann. §40-1-401*

North Carolina (1996)

Marriages between persons of the same gender not valid.

Marriages, whether created by common law, contracted, or performed outside of North Carolina, between individuals of the same gender are not valid in North Carolina.

*N. C. Gen. Stat. §51-1.2*

North Dakota (1997)

What constitutes marriage -- Spouse defined.

Marriage is a personal relation arising out of a civil contract between one man and one woman to which the consent of the parties is essential. The marriage relation may be entered into, maintained, annulled, or dissolved only as provided by law. A spouse refers only to a person of the opposite sex who is a husband or a wife.

*N.D. Cent. Code §14-03-01*

Oklahoma (1996)

Recognition of marriage between persons of same gender prohibited

A marriage between persons of the same gender performed in another state shall not be recognized as valid and binding in this state as of the date of the marriage.

*43 Okl.St. Ann. §3.1*

Pennsylvania (1996)

Marriage between persons of the same sex

It is hereby declared to be the strong and longstanding public policy of this Commonwealth that marriage shall be between one man and one woman. A marriage between persons of the same sex which was entered into in another state or foreign jurisdiction, even if valid where entered into, shall be void in this Commonwealth.

23 Pa. C. S.A. §1704

South Carolina (1996)

Prohibition of same sex marriage.

A marriage between persons of the same sex is void ab initio and against the public policy of this State.

*S. C. Code Ann. §20-1-15*

South Dakota (1996)

Marriage defined -- Consent and solemnization required.

Marriage is a personal relation, between a man and a woman, arising out of a civil contract to which the consent of parties capable of making it is necessary. Consent alone does not constitute a marriage; it must be followed by a solemnization.

*S.D. Cod. Laws §25-1-1*

Tennessee (1996)

Marriage between one (1) man and one (1) woman only legally recognized marital contract.

(a) Tennessee's marriage licensing laws reinforce, carry forward, and make explicit the long-standing public policy of this state to recognize the family as essential to social and economic order and the common good and as the fundamental building block of our society. To that end, it is further the public policy of this state that the historical institution and legal contract solemnizing the relationship of one (1) man and one (1) woman shall be the only legally recognized marital contract in this state in order to provide the unique and exclusive rights and privileges to marriage.

(b) The legal union in matrimony of only one (1) man and one (1) woman shall be the only recognized marriage in this state.

(c) Any policy, law or judicial interpretation that purports to define marriage as anything other than the historical institution and legal contract between one (1) man and one (1) woman is contrary to the public policy of Tennessee.

(d) If another state or foreign jurisdiction issues a license for persons to marry which marriages are prohibited in this state, any such marriage shall be void and unenforceable in this state.

*Tenn. Code Ann. §36-3-113*

Utah (1995)

Validity of foreign marriages --Exceptions.

A marriage solemnized in any other country, state, or territory, if valid where solemnized, is valid here, unless it is a marriage:

(1) that would be prohibited and declared void in this state, under Subsection 30-1-2(1), (3), or (5); or

(2) between parties who are related to each other within and including three degrees of consanguinity, except as provided in Subsection 30-1-1(2).

*Utah Code Ann. §30-1-4*

Virginia (1997)

Marriage between persons of same sex.

A marriage between persons of the same sex is prohibited. Any marriage entered into by persons of the same sex in another state or jurisdiction shall be void in all respects in Virginia and any contractual rights created by such marriage shall be void and unenforceable.

*Va. Code §20-45.2*

Washington (1998)

CHAPTER 1, S.H.B. No. 1130 (MARRIAGE--GENDER LIMITATIONS)

AN ACT Relating to reaffirming and protecting the institution of marriage; amending RCW 26.04.010 and 26.04.020; and creating new sections.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. Sec. 1. (1) In P. L. 104-199; 110 Stat. 219, the Defense of Marriage Act, Congress granted authority to the individual states to either grant or deny recognition of same-sex marriages recognized as valid in another state. The Defense of Marriage Act defines marriage for purposes of federal law as a legal union between one man and one woman as husband and wife and provides that a state shall not be required to give effect to any public act or judicial proceeding of any other state respecting marriage between persons of the same sex

if the state has determined that it will not recognize same-sex marriages.

(2) The legislature and the people of the state of Washington find that matters pertaining to marriage are matters reserved to the sovereign states and, therefore, such matters should be determined by the people within each individual state and not by the people or courts of a different state.

NEW SECTION. Sec. 2. (1) It is a compelling interest of the state of Washington to reaffirm its historical commitment to the institution of marriage as a union between a man and a woman as husband and wife and to protect that institution.

(2) The court in *Singer v. Hara*, 11 Wn. App. 247 (1974) held that the Washington state marriage statute does not allow marriage between persons of the same sex. It is the intent of the legislature by this act to codify the *Singer* opinion and to fully exercise the authority granted the individual states by Congress in P.L. 104-199; 110 Stat. 219, the Defense of Marriage Act, to establish public policy against same-sex marriage in statutory law that clearly and definitively declares same-sex marriages will not be recognized in Washington, even if they are made legal in other states.

Sec. 3. RCW 26.04.010 and 1973 1st ex.s. c 154 s 26 are each amended to read as follows:

(1) Marriage is a civil contract between a male and a female who have each attained the age of eighteen years, and who are otherwise capable.

(2) Every marriage entered into in which either the husband or the wife has not attained the age of seventeen years is void except where this section has been waived by a superior court judge of the county in which one of the parties resides on a showing of necessity.

Sec. 4. RCW 26.04.020 and 1927 c 189 s 1 are each amended to read as follows:

(1) Marriages in the following cases are prohibited:

(a) When either party thereto has a wife or husband living at the time of such marriage;

(b) When the husband and wife are nearer of kin to each other than second cousins, whether of the whole or half blood computing by the rules of the civil law; or

(c) When the parties are persons other than a male and a female.

(2) It is unlawful for any man to marry his father's sister, mother's sister, daughter, sister, son's daughter, daughter's daughter, brother's daughter or sister's daughter; it is unlawful for any woman to marry her father's brother, mother's brother, son, brother, son's son, daughter's son, brother's son or sister's son.

(3) A marriage between two persons that is recognized as valid in another jurisdiction is valid in this state only if the marriage is not prohibited or made unlawful under subsection (1)(a), (1)(c), or (2) of this section.

*1998 Wash. Ch. 1 (S.H.B. 1130)(February 6, 1998)*

#### West Virginia (2000)

AN ACT to amend and reenact section seven, article one, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section eighteen-a. relating to marriages; requiring an application for a marriage license state that marriage is designed for a woman and a man; and providing that certain acts, records and proceedings are not to be given effect in this state.

Be it enacted by the Legislature of West Virginia:

That section seven, article one, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto a new section, designated section eighteen-a, to read as follows:

#### ARTICLE 1. MARRIAGE.

§ 48-1-7. Contents of application for marriage license; execution of application; recordation of application.

(a) The application for a marriage license must contain a statement of the full names of both female and male parties, their social security account numbers, dates of birth, places of birth and residence addresses. If either of the parties is a legal alien in the United States of America and has no social security account number, the tourist or visitor visa number or number equivalent to a United States social security account number must be provided.

(b) Every application for a marriage license must contain the following statement: "Marriage is designed to be a loving and lifelong union between a woman and a man. The laws of this state affirm your right to enter into this marriage and to live within the marriage free from violence and abuse. Neither of you is the property of the other. Physical abuse, sexual abuse, battery and assault of a spouse or other family member, and other provisions of the criminal laws of this state are applicable to spouses and other family members and these violations are punishable by law."

(c) Both female and male parties to a contemplated marriage are required to sign the application for a marriage license, under oath, before the clerk of the county commission or another person authorized to administer oaths under the laws of this state.

(d) The clerk shall record the application for a marriage license in the register of marriages provided for in section eleven of this article. The clerk shall note the date of the filing of the application in the register. The notation, or a certified copy thereof, is legal evidence of the facts contained in the license.

§ 48-1-18a. Certain acts, records and proceedings not to be given effect in this state.

A public act, record or judicial proceeding of any other state, territory, possession or tribe respecting a relationship between persons of the same sex that is treated as a marriage under the laws of any other state, territory, possession or tribe or a right or claim arising from the relationship shall not be given effect by this state.

*SB 146 (2000) (approved April 4, 2000)*

\* State Constitutional Amendments