

Statement of

# **The Honorable John Cornyn**

United States Senator  
Texas  
September 4, 2003

Statement  
U.S. Senate Subcommittee on the Constitution, Civil Rights and Property Rights  
U.S. Senator John Cornyn (R-TX), Chairman

What is Needed to Defend the Bipartisan Defense of Marriage Act of 1996?

Thursday, September 4, 2003, 2 p.m., Dirksen Senate Office Building Room 226

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## **OPENING STATEMENT**

This hearing of the Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Property Rights shall come to order.

Before I begin my opening statement, I want to thank Chairman Hatch for scheduling this hearing. I also want to recognize the fact that the August recess is a difficult time to contact and invite witnesses and to prepare for hearings. So I want to express my gratitude, both to Senator Feingold and his staff for working so hard with my staff to make this hearing possible, and to all of the witnesses for appearing before this subcommittee at this time to express their views.

Today's hearing is entitled: "What is Needed to Defend the Bipartisan Defense of Marriage Act of 1996?" I have convened this hearing because I believe it is important that the Senate consider what steps - if any - are needed to safeguard the institution of marriage, which has been protected under federal law since the passage of the Defense of Marriage Act.

Americans instinctively and laudably support two fundamental propositions: that every individual is worthy of respect, and that the traditional institution of marriage is worthy of protection.

Recent and pending cases, however - both before the U.S. Supreme Court and in federal and state courts across the country - have raised serious questions regarding the future of the traditional definition of marriage, as embodied in DOMA. I believe that the Senate has a duty to ensure that, on an issue as fundamental as marriage, the American people, through their representatives, decide the issue.

In very simple and easy to read language, DOMA states that a marriage is the legal union between one man and one woman as husband and wife, and that a spouse is a husband or wife of

the opposite sex. That declaration did not break any new ground, or set any new precedent. It did not eliminate any rights. It simply reaffirmed and protected the traditional definition of marriage - an understanding that is reflected in the statutes, common law, judicial precedents, or historical practice of all 50 states.

The Defense of Marriage Act received overwhelming bipartisan support in both houses. The House passed the Act by a vote of 342-67, and the Senate passed it by a vote of 85-14. President Clinton signed the measure, stating that: "I have long opposed governmental recognition of same-gender marriages, and this legislation is consistent with that position." And since that time, 37 states have passed Defense of Marriage Acts at their own level.

As the eloquent senior Senator from West Virginia, a sponsor of the Act, said at the time: "Throughout the annals of human experience, in dozens of civilizations and cultures of varying value systems, humanity has discovered that the permanent relationship between men and women is a keystone to the stability, strength, and health of human society - a relationship worthy of legal recognition and judicial protection."

The question before us now is whether the popular and bipartisan legislation will remain the law of the land as the people intend, or be overturned by activist courts. The witnesses before us today will share their knowledge and analysis of the recent decisions and pending cases, and on the importance of protecting traditional marriage as both a social and legal union. I look forward to listening to their testimony.

I recognize that this issue is not without controversy. But I believe we should not shirk from treating it with all the seriousness it is due. As representatives serving the people, we in this body should not abandon the definition of marriage to the purview of the courts. I believe it is our duty to carefully consider what steps are needed to safeguard the traditional understanding of marriage, and to defend the Defense of Marriage Act.

Perhaps no legislative or constitutional response is required to reinforce the current standard and to defend traditional marriage. If it is clear that no action is required, so be it. But I believe that we must take care to do whatever it takes to ensure that the principles defined in the Defense of Marriage Act remain the law of land.

And with that, I would turn the floor over to Senator Feingold.