

Statement of

The Honorable Orrin Hatch.

United States Senator
Utah
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Statement of Chairman Orrin G. Hatch
Before the United States Senate Committee on the Judiciary
Hearing on

"A PROPOSED CONSTITUTIONAL AMENDMENT TO PRESERVE TRADITIONAL MARRIAGE"

Thank you very much, Senator Cornyn. I know you have put a great deal of time into this issue, both this year and last, and I recognize and appreciate your leadership. This is an extremely important and fundamental issue for our country. To me, the question comes down to whether we amend the Constitution or we let courts or administrative entities do it for us by default. I know which is the more democratic option, and that is for us, as elected officials, to amend the Constitution. Questions about issues that are as fundamental as the family simply should not be left to the courts to decide.

Let me be clear: I am for traditional marriage. The bedrock of American society is the family, and it is traditional marriage that undergirds the American family. The disintegration of the family in this country correlates with many serious social problems, including crime and poverty. We are seeing soaring divorce rates and out-of-wedlock birth rates that have resulted in far too many fatherless families. Weakening the legal status of marriage at this point will only exacerbate these problems. We simply must act to strengthen the family.

Just a few years ago, I helped pass the Defense of Marriage Act (DOMA) to try to prevent one state from forcing another state to adopt its definition of marriage. I believed then and I continue to believe that one state should not be able to determine for another state that it must recognize same-sex marriage. I think the hearings which Senator Cornyn held last September and earlier this month clearly showed that DOMA and traditional marriage laws are under serious risk of judicial attack. The Goodridge decision in Massachusetts proved this fear to be accurate. It is now more apparent to me than ever that courts are usurping the role of legislatures by imposing their own definitions of marriage on the people. We must do something about this.

The Allard Amendment that we are examining today offers a sound and necessary alternative to judicial weakening of the family by stopping the courts from forcing same-sex marriages and unions on the people. Some have suggested that we need to wait until the Supreme Court and other courts further their assault on traditional marriage. I say we cannot wait any longer. Hawaii, Alaska, Nevada and Nebraska all acted to amend their Constitutions to preempt adverse judicial rulings in this area, and I concur with many others that we need to do so here. Even liberal legal scholars such as Lawrence Tribe agree that recent Supreme Court rulings such as *Lawrence v. Texas* render traditional marriage laws "constitutionally suspect." We don't need to wait for the Supreme Court to force this radical change in our culture when we can prevent it with a Constitutional amendment such as the one we are discussing today. For this reason, I wholeheartedly support the passage of the Allard Amendment. There may be other approaches that warrant our consideration.

I thank Senator Cornyn again for chairing this important hearing today, and I look forward to continuing to work on this issue with you, Senator Feingold and others on the Committee in the coming weeks and months.

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