

Testimony of

The Honorable Marilyn Musgrave

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STATEMENT OF U.S. REPRESENTATIVE MARILYN MUSGRAVE

"A Proposed Constitutional Amendment to Preserve Traditional Marriage"

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Committee on the Judiciary

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Chairman Cornyn, Ranking Member Feinstein and other distinguished members of the United States Senate, thank you for the opportunity to come before you today.

As the lead sponsor of the Federal Marriage Amendment in the U.S. House of Representatives, I have spoken with Americans across the country about the importance of defending the traditional institution of marriage. I have spoken with legal experts across the political spectrum who agree that the traditional definition of marriage is likely doomed unless we amend the Constitution.

I have spoken with family counselors who believe that children are best raised in the shelter and protection of a mother and father who are married. I have spoken with well meaning Americans who love and respect all people, and certainly bear no ill will towards any particular population or group and yet who also revere, respect and tenaciously hold to the traditional definition of marriage.

But, I must say that of all the people I have met on this journey, I have been most impressed and most stirred by the leaders who have taken such a stand in defending marriage in their home states. These people are not from Washington. They are simply local leaders, trying to solve the problems that they see in their communities.

I have been stirred to action by the thirty-eight states that have passed Defense of Marriage Acts, reserving marriage as a union of a man and a woman. Since this issue was forced on the American people and their elected representatives, thirty-eight states have taken clear action to nail down our collective understanding of what marriage is. The intent of the other twelve states has not changed over the last 200 years, either.

In fact, I will go farther than that. To date, not one, not one single state has legislatively enacted gay marriage. However we see four Supreme Court justices in Massachusetts forcing a redefinition on their body politic and forcing the rest of the nation to take note. Since the action in the Massachusetts court, local officials in various states (even states with Defense of Marriage Acts) are blatantly ignoring the rule of law and being disrespectful to the legislative process.

Clearly there is no national outcry to redefine marriage. Even in the three states that enacted some form of contract law for homosexuals in relationships, the legislatures went out of their way not to redefine marriage. So why is the traditional definition of marriage now under attack? Because activist courts are ignoring the rule of law and their duty to uphold the separation of powers doctrine and are forcing this on the American people against their will.

Just look at what happened in Hawaii and Alaska after their high courts acted in a similar way. The people of those respective states rose up and by a vote of more than 60% amended their state constitution to protect the traditional

definition of marriage. In fact, in every state that the definition of marriage has been put to a direct vote of the people anywhere from 60 to 70 % voted to preserve marriage as the union of a man and a woman.

Even with this action in the states, state and federal judges are not stopping their attack. In fact, the opposite is true. State and federal judges are increasing their attacks in many states. They are even threatening state marriage definitions in federal courts.

As a former state lawmaker, I honor and cherish state lawmaking. States generally deserve more, not less power to make law. However, in this case, if no effective Congressional action takes place we will be leaving state lawmakers with no options to preserve what every state clearly wants as their law. State and federal activist judges will not stop until a national marriage definition is legislated from the bench. In our country, this is unacceptable! The American people deserve to have a say in this important issue.

The bottom line is, I trust the American people and their elected representatives to help guide this great nation of ours.

Take, for example, Rev Richard Richardson. I know you have heard him, Mr. Chairman, when he testified a few weeks ago before a subcommittee hearing and I am glad that he is here before this committee today. Reverend Richardson is an ordained minister in the African Methodist Episcopal Church in Boston. He is also Director of Political Affairs for the Black Ministerial Alliance of Greater Boston and the Director of Political Affairs for the Black Ministerial Alliance of Greater Boston. He is also the President and CEO of Children's Services of Roxbury, a child welfare agency. Not only has he worked in the field of child welfare for almost fifty years, he has been a foster parent himself for twenty-five years.

I met him recently and I would like to quote a statement of his:

"I never thought that I would be here in Washington, testifying before this distinguished subcommittee, on the subject of defending traditional marriage by a constitutional amendment. As members of the BMA, we are faced with many problems in our communities, and we want to be spending all of our energies working hard on those problems. We certainly didn't ask for a nationwide debate on whether the traditional institution of marriage should be invalidated by judges. But the recent decision of four judges of the highest court in my state, threatening traditional marriage laws around the country, gives us no choice but to engage in this debate. The family and the traditional institution of marriage are fundamental to progress and hope for a better tomorrow for the African-American community. And so, much as we at the BMA would like to be focusing on other issues, we realize that traditional marriage - as well as our democratic system of government - is now under attack. Without traditional marriage, it is hard to see how our community will be able to thrive."

Those are powerful words from Rev Richardson about the importance of the traditional institution of marriage to the African-American community. He is a member of a community that knows what discrimination is - and he speaks with a special moral authority when he says that marriage is about the needs of children and society, not about discrimination.

Reverend Richardson testified before the United States Senate a few weeks ago saying:

"The defense of marriage is not about discrimination. As an African-American, I know something about discrimination. The institution of slavery was about the oppression of an entire people. The institution of segregation was about discrimination. The institution of Jim Crow laws, including laws against interracial marriage, was about discrimination. The traditional institution of marriage is not discrimination. And I find it offensive to call it that. Marriage was not created to oppress people. It was created for children. It boggles my mind that people would compare the traditional institution of marriage to slavery. From what I can tell, every U.S. Senator - both Democrat and Republican - who has talked about marriage has said that they support traditional marriage laws and oppose what the Massachusetts court did. Are they all guilty of discrimination?"

Mr. Chairman, of course this issue is not about discrimination. For the African-American community - for every American community - marriage is about the needs of children and society.

It is important that the American people and member of Congress revere our founding charter with the reverence and respect that it so clearly deserves. No one seeks to amend the Constitution casually. I know that all of the members of the Congressional Black Caucus are struggling with the Federal Marriage Amendment, but they know how important the traditional institution of marriage is to all Americans regardless of race, culture or religion.

I'll quote Congressman Artur Davis, a Democrat from Alabama and member of the Congressional Black Caucus. He said recently:

"I have not made a decision on the constitutional amendment...When I see mayors announcing that they will violate the law, it raises the point and puts the country and the Congress in a difficult position."

A difficult position indeed, Mr. Chairman. However, Congress has a duty to watch developments in the states and to help promote the rule of law and our system of government with elected representatives of the people debating and crafting the laws of our various states.

This whole debate, although now necessary, was not initiated by any member of Congress. However, many of us have come to the reluctant conclusion that the legal experts across the political spectrum are right. The only way to preserve traditional marriage is a constitutional amendment.

When the other side says that we are guilty of "writing discrimination into the Constitution," I am offended on behalf of people like Rev. Richardson and other members of the minority community.

Furthermore, this accusation cheapens the debate and shows disrespect to all those who are trying to have a meaningful public discussion about how our laws are made.

You would have to logically assume that former President Bill Clinton was also being discriminatory when he signed the federal Defense of Marriage Act in 1996.

And what about the other 150 Congressional Democrats (both members of the House and Senate) who voted for the 1996 Defense of Marriage Act? Did they act to codify discrimination? Was over two-thirds of Congress in 1996 filled with animosity toward anyone? I think not.

Reasonable observers would agree that such a charge is blatantly and fundamentally wrong and distracts from the very real issue that we are all forced to deal with. If Congress does nothing, the courts will have redefined our definition of marriage that is over 200 years old, without the approval or consent of the American people.

Let me be clear, when I hear the accusations of discrimination, my resolve only grows stronger on this issue. And from what I have seen, this brings members of the minority community that have been truly discriminated against rallying to support the Federal Marriage Amendment

The American people are sophisticated enough to know that the accusation of discrimination is false. Those of us that support marriage as a union between a man and a woman have very little choice. Either do nothing and surrender the traditional definition of marriage or defend it against unfounded charges of discrimination and amend the U.S. Constitution to ensure that no court will easily abolish it.

Thank you Mr. Chairman.