



# *Liberty Center for Law and Policy*

1015 Fifteenth St. N.W., Ste. 1100

Washington, D.C. 20005

Telephone: 202·289·1776

Facsimile: 202·289·7474



## **In Support of the Defense of Marriage Act**

There are a number of reasons the Defense of Marriage Act is good law and should be maintained for the benefit of individuals seeking same-sex marriages and the good of the country as a whole. Marriage, as the union of one man and one woman, is the foundation of society and provides the best and most healthy environment for raising children. Marriage is overwhelmingly supported by Americans. In fact, the voters in thirty-one states have chosen to define marriage as the Defense of Marriage Act does, as the union of one man and one woman.

Currently, these states have the ability and authority to recognize marriage as their residents and legislatures wish because Section two of the Defense of Marriage Act states,

No State, territory, or possession of the United States, or Indian tribe, shall be required to give effect to any 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 such other State, territory, possession, or tribe, or a right or claim arising from such relationship.<sup>1</sup>

Thus, DOMA prevents individuals from rushing to a state like New York, that provides same-sex marriage licenses to non-residents, engaging in a same-sex marriage, and returning to a state like Texas, which defines marriage as the union of one man and one woman, and demanding that Texas provide the same-sex couple the benefits Texas offers married couples. DOMA allows states to maintain the definition of marriage that has been recognized by this country since its inception. Repealing DOMA would cause the 31 states whose voters have defined marriage as the union of one man and one woman to accept other definitions from other states and provide benefits based on those other states' definitions.

Marriage, as it is currently defined by thirty-one states and the federal government, encourages healthier relationships and healthier people. According to the Center for Disease Control, males engaged in homosexual behavior in 2007 were "44 to 86 times as likely to be diagnosed with HIV compared with other men."<sup>2</sup> Additionally, according to LifeSiteNews, the Canadian Rainbow Health Coalition has listed a number of health issues that are more common in homosexuals, including: increased smoking rates, increased rates of alcoholism, increased use of illicit drugs, increased experiences of depression, increased risks of experiencing verbal and physical abuse, and increased risks of developing cancers, including a higher risk of lung and liver cancer for male and female homosexuals, an increased risk of anal cancer in homosexual

---

<sup>1</sup> Defense of Marriage Act § 2, 28 U.S.C. § 1738(c) (1996).

<sup>2</sup> Center for Disease Control, *HIV among Gay, Bisexual and Other Men Who Have Sex with Men*, Department of Health and Human Services: Centers for Disease Control and Prevention, Divisions of HIV/AIDS Prevention September 23, 2010, <http://www.cdc.gov/hiv/topics/msm/index.htm>.

men and an increased risk of breast cancer in homosexual women.<sup>3</sup> God ordained marriage as the union of one man and one woman for our benefit – there are serious risks associated with homosexual behavior, which the government should not be in the business of subsidizing.

Marriage, as a building block of society has an economic impact, and that is why the federal government has decided to reward it. In a sense, there is a return on the federal government's investment. Study after study shows that the family type with the highest income and net worth is intact families, where children are raised by their biological, married parents; in fact, marriage drops the probability of child poverty by eighty-two percent.<sup>4</sup> Rather than dwelling on the obvious – that homosexual couples do not have that ability to create intact families because they cannot procreate and thus, innately have a diminished capacity to reach their own highest economic potential – here, it is important to address the impact that changing the definition of marriage will have on the nation's economy. A number of federal benefits are conferred based on marital status. To name a few:

- The list of those entitled to be buried in a national cemetery is limited to the “spouse, surviving spouse, minor child, or unmarried adult child of a person eligible” for burial in a national cemetery.<sup>5</sup>
- Spouses of aged, blind, and disabled persons are eligible for supplemental security income.<sup>6</sup>
- The Department of Veterans Affairs provides a number of benefits for the spouses of deceased veterans who die after active duty service, including Dependent Indemnity Compensation, Death Pension, Survivor's Educational Assistance, Home Loan Guaranty, Medical, Bereavement Counseling, Specialized Vocational Training, and Financial Counseling.<sup>7</sup>
- Spouses of those with Medicare benefits are also eligible for Medicare benefits.<sup>8</sup>

Section Three of the Defense of Marriage Act states,

In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the word 'marriage' means only a legal union between one man and one

---

<sup>3</sup> Thaddeus Baklinski, *Homosexuals' Complaint against Health Canada Lists Negative Health Consequences of Homosexual Lifestyle*. LifeSiteNews.com: Life, Family and Culture News, May 14, 2009, <http://www.lifesitenews.com/news/archive/ldn/2009/may/09051403>.

<sup>4</sup> Henry Potrykus, Patrick Fagan & Robert Schwarzwald, *Our Fiscal Crisis: We Cannot Tax, Spend, and Borrow Enough to Substitute for Marriage*, Family Research Council, June 2011, <http://downloads.frc.org/EF/EF11F49.pdf>; The Heritage Foundation: Leadership for America, *Marriage: America's No. 1 Weapon Against Childhood Poverty: How the Collapse of Marriage Hurts the Nation and 7 Steps to Reverse the Damage*, Fall 2010, [http://thf\\_media.s3.amazonaws.com/2010/pdf/marriage\\_poverty\\_slideshow.pdf](http://thf_media.s3.amazonaws.com/2010/pdf/marriage_poverty_slideshow.pdf).

<sup>5</sup> See 38 C.F.R. § 38.620(e).

<sup>6</sup> See 20 C.F.R. § 416.120.

<sup>7</sup> United States Department of Veterans Affairs, *Spouse Benefits – Death After Active Service*, Dec. 8, 2010, <http://www.vba.va.gov/bln/dependents/spouse.htm>.

<sup>8</sup> Social Security Online, *Frequently Asked Questions: How to Qualify for Medicare*, June 7, 2011, [http://ssa-custhelp.ssa.gov/app/answers/detail/a\\_id/400/~how-to-qualify-for-medicare](http://ssa-custhelp.ssa.gov/app/answers/detail/a_id/400/~how-to-qualify-for-medicare).

woman as husband and wife, and the word 'spouse' refers only to a person of the opposite sex who is a husband or a wife.<sup>9</sup>

Repealing DOMA would have a substantial and negative economic impact by including a new group of people eligible for a range of federal benefits and subsidies, a group of people never before recognized for such benefits, a group of people that past Congresses, the Congresses that created those benefits, never intended to confer to same-sex partners.

The Defense of Marriage Act is good law because it reinforces and subsidizes healthy behaviors for individuals and provides reserves federal benefits for those unions that return a benefit to society.

---

<sup>9</sup> Defense of Marriage Act § 3, 1 U.S.C § 7 (1996).