

1999 DRAFTING REQUEST

Bill

Received: **01/05/2000**

Received By: **kahlepj**

Wanted: **As time permits**

Identical to LRB:

For: **Mark Gundrum (608) 267-5158**

By/Representing: himself

This file may be shown to any legislator: NO

Drafter: **kahlepj**

May Contact: **Marvin Munyon, 256-3228**

Alt. Drafters:

Subject: **Dom. Rel. - marriage**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Provide that marriage may be contracted only between one man and one woman

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Reaured</u>
/?	kahlepj 01/07/2000	csicilia 01/07/2000		_____			
/P1			martykr 01/10/2000	_____	lrb-docadmin 01/10/2000		
/1	kahlepj 01/10/2000	csicilia 01/1 1/2000	jfrantze 01/11/2000	_____	lrb-docadmin 01/11/2000	lrb-docadmin 02/17/2000	

FE Sent For:

<END>

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/?	kahlepj	/P1 CJS 1/7/00	1/10/00	MSE 2/10/00			

FE Sent For:

<END>



PROPOSAL TO CLARIFY MARRIAGE IN WISCONSIN AS BETWEEN ONE MAN AND ONE WOMAN

Section 1. 765.001 (2) of the statutes is amended to read:

765.001 (2) Intent. It is the intent of public policy of this state that marriage may be contracted only between one man and one woman, as husband and wife. It is the intent of chs. 765 to 768 to promote the **stability and** best interests of marriage and the family. It is the intent of the legislature to recognize the valuable contributions of both spouses during the marriage and at termination of the marriage by dissolution or death. Marriage is the institution that is the foundation of the family and of society. Its stability is basic to morality and civilization, and of vital interest to society and the state. The consequences of the marriage contract are more significant to society than those of other contracts, and the public interest must be taken into account always. The seriousness of marriage makes adequate premarital counseling and education for family living highly desirable and courses thereon are urged upon all persons contemplating marriage. The impairment of dissolution of the marriage relation generally results in injury to the public wholly apart from the effect upon the parties immediately concerned. Under the laws of this state, marriage is a legal relationship between 2 equal persons, a husband and wife, who owe to each other mutual responsibility and support, Each spouse has an equal obligation in accordance with his or her ability to contribute money or services or both which are necessary for the adequate support and maintenance of his or her minor children and of the other spouse. No spouse may be presumed primarily liable for support expenses under this subsection.

Section 2. 765.01 of the statutes is amended to read:

765.01 A civil contract. Marriage, so far as its validity at law is concerned, is a civil contract, to which the consent of the parties capable in law of contracting is essential, and which creates the legal contracted status between one man and one woman as of husband and wife.

Section 3. 765.045 of the statutes is created to read:

765.045 Regardless of whether s. 765.04 applies, only marriage between one man and one woman is recognized for all purposes in this state, even if another definition of marriage other than between one man and one woman is valid where contracted.

Section 4. 990.01 (19p) of the statutes is created to read:

990.01 (19p) Marriage. "Marriage" means a civil contract between one man and one woman, creating the legal status for the parties of husband and wife.

Section 5. 990.01 (39) of the statutes is created to read:

990.01 (39) Spouse. "Spouse" means a party to a marriage.

10/10/10

10/10/10



**ASSEMBLY SUBSTITUTE AMENDMENT 3,
TO 1997 ASSEMBLY BILL 104**

May 13, 1997 - Offered by Representatives **SERATTI, WOOD** and **GROTHMAN**.

1 **AN ACT** to amend 765.001 (2); and to create 765.015 of the statutes; **relating**
2 **to:** marriage between one man and one woman.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 **SECTION 1.** 765.001 (2) of the statutes is amended to read:

4 765.001 (2) **INTENT.** It is the intent of chs. 765 to 768 to promote the stability
5 and best interests of marriage and the family. It is the intent of the legislature to
6 recognize the valuable contributions of both spouses during the marriage and at
7 termination of the marriage by dissolution or death. Marriage is the institution that
8 is the foundation of the family and of society. Its stability is basic to morality and
9 civilization, and of vital interest to society and the state. The consequences of the
10 marriage contract are more significant to society than those of other contracts, and
11 the public interest must be taken into account always. The seriousness of marriage
12 makes adequate premarital counseling and education for family living highly

1 desirable and courses thereon are urged upon all persons contemplating marriage.
2 The impairment or dissolution of the marriage relation generally results in injury
3 to the public wholly apart from the effect upon the parties immediately concerned.
4 Under the laws of this state, marriage is a legal relationship between 2 equal
5 persons, a husband and wife, who owe to each other mutual responsibility and
6 support. Each spouse has an equal obligation in accordance with his or her ability
7 to contribute money or services or both which are necessary for the adequate support
8 and maintenance of his or her minor children and of the other spouse. No spouse may
9 be presumed primarily liable for support expenses under this subsection. It is the
10 public policy of this state that marriage may be contracted only between one man and
11 one woman, as husband and wife.

12 **SECTION 2.** 765.015 of the statutes is created to read:

13 765.015 Who **may marry.** (1) Marriage may be contracted only between one
14 man and one woman, as husband and wife.

15 (2) Regardless of whether s. 765.04 applies, a marriage, even if valid where
16 contracted, is void for all purposes in this state if it does not conform to sub. (1).

17 (END)



PI
gs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-note

gen cont

1 **AN ACT** *x*; **relating to:** marriage between one man and one woman.

Analysis by the Legislative Reference Bureau

Current law provides that marriage is a civil contract that creates the legal status of husband and wife. The consent of the parties is essential, and the parties must have the legal capacity to enter into a contract. In addition, current law prohibits certain marriages, such as a marriage between persons who are nearer of kin than second cousins or a marriage in which at least one of the persons was divorced less than six months before the marriage. If a person who is prohibited from marrying in this state leaves the state for the purpose of contracting a marriage in a state where the marriage is valid, that marriage is void in this state. Such a person will be considered to have left this state for the purpose of marrying in the other state if he or she lived in this state within 12 months before marrying in the other state and resumed residence in this state within 18 months after leaving this state, or if he or she maintained a residence in this state the entire time that he or she was away.

This bill specifies that marriage is a civil contract between one man and one woman. The bill provides that only marriage between one man and one woman will be **recognized** as valid in this state, regardless of whether a marriage took place in a jurisdiction that defined marriage other than between one man and one woman as valid, and regardless of whether the statute regarding marrying in another state to circumvent the marriage laws of this state applies to a marriage. The bill also provides definitions for "spouse" and "marriage" for purposes of statutory construction. A "spouse" is defined as a party to a marriage, and "marriage" is

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4148/dn → PI

PJK...Y:...

9 gs

represent

I did not include the amendment of s. 765.001(2) in this draft. The statutes ~~set out~~ the public policy of the state. Because s. 765.01, as amended in this draft, states that a valid marriage is a civil contract between one man and one woman, that is the public policy of this state. It is not necessary to state again elsewhere that the public policy of this state is that marriage may be contracted only between one man and one woman.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: Pam.Kahler@legis.state.wi.us

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Founder & President

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E-mail friwimm@aol.com

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4148/P1dn

PJK:cjs:km

January 10, 2000

I did not include the amendment of s. 765.001 (2) in this draft. The statutes represent the public policy of the state. Because s. 765.01, as amended in this draft, states that a valid marriage is a civil contract between one man and one woman, that is the public policy of this state. It is not necessary to state again elsewhere that the public policy of this state is that marriage may be contracted only between one man and one woman.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: Pam.Kahler@legis.state.wi.us

Kahler, Pam

From: Churchill, Jolene
Sent: Monday, January 10, 2000 4:20 PM
To: Kahler, Pam
Subject: RE: LRB 4148/P1 dn Relating tp: Marriage between one man and one woman

Great!

-----Original Message-----

From: Kahler, Pam
Sent: Monday, January 10, 2000 4:18 PM
To: Churchill, Jolene
Subject: RE: LRB 4148/P1dn Relating to: Marriage between one man and one woman

No problem. And no pun intended!

-----Original Message---

From: Churchill, Jolene
Sent: Monday, January 10, 2000 4:12 PM
To: Kahler, Pam
Subject: LRB 4148/P1dn Relating to: Marriage between one man and one woman

Dear Pam,

Representative Gundrum would like to make one change on Page 2, Line 13:
a civil "contract" b/w one man and one woman, not a civil "contact",

Could you make this minor change and send it back to us in Room 19-North by Wednesday? Thanks. - Jolene (267-5158)



nmis run

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

*wanted
Tues
(1-8)
(one change; P 2, 13)*

1 **AN ACT to renumber and amend** 765.01; and **to create** 765.01 (2), 990.01 (19p)
2 and 990.01 (39) of the statutes; **relating to:** marriage between one man and one
3 woman.

Analysis by the Legislative Reference Bureau

Current law provides that marriage is a civil contract that creates the legal status of husband and wife. The consent of the parties is essential, and the parties must have the legal capacity to enter into a contract. In addition, current law prohibits certain marriages, such as a marriage between persons who are nearer of kin than second cousins or a marriage in which at least one of the persons was divorced less than six months before the marriage. If a person who is prohibited from marrying in this state leaves the state for the purpose of contracting a marriage in a state where the marriage is valid, that marriage is void in this state. Such a person will be considered to have left this state for the purpose of marrying in the other state if he or she lived in this state within 12 months before marrying in the other state and resumed residence in this state within 18 months after leaving this state, or if he or she maintained a residence in this state the entire time that he or she was away.

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**SUBMITTAL
FORM**

LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street

JAN 11 2000

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and **sign** on the appropriate line(s) below.

Date: 01/11/2000

To: Representative Gundrum

Relating to LRB drafting number: LRB-4148

Topic

Provide that marriage may be contracted only between one man and one woman

Subject(s)

Dom. Rel. - marriage

1. **JACKET** the draft for introduction by Representative Gundrum
in the **Senate** or the **Assembly** (check only one). Only the requester under whose name the drafting request is entered in the **LRB's** drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____
A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____
If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Pamela J. Kahler, Senior Legislative Attorney
Telephone: (608) 266-2682

Pamela J. Kahler
Kahler