

**1999 DRAFTING REQUEST**

**Bill**

Received: **01/05/2000**

Received By: **kahlepj**

Wanted: **As time permits**

Identical to LRB:

For: **Scott Fitzgerald (608) 266-5660**

By/Representing: **his office**

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>Required</u>
/?	kahlepj 01/12/2000	jgeller 01/12/2000		_____ _____			
/1			jfrantze 01/12/2000	_____ _____	lrb_docadmin 01/12/2000	lrb_docadmin 02/02/2000	

FE Sent For:

<END>

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1/?	kahlepj	1/12 jlg	1/12	1/12 me			

FE Sent For:

<END>

do companion to Gardner's "Same sex"

marriage bill for

Fitzgerald

ASA 376 AB104

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.



State of Wisconsin  
1999 - 2000 LEGISLATURE

4149/1  
LRB-4148/1 ↑  
PJK:ajs:jf  
↑  
stays

1999 BILL

Regen

- 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.

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*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

**BILL**

provides definitions for "spouse" and "marriage" for purposes of statutory construction. A "spouse" is defined as a party to a marriage, and "marriage" is defined as a civil contract between one man and one woman that creates the legal status for the parties of husband and wife.

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

1           **SECTION 1.** 765.01 of the statutes is renumbered 765.01 (1) and amended to  
2 read:

3           **765.01 A civil contract.** (1) Marriage, so far as its validity at law is  
4 concerned, is a civil contract between one man and one woman, to which the consent  
5 of the parties capable in law of contracting is essential, and which creates the legal  
6 status of husband and wife.

7           **SECTION 2.** 765.01 (2) of the statutes is created to read:

8           **765.01 (2)** Regardless of whether s. 765.04 applies and regardless of whether  
9 a marriage takes place in another jurisdiction in which marriage other than between  
10 one man and one woman is defined as valid, only marriage between one man and one  
11 woman shall be recognized as valid in this state.

12           **SECTION 3.** 990.01 (19p) of the statutes is created to read:

13           **990.01 (19p) MARRIAGE.** "Marriage" means a civil contract between one man  
14 and one woman that creates the legal status for the parties of husband and wife.

15           **SECTION 4.** 990.01 (39) of the statutes is created to read:

16           **990.01 (39) SPOUSE.** "Spouse" means a party to a marriage.

17

(END)

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**Barman, Mike**

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**From:** Rhatican, Tom  
**Sent:** Wednesday, February 02, 2000 2:48 PM  
**To:** Barman, Mike  
**Subject:** bill draft 4149/1

Mike,

Will you please send me 4149/1 ("same-sex marriage")?

Thanks,

Tom



## Barman, Mike

---

**From:** Barman, Mike  
**Sent:** Wednesday, February 02, 2000 2:55 PM  
**To:** Rhatican, Tom  
**Cc:** Kahler, Pam  
**Subject:** 99-4149/1 (per your request)



99-4149/1

*Mike Barman*

Mike Barman - Senior Program Asst. (PH. 608-266-3561)  
(E-Mail: [mike.barman@legis.state.wi.us](mailto:mike.barman@legis.state.wi.us)) (FAX: 608-264-6948)

State of Wisconsin  
Legislative Reference Bureau - Legal Section - Front Office  
100 N. Hamilton Street - 5th Floor  
Madison, WI 53703

**SUBMITTAL  
FORM**

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

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: 01/12/2000

To: Senator Fitzgerald

Relating to LRB drafting number: LRB-4149

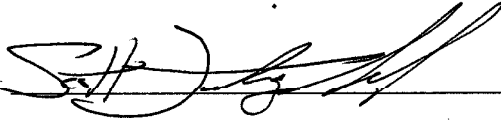
**Topic**

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

**Subject(s)**

Dom. Rel. - marriage

1. **JACKET** the draft for introduction



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

yes

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.

Not Needed

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