

2005-2006 #83 Marriage (Amendment _)

1 **Amendment _ is a proposed amendment to the Colorado Constitution that:**

- 2 ♦ defines marriage in Colorado as a union between one man and one woman.

3 **Summary and Analysis**

4 *Definitions of marriage affecting Coloradans.* Federal statutes define marriage
5 as a legal union between one man and one woman for purposes of all federal laws relating
6 to marital status. Colorado statutes define marriage as a legal union between one man and
7 one woman for purposes of the state's laws relating to marital status.

8 For a marriage to be valid under Colorado statutes, it must be: (1) between a man
9 and a woman; and (2) licensed, solemnized, and registered according to established
10 procedures. In addition, Colorado statutes recognize common law marriage between a man
11 and a woman who live together and hold themselves out publicly as husband and wife.
12 Common law marriages are treated exactly the same as licensed marriages.

13 *Legal effects of marriage in Colorado.* The marriage relationship in Colorado
14 provides spouses with a number of legal rights, responsibilities, and benefits, including:

- 15 • the right to collect benefits such as pensions, life insurance, and workers'
16 compensation without being designated as a beneficiary;
17 • the ability to jointly incur and be held liable for debts;
18 • the right to make medical treatment decisions;
19 • protection from discrimination based on marital status in arenas such as
20 employment and housing;
21 • the ability to jointly file income taxes; and
22 • the requirement that ending a marriage be done through a legal process with
23 property distributed equitably.

24 **Arguments For**

25 1) The public has an interest in preserving the commonly accepted definition of
26 marriage. Marriage as an institution has historically consisted of one man and one woman
27 and, as such, provides the optimal environment for creating, nurturing, and protecting
28 children and the family unit.

1 2) A constitutional amendment is necessary to avoid court rulings that expand
2 marriage beyond one man and one woman in Colorado. In Massachusetts, a statutory
3 definition was not sufficient to prevent a court from requiring the state to recognize same-
4 sex marriage. Any changes to the definition of marriage should be agreed upon by the
5 people, not judges.

6 **Arguments Against**

7 1) Language that limits marriage to certain parties does not belong in the
8 constitution, particularly the Bill of Rights, which generally extends rights to citizens. The
9 amendment potentially denies constitutional rights and protections to same-sex partners
10 who want to marry.

11 2) Adding the proposed language to the constitution is unnecessary because there
12 is already a statutory ban in Colorado on any marriage that does not consist of one man and
13 one woman. Additionally, federal statutes define marriage as between one man and one
14 woman.

15 **Estimate of Fiscal Impact**

16 *A fiscal analysis will be provided in a subsequent draft.*