

2005-2006 #83 Marriage (Amendment _)

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

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

4 **Summary and Analysis**

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

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

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

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

25 **Arguments For**

26 1) The public has an interest in preserving the commonly accepted definition of
27 marriage. Marriage as an institution has historically consisted of one man and one woman
28 and, as such, provides the optimal environment for creating, nurturing, and protecting
29 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 marriages. Any changes to the definition of marriage should be determined by the
5 voters, 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.
9 Amendment _ may be unconstitutional because it denies same-sex couples and their
10 children the legal benefits and protections that are available to married spouses and their
11 children.

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

16 **Estimate of Fiscal Impact**

17 Voter approval of the amendment alone will not affect state and local revenues or
18 spending. Costs that may result from potential legal challenges to the amendment cannot
19 be estimated.