BILL ANALYSIS

Senate Research Center

H.J.R. 6
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State Affairs
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Enrolled

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The 78th Legislature, Regular Session, 2003, enacted S.B. 7, known as the "Defense of Marriage Act" (DOMA). While Texas law previously prohibited the issuance of a marriage license to a couple of the same sex, S.B. 7 made a marriage between persons of the same sex or a civil union contrary to the public policy of this state, and void in this state. To this end, the measure included a provision stipulating that Texas would not recognize a marriage or civil union between persons of the same sex, regardless of the jurisdiction in which it was created.

Thirty-nine states have passed similar DOMA laws, two of which were through public referendums. Five other states have laws that pre-date DOMA, but essentially accomplish the same purpose.

In addition to DOMA laws, fifteen states have constitutional amendments defining marriage as the union of one man and one woman.

Lawsuits challenging state DOMA laws are pending in at least 13 states and in the federal courts. As further litigation is filed in numerous states and in federal court, several states have chosen to protect their DOMA laws by passing constitutional amendments. There are six other states working on state constitutional amendments this year. An additional three states passed amendments in the last legislative session, and must pass them once more before putting the matter before the voters.

H.J.R. 6 proposes a constitutional amendment to define marriage as the union of only one man and one woman. It further prohibits the recognition by this state or a political subdivision of this state of any legal status identical or similar to marriage.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article I, Texas Constitution, by adding Section 32, as follows:

> Sec. 32. Requires marriage in this state to consist only of the union of one man and one woman. Prohibits this state or a political subdivision of this state from creating or recognizing any legal status identical or similar to marriage.

SECTION 2. Provides that this state recognizes that through the designation of guardians, the appointment of agents, and the use of private contracts, persons may adequately and properly appoint guardians and arrange rights relating to hospital visitation, property, and the entitlement to proceeds of life insurance policies without the existence of any legal status identical or similar to marriage.

SECTION 3. Requires this proposed constitutional amendment to be submitted to the voters at an election to be held on November 8, 2005. Requires the ballot to be printed to permit voting for or against the proposition, and sets forth the specific language of the proposition.