

**Raising our *Voices***  
**for Children**

Children's Alliance  
of New Hampshire

**Commission To Study All Aspects Of Same Sex Civil Marriage  
And The Legal Equivalents Thereof...**

**Testimony of Steve Varnum, Public Policy Director,  
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Thank you for inviting me to testify today. My remarks will focus on how children in New Hampshire might be affected by the legalization and/or recognition of civil same-sex marriage.

The Children's Alliance is an independent, non-profit organization that advocates for the best interests of all New Hampshire's children. Doing that work effectively requires a recognition that children in New Hampshire are being raised in all kinds of homes and family environments -- rich and poor, urban and rural. In adoptive, foster, and stepfamilies. In biracial and multicultural families. With grandparents. And in homes headed by same-sex couples.

All of these children, regardless of family type, location, wealth of any of these other factors, need and deserve the same things. They need quality education, nutrition, shelter and health care. They need to be safe. They need to be loved. They need to bond with an adult worthy of their trust.

Children rely totally on their parents or guardians, extended family, community and government to meet these needs. That reliance is the reason our state and federal laws contain hundreds of rights, including education, and protections, such as in the areas of child labor, abuse and neglect, and in the event of the death, divorce or disability of a parent or guardian. Much of our work at the Children's Alliance is related to defending and strengthening those rights and protections.

And one of those areas of law is marriage. The Children's Alliance views the issues you're grappling with through the lens of family policy, and with a focus on protecting children.

For today's discussion I'd like to talk about how children raised by same-sex parents would be affected if New Hampshire extended the rights and protections of civil marriage to committed gay and lesbian couples and their families. This analysis addresses children who are or will in the future be raised by same-sex couples (whether or not the couple's union has any legal status), and children who would in the future be raised by married same sex-couples.

It is impossible to say how children not being raised by same-sex couples would be affected. Same-sex marriage has not been around long enough for its affects on children in traditional homes to be studied. Studies have been done of children parented by cohabiting couples, both same-sex and opposite-sex, but for many of the reasons you have been discussing through your committee's examination, cohabitation is simply not the same as marriage.

I'm going to call your attention to those rights and protections that New Hampshire affords children in married-couple households, but that we have not yet extended to children parented by gay or lesbian couples in committed relationships.

Please allow me to repeat and emphasize that phrase: committed relationships. By that I mean those same-sex couples who have married, whose union has been recognized in another state, or who would marry if allowed to under New Hampshire law.

According to the 2000 Census, 2,703 New Hampshire households contained same-sex unmarried couples. A child under age 18 lived in the homes of 23% of male couples and 29% of female couples. We don't know how many children that represents, nor do we know how many of those nearly 3,000 couples would consider theirs a committed relationship or how many would marry.

What we do know is that the civil institution of marriage benefits children in many ways. I'll present them in three very broad categories: financial security, family stability and social support.

### *Financial security*

Children in married-couple families receive extensive benefits and protections that are denied children parented by same-sex partners:

- Same-sex couples rarely have access to health insurance that covers both of them and their child(ren) because most policies require a legal relationship between the covered employee and the child. This means children may lack insurance altogether or may not have access to quality of coverage that one parent enjoys. And domestic-partner benefits, unlike married-partner benefits, are taxed as income.
- Children are not entitled to Social Security benefits when the partner of their birth or adoptive parent dies. If that partner earned \$60,000 in his or her last year of life, a 10-year-old child would otherwise qualify for more than \$138,000 in survivor benefits and the remaining parent would qualify for \$104,000. Instead, the child is likely to suffer a sudden loss of financial support at the same time he or she loses a parent.
- Much the same is true when same-sex parents separate, because children in that relationship are not entitled to support.
- Same-sex partners of state employees and the partner's children are ineligible for state health benefits, death benefit, accidental disability retirement allowance, or annuity if the employee is killed on the job.
- Same-sex partners of military personnel killed at war, and those partners' children, are ineligible for military survivors benefits, educational assistance VA home loans, employment preferences and other benefits.
- Same-sex partners of firefighters and the partner's children are ineligible for disability payments if the firefighter is killed on the job.
- Same-sex partners of police officers and the partner's children are ineligible for death benefits if the police officer dies.
- Same-sex partners of employees and the partner's children are ineligible for employer-based group motor vehicle insurance.

### *Family stability*

Stability is extremely important to the healthy development of children, especially young children. For a variety of reasons, marriage relationships are more durable and more stable than cohabitation. Failure to legally recognize the commitment of same-sex couples makes those relationships more fragile, and creates potential harms to the children in them:

- Same-sex couples in New Hampshire are not guaranteed the right to a joint legal relationship with the children they parent together.
- Unmarried same-sex partners are not covered under the federal Family and Medical Leave Act, meaning that same-sex partners are not entitled to take unpaid time to stay home with a newborn or to care for a child who is sick or injured.

- Children parented by same-sex couples have no right to maintain relationships with both parents if they separate.
- Children are not entitled to property of sentimental value when the partner of their birth or adoptive parent dies.
- If a child's birth or adoptive parent dies, the same-sex partner has no custody rights or responsibilities. The death of one parent can deprive the child of both parents.
- Because there is no divorce proceeding when same-sex couples split, children do not have a guardian ad litem representing their best interests.

### *Positive social interactions*

This third area is more subjective than the first two, in which the rights and protections are written into state and federal law. But it is no less important. Part of the reason we are here examining this issue is that the value we place on marriage transcends legal protections and the power with which it bonds individuals. We confer a level of social prestige on married couples and families that cohabiting couples do not share, and children feel that prestige in varied and subtle ways:

- The legal status of parent of stepparent confers authority that is recognized by society's institutions and by the child. Every medical form or school form asks for the names of the mother and father. There is no line for the name of the loving second parent who sits in the emergency room but cannot authorize medical treatment for that child in an emergency, or who cannot sign school permission forms.
- Marriage creates legal and more-formal ties with extended family, including in-laws and grandparents, that are generally believed to be good for children.
- The marriage commitment fosters in children a sense of security. It brings happiness to the parents, and the children, who are totally dependent upon these adults, obviously benefit when their parents' well being improves.
- Children may also find relief in the social acceptance that marriage of same-sex parents confers in the wider society. The recognition of the family unit through marriage can serve as a step in the path towards respect, lessening any stigma imposed on the children as a result of their parents' status as second-class citizens.

For all of these reasons, the Children's Alliance of NH believes that New Hampshire laws treat the children of same-sex parents differently from heterosexual parents for no reason having to do with the welfare of children and that difference in treatment is simply wrong.

The welfare of children parented by committed same-sex couples would be greatly improved if New Hampshire were to extend the rights, responsibilities and protections of civil marriage to committed gay and lesbian couples and their children. We have also taken the position that New Hampshire should recognize same-sex marriages and unions performed in other states. To do otherwise not only deprives children of protections, it destabilizes established and committed relationships and weakens the family structure that is so important to children's well-being.

We ask this Commission to help gay and lesbian parents provide for their children by allowing them to access the legal rights, benefits, and obligations that have long been available to different-sex couples.

Thank you for your consideration.