

# HJR-6: CONSTITUTIONAL AMENDMENT TO DEFINE MARRIAGE

## SUMMARY

Existing Indiana statute defines marriage as a union between one man and one woman and forbids recognition of same-sex marriages conducted in jurisdictions outside Indiana. Opponents of same-sex marriage have long advocated for amendment of the state constitution to strengthen these statutes and insulate them against judicial challenges. The current proposed amendment (HJR-6) reflects these efforts.

The constitutional amendment process in Indiana dictates proposed amendments must pass two separately-elected legislatures with identical language and earn voter approval on a statewide general election ballot before being added to the state constitution. HJR-6 first passed during the 2011 legislative session and states: "Only a marriage between one (1) man and one (1) woman shall be valid or recognized in Indiana. A legal status identical or substantially similar to that of marriage for unmarried individuals shall not be valid or recognized."

Having passed once, HJR-6 could pass its second legislature during the 2014 session and be put on the ballot for statewide consideration in November 2014.

The debate surrounding same-sex marriage has intensified in the wake of a pair of June 2013 United States Supreme Court rulings. In *United States v. Windsor*, the Court struck down Section 3 of the federal Defense of Marriage Act (DOMA), ending the prohibition of legally-married same-sex couples collecting federal benefits. In *Hollingsworth v. Perry*, the Court deferred to a lower federal ruling (*Perry v. Brown*) negating California's Proposition 8 same-sex marriage ban, effectively reinforcing individual states' capabilities to define marriage within their jurisdictions.

## CHAMBER POSITION: OPPOSE

In the past the Indy Chamber has not prioritized involvement in deliberations surrounding HJR-6 and similar marriage amendment proposals. Having consulted with members of its policy councils and committees and taking stock of the regional economic climate, the Indy Chamber has concluded opposing HJR-6 in its current form is in the best interests of the Indianapolis business community and workforce.

Indiana's struggles to retain its college graduates are well-documented and often acknowledged in the state legislature. Its necessity to ease this "brain drain" by attracting talent on a national scale would be inhibited by adopting an unnecessary, discriminatory amendment with fading support from younger generations (i). As the only potential marriage amendment up for consideration nationwide in 2014, it is important to be mindful of the conspicuous part HJR-6 would play in portraying Indiana as a state that welcomes some, but not all, talented workers.

While same-sex marriage continues to be a divisive issue in Indiana, there is sustained, growing evidence of discomfort among citizens with adding a broad, discriminatory amendment to our state's constitution (ii) (iii). The debate surrounding HJR-6 should not be framed in moral terms, as current state statute upholds traditional marriage. Additionally, there are no known planned legislative proposals to redefine marriage, nor would any proposal likely gain traction in upcoming legislative sessions.

Of particular concern to the Indy Chamber is HJR-6's second sentence, which could affect over 600 rules and regulations pertaining to Indiana couples and expose those in committed same-sex partnerships to the denial of critical protections and employer benefits. Additionally, it could adversely affect the 2005 Indianapolis Human Rights Ordinance enacted by the City-County Council with the Indy Chamber's support, and domestic partner benefits offered by municipalities and public institutions.

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## POSITION continued

The 2013 legislative session brought unprecedented bipartisan focus on economic and workforce development. Legislators' efforts have been and will continue to be a critical component in Indiana's ongoing recovery from the recent economic downturn, and valuable time in the short 2014 session should not be spent replicating existing law. Legislative proposals in coming years should only serve to strengthen Indiana's ability to attract, recruit and retain talent, and an expansive constitutional amendment like HJR-6 fails to meet this standard.

## INVOLVEMENT: Active Opposition & Coalition Member

The Indy Chamber is committed to maintaining Indianapolis' status as the best place to live, work and conduct business. HJR-6 is duplicative of current statute and serves as a distraction from building momentum in the state legislature to address economic and workforce development challenges in the Indianapolis region and across the state. As the Indy Chamber believes the proposed amendment would inhibit employers' efforts to attract an emerging generation of talent, it will work in tandem with the Freedom Indiana coalition to stridently oppose HJR-6 and advocate for its defeat in the 2014 legislative session and any potential subsequent ballot referendum.

(i) Saad, L. (2013, July 29). In U.S., 52% Back Law to Legalize Gay Marriage in 50 States. Retrieved from Gallup Politics: <http://www.gallup.com/poll/163730/back-law-legalize-gay-marriage-states.aspx>

(ii) Hoosier Survey. (2012, December 13). Retrieved from Bowen Center for Public Affairs: <http://bowencenterforpublicaffairs.org/wp-content/uploads/2013/01/HOOSIER-SURVEY-2012.pdf>

(iii) Matthews, C. (2013, September 22). Indiana statewide poll. Retrieved from Bellwether Research & Consulting: <https://docs.google.com/file/d/0B26QIHJ1fUtGTJV4S2ZLUkYwM3c/edit?pli=1>