GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2007

H HOUSE BILL 2803

Short Title: Defense of Marriage. (Public)

Sponsors: Representatives Lewis, Crawford, Samuelson, Parmon (Primary Sponsors); Allred, Avila, Barnhart, Bell, Blackwood, Blust, Boylan, Braxton, Brisson, Brown, Brubaker, Church, Clary, Cleveland, Cole, Current, Daughtridge, Daughtry, Dockham, Dollar, England, Folwell, Frye, Furr, Gillespie, Grady, Gulley, Hill, Hilton, Holloway, Holmes, Howard, Hurley, Johnson, Justice, Justus, Killian, Kiser, Langdon, Love, McAllister, McComas, McElraft, McGee, Moore, Neumann, Pate, Pierce, Ray, Setzer, Spear, Stam, Starnes, Steen, Stiller, Thomas, Tillis, Walend,

Referred to: Rules, Calendar, and Operations of the House, if favorable, Judiciary I.

Walker, West, Wiley, and Yongue.

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July 3, 2008

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CONSTITUTION TO PROVIDE THAT MARRIAGE IS THE UNION OF ONE MAN AND ONE WOMAN AT ONE TIME, AND THIS IS THE ONLY MARRIAGE THAT IS RECOGNIZED AS VALID IN THIS STATE.

Whereas, marriage is a sacred covenant that solemnizes an inherently unique and complementary relationship between a man and a woman; and

Whereas, North Carolina has a special interest in encouraging, supporting, and protecting this unique relationship in order to promote the stability and welfare of society and its children; and

Whereas, children raised by a mother and a father in an intact family are more likely to enjoy higher levels of family stability, to perform better in school, to experience a higher standard of living, to get married and stay married, and to avoid poverty, crime, illegal drug use, unwed pregnancy, domestic violence, and other societal ills: and

Whereas, same-sex households, by their very nature, deprive a child of either a mother or a father; and

Whereas, countries that have redefined marriage to include relationships other than one man and one woman have experienced an overall decline in societal support for marriage, a reduction in the actual number of marriages taking place, an increase in cohabitation, and an increase in the number of children being born out of wedlock; and

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Whereas, North Carolina General Statute establishes, "A valid and sufficient marriage is created by the consent of a male and female person who may lawfully marry, presently to take each other as husband and wife, freely, seriously and plainly expressed by each in the presence of the other..." (N.C.G.S. § 51-1), and "Marriages, whether created by common law, contracted, or performed outside of North Carolina, between individuals of the same gender are not valid in North Carolina" (N.C.G.S. § 51-1.2); and

Whereas, North Carolina is the ONLY state in the Southeastern U.S. that has failed to take decisive action to safeguard its marriage laws by defining marriage in its state constitution as the union of one man and one woman; and

Whereas, voters in 13 of the 15 states in the Southeastern U.S. have added a definition of marriage in their state constitutions by an average passage rate exceeding 75%, and Florida voters will have the opportunity to do the same on November 4, 2008;

Whereas, the California Supreme Court issued an opinion on May 15, 2008, recognizing a constitutional right to same sex "marriage" in that state, and the State of California began issuing marriage licenses to same sex couples on June 16, 2008; and

Whereas, the issuance of marriage licenses by the State of California to same sex couples is expected to prompt a rash of lawsuits around the country, as same sex couples from across the nation travel to California to obtain marriage licenses, return home, and then file legal action in their states of residence in an attempt to gain the same legal status and recognition there; and

Whereas, states lacking a constitutionally protected definition of marriage, like North Carolina, are the most vulnerable and likely targets of such legal attacks; and

Whereas, for the last four years, legislation calling for a State Marriage Amendment has been introduced in the North Carolina House and the North Carolina Senate, but these bills have not seen action on the floor of either chamber, thus denying State lawmakers and the public the opportunity to vote on this critically important legislation; and

Whereas, a statewide poll released May 20, 2008, by the John William Pope Civitas Institute found that 71% of North Carolina voters statewide and 86% of African American voters expressed support for a State Marriage Amendment, demonstrating the widespread, bipartisan support for such an amendment; and

Whereas, the North Carolina General Assembly, being the appropriate policymaking body of the State, should not leave the institution of marriage vulnerable to redefinition by the courts; and

Whereas, the strongest defense against legal action seeking to overturn North Carolina's marriage laws is amending the State Constitution to add a clear definition of marriage "as the union of one man and one woman at one time"; and

Whereas, the North Carolina General Assembly should join every other state in the Southeastern U.S. by taking decisive action to provide the voters of the State the opportunity to amend the State Constitution to include a clear definition of marriage; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Article 14 of the North Carolina Constitution is amended by adding the following new section:

"Sec. 6. Marriage.

Marriage is the union of one man and one woman at one time. This is the only marriage that shall be recognized as valid in this State. The uniting of two persons of the same sex or the uniting of more than two persons of any sex in a marriage, civil union, domestic partnership, or other similar relationship within or outside of this State shall not be valid or recognized in this State. This Constitution shall not be construed to require that marital status or the rights, privileges, benefits, or other legal incidents of marriage be conferred upon unmarried individuals or groups."

SECTION 2. The amendment set out in Section 1 of this act shall be submitted to the qualified voters of the State at an election on November 4, 2008, which election shall be conducted under the laws then governing elections in the State. Ballots, voting systems, or both may be used in accordance with Chapter 163 of the General Statutes. The question to be used in the voting systems and ballots shall be:

"[]FOR []AGAINST

Constitutional amendment to provide that marriage is the union of one man and one woman at one time, and this is the only marriage that shall be recognized as valid in this State."

SECTION 3. If a majority of votes cast on the question are in favor of the amendment set out in Section 1 of this act, the State Board of Elections shall certify the amendment to the Secretary of State. The Secretary of State shall enroll the amendment so certified among the permanent records of that office.

SECTION 4. The amendment set out in Section 1 of this act becomes effective January 1, 2009.

House Bill 2803-First Edition