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NEW HAMPSHIRE *for* MARRIAGE

The Limited Government/Libertarian Case for Man Woman Marriage Executive Summary for New Hampshire

Jennifer Roback Morse, Ph.D.
Founder and President, the Ruth Institute
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Live Free or Die. How does the motto of the state of New Hampshire apply to the issue of marriage? What does it mean to be free, with respect to marriage and family? The people of New Hampshire have the opportunity to decide what view of marriage will prevail in their state.

The institution of natural marriage, one man and one woman, is more consistent with a society of free and responsible individuals, governed by a constitutionally limited state, than the alternatives. This document answers three questions: what is the essential public purpose of marriage? What is the proper posture of the state toward couples and their children? What is the proper role of the state toward the institution of marriage?

The essential public purpose of marriage is to attach mothers and fathers to their children and to one another.

- This essential public purpose is distinct from private, inessential purposes.
- The presumption of paternity, in the vast majority of cases, establishes that the biological parents are the legal parents of the child, and *no one else is*.
- This is an intrinsically public purpose that cannot be privatized.
- Marriage attaches parents to each other, for the protection of both parents' interests in the child, and for the child's interests in having a relationship with both parents.
- Adoption accommodates exceptional situations, without undermining the biological basis of parenthood.

The proper posture of the state toward couples and their children is to facilitate the attachment of mothers and fathers to their children and to one another.

- Attempting to create one legal institution that treats same sex couples identically with opposite sex couples is inconsistent with this posture of the state toward marriage.
- “Marriage equality” is sometimes presented as an enlargement of personal liberty and a diminishment of the power of the state, but the opposite is closer to the truth. Redefining marriage expands the power of the state.
- Redefining marriage redefines parenthood from a natural pre-political reality, to a legal creation of the state, thus increasing the power of the state.
- Implementing “de facto parent” laws require the courts to inquire into the most personal parts of people’s lives, including second-guessing their intentions, and taking evidence on how people spent their time and what people called each other.
- Children are entitled to a relationship with both parents. Genderless marriage uses the power of the state to artificially separate children from one of their parents.
- Redefining marriage marginalizes fathers from the family, both symbolically and practically.
- Marriage “equality” uses the power of the state to create new inequalities.
 - Mothers inside same sex relationships have fewer rights to control their children’s upbringing than other mothers.
 - Fathers’ rights are systematically diminished inside lesbian relationships.
 - Children of same sex parents have fewer relational and identity rights than other children.

What is the proper role of the state toward marriage? Respect marriage as a spontaneous order. Leave marriage the freedom to be itself.

- The market system and the institution of marriage have many points in common.
- The market is a spontaneous order. So is the institution of marriage.
- The market is a system of social cooperation. So is marriage and parenthood.
- The market needs minimal governmental legal structure, and within that structure, people are free to accomplish their personal goals. Similarly, the institution of marriage requires a basic structure which allows people the freedom to do what they want.

- Man woman marriage is a natural, pre-political reality that can survive, and has survived with little or no support from the state. "Marriage equality" is the artificial creation of the state and needs continual state support in order to survive.
- Redefining marriage has increased the intrusion of the state into civil society. The state has intervened in areas as diverse as adoption agencies, wedding photography, foster care, bed and breakfast businesses and parental rights to direct their children's education.
- Same sex couples are using contracts and the market to solve their practical problems.
- If this process were allowed to evolve naturally, male partnerships would look different from female partnerships, and both would look different from man woman couples. "Marriage equality" amounts to the state forcing one institutional structure upon all three types.
- The state must stop attacking the family. The state has no right to take over marriage and redefine it to suit its own purposes.