

Dear Members of the Wisconsin Legislature,

We are a group of attorneys who live and work in communities across Wisconsin. We write to express our opposition to the proposed constitutional amendment relating to marriage and civil unions.

If it were to pass, the proposed constitutional amendment would be the first in Wisconsin history to restrict rather than expand the rights of its citizens. The amendment prohibits many Wisconsin citizens from providing important legal protections for their loved ones. Families across the state would be constitutionally precluded from seeking the rights, benefits and obligations associated with marriage, solely on the basis of the gender of the two partners. The amendment would prevent couples from enjoying legal recognition of their long-term, committed relationships. This result is not in keeping with Wisconsin's progressive and inclusive constitutional history.

Wisconsin's proposed amendment also goes against the national trend of amending the U.S. Constitution to expand the rights of citizens. The U.S. Constitution has been amended to right such civil wrongs as slavery, and to expand voting rights to women and those over 18. The only time the Constitution was amended to restrict personal freedoms (Prohibition), the amendment failed to accomplish its goals and was eventually repealed at great social and financial expense. It is against this backdrop that the Supreme Court has consistently expanded the right of its citizens to enter into close, loving relationships. For instance, the Court has ruled that citizens have the right to marry regardless of race, financial status or even incarceration.

The U.S. Supreme Court has also been loath to endorse state actions when the sole governmental purpose appears to be animus to a particular class of people. Wisconsin's proposed amendment goes much farther than simply defining marriage—it also seeks to eliminate the ability of gays and lesbians to petition the legislature to create Vermont-style civil unions and provide domestic partnership benefits. The law takes aim at a particular segment of Wisconsin's populace, and therefore does not pass constitutional muster.

Singling out a class of persons for denial of access to the laws violates the federal constitution's guarantees of equal protection to citizens across the States, as affirmed in the Supreme Court's *Romer v. Evans* decision. In addition, the Supreme Court's recent *Lawrence v. Texas* decision affirmed that individuals have a fundamental liberty interest in self-determination and autonomy in their most intimate life decisions.

The U.S. Constitution has historically protected individual autonomy in such personal choices as the formation of families, equal access to protection under the law, and the right to petition the government. Should this amendment pass, it would likely be challenged as violating the constitutional rights of U.S. citizens. The amendment is also dangerously vague. Defending it would be costly to Wisconsin taxpayers, and would lack constitutional integrity. Proponents of the amendment have suggested that the state and federal courts can "sort out" the amendment's considerable deficiencies. But amending

the constitution is a serious step, one that is impossible to "fix" later without repeating the cumbersome amendment process. For this reason, adopting a vague and overbroad amendment is dangerous and ill advised.

Because the proposed constitutional amendment is not in keeping with Wisconsin tradition and holdings of the U.S. Supreme Court, we urge you to vote no when this amendment comes up for a second vote.