



**Testimony by Tony Perkins  
President, Family Research Council**

**In opposition to S. 424**

**Senate Judiciary Committee  
June 3, 2009**

Dear Senators:

I write to express my opposition and that of the Family Research Council to S. 424, a bill aimed at “permitting permanent partners of United States citizens” to immigrate to this country “in the same manner as spouses of citizens” based upon a non-marital, same-sex relationship. I urge you to vote “No” on S. 424.

**Families are formed by blood, marriage, and adoption.**

The very title given to this bill, the “Uniting American Families Act,” is a misnomer. “Families” traditionally and historically have been, and legally under federal law continue to be, formed by blood, marriage, or adoption alone. “Partnerships” between people of the same sex who have a sexual relationship do not constitute “family” relationships, and are not treated as such in any other area of federal law. There is no reason for Congress now to carve out an exception to that rule in the area of immigration.

**The bill violates the federal Defense of Marriage Act (DOMA).**

Even more specifically granting special immigration rights to the homosexual partners of American citizens would constitute a violation of the federal Defense of Marriage Act (DOMA), which was adopted in 1996 by large bipartisan majorities of both houses of Congress and signed into law by President Bill Clinton. This law declares that for all purposes under federal law, marriage is defined as the union of one man and one woman, and for almost thirteen years it has been correctly interpreted as barring the federal government from granting any benefits to same-sex “partners” on any basis defined by a parallel to legal marriage between a man and a woman.

I realize that there are some in this body who would like to repeal DOMA. The Family Research Council would vigorously oppose such a step—but in any case, repeal of DOMA must logically and legally precede consideration of any measure such as this one which would grant any of the benefits or privileges of marriage to unmarried couples.

**Marriage is defined by the public purposes it serves.**

Marriage is the most fundamental institution of society. Despite being the most intimate of personal relationships, it is also viewed as a public institution—one licensed, registered, and regulated by the government. The only logical reason for this public involvement in this most private of relationships is because of the *public* purposes served by marriage—namely, the reproduction of the human race and the nurture of children by the parents whose union produced them. Since homosexual relationships are intrinsically incapable of serving this public purpose in any cases whatsoever, there is no logical basis for treating them as marriage or as the equivalent of marriage, regardless of what *private* purposes they may serve for the individuals involved.

As for granting “benefits” of marriage upon same-sex partners without conferring the name “marriage,” it is important to bear in mind a key principle—society gives benefits to marriage because marriage gives benefits to society. These true “benefits of marriage” are numerous and have been well-documented—both married husbands and wives and children raised by their own married mother and father are happier, healthier, and more prosperous than people in any other household situation.

Regardless of whatever personal benefits homosexual partners may believe that they derive from their relationship, they simply do not provide benefits to society that are at all comparable to the benefits provided by marriage between one man and one woman, and there is therefore no reason why society should privilege such relationships over ones which are merely close friendships without a sexual component.

### **Homosexual relationships do not benefit American society.**

Apart from family relationships, which do not exist in this circumstance, preference in American immigration law has historically been given to persons who have skills of particular value to the American economy or society. Again, engaging in homosexual relationships does not provide such value. On the contrary, homosexual conduct is associated with numerous problems which would burden society, most notable among them the high rates of sexually transmitted diseases among homosexual men.<sup>1</sup>

### **The bill’s definition of “permanent partnerships” is too vague.**

While these are the reasons why, in principle, I believe it would be unwise to grant special privileges to would-be immigrants on the basis of a homosexual relationship, there are also specific practical problems with the legislation before you. Its definition of “a permanent partnership” does not require that such a partnership be one which is legally recognized in any jurisdiction which offers such recognition, so it entirely unclear how an individual would go about proving that such “a committed, intimate relationship . . . in which both individuals intend a lifelong commitment” even exists—or when it has been terminated.

Although the legislation includes a description of “permanent partnership fraud” and provides penalties for it, the vagueness of its definitions nevertheless creates an open invitation for such fraud to occur.

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<sup>1</sup> Last year a leading AIDS researcher, Ronald Stall, a professor in the department of behavioral and community health sciences at the University of Pittsburgh, told a medical conference, “It may be a fallacy to say that HIV is the dominant, most dangerous and most damaging epidemic among gay men in the United States today. There are at least four other epidemics occurring among gay men and making each other worse. This is called a syndemic.” Citing data from the Urban Men’s Health Study, Stall named substance abuse, partner violence, depression, and childhood sexual abuse as the four other epidemics affecting this population. See: Jay Lewis, “A multifaceted approach may be needed to reduce HIV risk in MSM,” *Infectious Disease News*, March 2008; online at: <http://www.infectiousdiseasenews.com/200803/reduce.asp>

**This bill would introduce new forms of discrimination into the law.**

While S. 424 says that its purpose is “to eliminate discrimination in the immigration laws,” it actually introduces whole new areas of discrimination into those laws. Because, as noted above, entering and exiting a “permanent partnership” is much easier than entering and exiting a legal marriage, the bill actually introduces discrimination *against* those who are legally married, because they face higher hurdles for entry into a relationship that can derive benefit from the law than “permanent partners” do.

In fact, the bill can also be said to introduce discrimination on the basis of sexual orientation, as well—discrimination in favor of homosexuals, that is, because only homosexual couples (those “unable to contract with that other individual a marriage cognizable under this Act”) are able to reap its benefits, thus placing both married heterosexuals and heterosexuals in their own “permanent partnership” at a disadvantage.

Given these difficulties, it seems clear that the most effective means of avoiding the pitfalls of “discrimination” with respect to granting spousal immigration rights is to simply continue the policy of granting such rights only to those in a legal marriage as defined by federal law.

**Marriage should not be redefined by back-door methods.**

Finally, let me add a note about the politics of this legislation. I know that there are those in this body who hold a position like that of President Obama—that is, you believe that civil marriage should continue to be defined as the union of a man and a woman, but are nevertheless inclined to support legislation like this which grants specific spousal rights to same-sex couples. I would point out to you that the court decisions over the last thirteen months in support of same-sex “marriage” in California, Connecticut, and Iowa have made it clear that such incremental steps are not a compromise that will forestall same-sex “marriage,” but a major concession that merely paves the way for it.

I understand that there are also those of you in this body who openly advocate allowing civil marriages nationwide between same-sex couples on the same basis as opposite-sex couples, arguing that this is an issue of “civil rights.” Since no such “right” is found in the text of the Constitution, those who wish to establish a “right” to same-sex “marriage” should pursue that goal by the only legitimate means for doing so—namely, by amending the U.S. Constitution. I urge you not to simply chip away at the natural and legal definition of marriage as the union of one man and one woman through incremental legislation such as this bill.

The Senate should reject S. 424.

Sincerely,

A handwritten signature in black ink that reads "Tony Perkins". The signature is written in a cursive style with a large, sweeping initial "T".

Tony Perkins  
President