

Minnesotans Say “No Thanks” To Definition Of Marriage Amendment

Minnesota nixes marriage definition amendment

Tuesday’s election made Minnesota the first state to reject a proposed constitutional amendment which would have defined marriage to include only heterosexual couples. In all other states in which such a constitutional amendment had previously been placed on a ballot, the measure had passed. What does this mean for Minnesota family law?

Minnesota’s constitutional amendment process

Minnesota’s process for amending its constitution is relatively straightforward. First, a majority of votes in both the state House and Senate are required to place the proposed amendment on an election ballot. Because a simple majority is a low threshold (many other states require two-thirds majorities, or have other additional requirements), there are more constitutional amendments proposed per year than you might think; in 2011, there were over 25 when you combine those proposed in the House and Senate.

If the proposed amendment makes it onto the ballot, only a simple majority is again needed to pass the amendment. However, if a voter does not vote either yes or no on their ballot, that blank vote will count as a no.

Why a constitutional amendment?

With a state law prohibiting gay marriage already in effect, why did proponents of banning gay marriage seek a constitutional amendment? One object was to head off any potential challenges to the state law. Courts in other jurisdictions have previously found laws which ban gay marriage to be unconstitutional; for example, in February, a federal appellate court struck down California’s gay marriage ban. It would be hard to argue that a prohibition of gay marriage was unconstitutional if a constitutional amendment were passed explicitly defining marriage as between one man and one woman!

A constitutional amendment can also be a convenient way of bypassing a state governor of an opposing political viewpoint, since the governor’s signature is not required to place a proposed constitutional amendment on the ballot.

Effect of election outcome

As stated above, Minnesota already has a law banning gay marriage (“The following marriages are prohibited...a marriage between persons of the same sex”). This means that defeat of the proposed constitutional amendment does not legalize gay marriage. However, it does open the door for either a new law specifically legalizing gay marriage, or for a challenge to the current law as unconstitutional.

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While I appreciate all of our readers (I really do!) a few things to know before you send me an email with a "quick legal question" I'm a Minnesota only lawyer. I can't give any advice about the laws in any other state except Minnesota. Also, while I am a believer that while clients needs to know as much information as they can (that's why I do these blogs) I can't give advice to you via email and unless we sign a retainer agreement and pay the retainer as our malpractice carrier is very particular about giving out advice over email to non-clients.