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Defense of Marriage Act repeal gets hearing

Dennis Sadowski Catholic News Service | Jul. 20, 2011

WASHINGTON (CNS) -- Legislation pending in both houses of Congress would repeal the 15-year-old Defense of Marriage Act, allowing legally married same-sex couples to take advantage of the same benefits married heterosexual couples receive under federal law.

Called the Respect for Marriage Act, the legislation would end what its supporters consider illegal discrimination against legally married same-sex couples.

However, advocates for traditional marriage said the identical bills, H.R. 1116 in the House and S. 598 in the Senate, would open the door to redefining marriage and would eventually force states where same-sex marriage is illegal to recognize such unions.

The Defense of Marriage Act, known as DOMA, says the federal government defines marriage as a union between one man and one woman and gives states the authority to reject same-sex marriages that may have been legally recognized in other states.

Same-sex marriage is legal in Connecticut, Iowa, Massachusetts, New Hampshire, New York, Vermont and the District of Columbia.

The Obama administration announced July 19 that it supported the legislation. In February, the White House instructed the Department of Justice to stop defending the law passed by Congress and signed into law in 1996 by President Bill Clinton.

The Senate Judiciary Committee held a hearing on the legislation July 20. No hearing has been scheduled on the House version, which was assigned to the Subcommittee on the Constitution.

As of July 20, 27 senators had signed on as co-sponsors of the bill, introduced by Sen. Dianne Feinstein, D-Calif. The House version, introduced by Rep. Jerrold Nadler, D-N.Y., had 117 co-sponsors. All of the co-sponsors are Democrats.

Daniel Avila, policy adviser for marriage and family to the U.S. bishops' Subcommittee for the Promotion and Defense of Marriage, told Catholic News Service that arguments for the repeal of DOMA on grounds that it violates basic civil rights hinge on the definition of marriage itself.

"The church's position, which is the position which agrees with that of other religions as well as secular organizations and groups, is that marriage is the union of man and woman," Avila said. "You can't take away the reference in the definition to sexual difference without then changing what marriage is."

Avila also cited the need to protect the views of a majority of Americans, particularly those in states where same-sex marriage is banned by voter-approved amendments to state constitutions.

"If DOMA were ever to be repealed, then you will put the federal government in the position ... to countermand, override the expressed views of voters throughout the country," Avila said. "This cannot be resolved simply by repealing DOMA and thinking then that the debate's over and justice is done."

Citing federal court decisions in two Massachusetts cases that found the Defense of Marriage Act unconstitutional, Feinstein said in a press statement July 19 at the National Press Club that the time has come to do away with the law.

"The bill is simple," she said. "It would strike the Defense of Marriage of Act from federal law and it would free the government to allow the same kind of benefits that they allow for married couples.

"Because of DOMA, these (same-sex) couples cannot take advantage of federal protections available to every other married couple in the country," she said. "There are over a thousand federal laws and protections that are afford to married couples but not to legally married same-sex couples in any of the states that approve same-sex marriage."

Feinstein pointed to federal provisions that do not apply to same-sex couples under the 1996 law including the inability to file a joint income tax return and to take advantage of tax deductions for married couples, the denial of spousal benefits under Social Security, banning unpaid leave under the Family and Medical Leave Act when a partner is ill, and the prohibition of estate tax protections on inheritance.

Supporters of the measure, among them three same-sex couples and the director of an online organizing network promoting full equality for lesbian, gay, bisexual and transgender Americans, told reporters the legislation would not force any religion to change its standards for what constitutes a marriage.

"What we're trying to do, very, very simply, is make sure that United States senators, members of Congress and the people of this country see the impact of the Defense of Marriage Act is ... very un-American," said Richard D. Jacobs, chairman of the Los Angeles-based Courage Campaign, the online organizing network.

"This issue should be without controversy," he added. "It should be without controversy because all it does is remove a law that never belonged on the books. It isn't granting anew. It just takes the federal government out of the mix of what states can do."

Phil Attey, executive director of Catholics for Equality, told CNS July 20 that the legislation is important because it will provide a "trajectory for lesbian and gay people who need to grow up knowing they will be able to have a full, complete life."

"As you're growing up as a child, knowing that you'll be free to have the career of your choice, be able to build the family of people that you love, that's important. It's (marriage) a basic component of what society considers a happy, stable life," he said.

"And the government denying that to a specific class of people is not only wrong from a constitutional standpoint, but it's wrong from a spiritual standpoint," added Attey, who said he is a practicing Catholic.

He explained that his organization does not advocate for same-sex marriage within the church but only as a public policy concern.

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Editor's Note: The text of the Respect for Marriage Act can be found online at thomas.loc.gov/cgi-bin/query/z?c112:H.R.1116: and at thomas.loc.gov/cgi-bin/query/z?c112:S.598:.

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