

## MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:30 a.m. on Wednesday, March 17, 2004, in Room 313-S of the Capitol.

All members were present except:

Senator David Haley - Arrived 9:35

Committee staff present:

Mike Heim, Kansas Legislative Research Department  
Jill Wolters, Office of the Revisor Statutes  
Helen Pedigo, Office of the Revisor Statutes  
Diana Lee, Office of the Revisor Statutes  
Dee Woodson, Committee Secretary

Conferees appearing before the committee:

Senator Tim Huelskamp  
Representative Kathe Decker  
Representative Janice Pauls  
Reverend Bob Hanson, Kansas Nebraska Convention of Southern Baptists and Pastor of Shawnee Heights Baptist Church, Topeka  
Reverend Richard Jenkins, First Southern Baptist Church, Coffeyville  
Doug Robinson, Lawrence  
Reverend Pat Bullock, Heart of Kansas Southern Baptist Association  
Judy Smith, State Director, Concerned Women for America of Kansas  
Briana Olds, Manhattan  
Dr. R. L. Baynham, President, Kansas Missionary Baptist State Convention of Kansas  
Reverend Bo Merlin, Assemblies of God of Kansas  
Cecil Washington, Pastor of The New Beginning Baptist Church, Topeka  
Mike Farmer, Executive Director, Kansas Catholic Conference (written testimony)  
Dr. Jack Jacob, Topeka (written testimony)  
Harold Smith, Topeka business owner (written testimony)  
Dr. Walter Schumm, Kansas State University  
Quentin Martin, Topeka, Ks. (written testimony)  
Diane Silver, Freedom Coalition  
Bruce Ney, Lawrence attorney  
Bonnie Cuevas, Parents, Family & Friends of Lesbians and Gays  
Sandra Stenzel, Director of Economic Development for Trego County  
Pedro Irigonegaray, Topeka Attorney  
Rabbi Berry Albin, Kansas City, Ks.  
Tiffany Muller, Kansas Unity & Pride Alliance  
Representative Jan Scoggins-Waite  
David Greenbaum, Lawrence  
Lacey Keller, Seaman High School, Topeka  
J. L. Cleland, Hoyt, Ks.  
Reverend David Grimm, Unitarian Universalist Fellowship of Manhattan  
Paul Osgood, Merriam, Ks.  
Mary Corcoran, Lawrence  
Tom Cyphert, Topeka (written)  
Gwendolyn Evans, GLBT Democrat Caucus, Topeka (written)  
Steve Brown, President, Kansas Democratic (written)  
Brenda Godsey, Junction City (written)  
Rev. Thomas Belote, Shawnee Mission Unitarian Universalist Church (written)  
Dr. Ernest A Benson, Pastor, East Topeka United Methodist Church and Ashbury Mt. Olive United Methodist Church (written)  
Deb Taylor, Lawrence Alliance (written)  
Steve Pinkerton, Topeka (written)  
Lawrence Hurlbert, Leavenworth (written)  
Eleanor Harris, Stillwell, Ks. (written)

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Dr. Dean Cook, Jr., Topeka (written)  
Dusty Rhodes, Wichita (written)  
Beverly Cole, Salina (written)  
Jason Chaika and Terry Bowers, Topeka (written)  
Janis McMillen, League of Women Voters of Kansas (written)  
Tymber (Lynn) Dhans, Lawrence (written)  
Linnea Johnson, Topeka (written)  
Ruben Cajanda, Lawrence (written)  
Ruth Linscheid, Newton (written)  
Margaret Childs, Douglas County (written)  
Christopher Renner, Manhattan (written)  
Christine Baker, Manhattan (written)  
Joann Steuver, Wichita (written)  
Jamie Oller, student from Lawrence High School (written)  
Anna Holcombe, Kansas National Organization for Women (written)  
Regina Brokman, Topeka (written)  
Benedette Koslover, Topeka (written)  
The Revs. Nicholas Warner and Amy Lippoldt, Trinity United Methodist Church, Hutchinson (written)  
Donna Swall, Lawrence, Ks. (written)

Others attending: See attached list.

**HCR 5033 - Constitutional amendment; state recognizes only marriage between a man and a woman**

Chairman Vratil opened the hearing on **HCR 5033**. Senator Tim Huelskamp testified in support of the proposed legislation. He stated that the ideal of a committed and loving husband and wife, nurturing their children, was the cornerstone of every society. He added that for all generations, marriage has meant one thing which is the union of one man and one woman. He asked that Kansans be given the right to vote on this amendment at the earliest possible time on the August ballot. ([Attachment 1](#))

Representative Kathe Decker spoke in favor of **HCR 5033**. She said other states have had statutes defining marriage, and when challenged in court were found lacking in their protection of marriage as we know it. Weakening the traditional family system devalues the importance of marriage between a man and a woman, lessening responsibility for children and taking the mantle of commitment away. ([Attachment 2](#))

Representative Janice Pauls testified in support of the proposed bill. She explained that the proposed amendment would place into the Kansas Constitution the present law in Kansas regarding marriage. All other marriages are declared to be contrary to the public policy of Kansas and are void. The only reason this proposal for a constitutional amendment was being made was to raise this traditional definition of marriage to a constitutional level. ([Attachment 3](#))

Rev. Bob Hanson, Kansas Nebraska Convention of Southern Baptist and Pastor of Shawnee Heights Baptist Church in Topeka, spoke in favor of **HCR 5033**. He stated that Southern Baptists do not believe that homosexuality is genetic or immutable. ([Attachment 4](#))

Rev. Richard Jenkins, Coffeyville, testified in support of the proposed legislation. He believed that the proposed amendment is reasonable and does not violate the separation of church and state, and that religious people were not trying to force their views on others. He stated that to make any other relationship equal to marriage was to go against nature and reason, everything we have ever known in our nation's history, in civilization itself, and in the world's great religions. He concluded that a matter of such importance is something that should not be forced on people by judicial action, and this amendment will prevent that from happening in Kansas. ([Attachment 5](#))

Doug Robinson, Lawrence, testified in support of **HCR 5033**. He stated that what was at stake was not

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just marriage, but the conflict was really between competing world views. He said the gay movement was about much more than sexual activity for it is primarily concerned with questioning and redefining what it means to be human, and it is not a passive thoughtfulness, but a vigorous movement on the march.

(Attachment 6)

Rev. Pat Bullock, Heart of Kansas Southern Baptist Association, spoke in favor of the proposed bill. He stated that the courts should not legislate this issue; that it must be put before the people. The courts are pushing an anti-social agenda that will destroy what is normal and advocate what is unnatural. He concluded by saying he must speak out for what will reinforce the values that made this nation great. Rev. Bullock said he would fight for the right of every citizen to believe what he or she wants; however, those beliefs and actions are being forced on society in a manner that destroys the foundation upon which this great nation was built. (Attachment 7)

Judy Smith, Concerned Women for America of Kansas, testified in support of **HCR 5033**. She said that marriage as an institution pre-dates law. It was an entity before the Ten Commandments, before the Code of Hammurabi, before any of the ancient civilizations. Men and women under law can marry whether or not they view it as religious. Ms. Smith expressed that the Legislature has the opportunity to strengthen the institution of marriage and protect from judges who want that would like to refashion marriage to their design.

(Attachment 8)

Brianna Olds, home-educated high school student from Manhattan, spoke in favor of the proposed legislation. She reminded the Committee members that when America was founded there was not a need to define marriage by the government. She pointed out that Webster's dictionary defined marriage as "the mutual relation of a husband and wife: the institution whereby men and women are joined in a special kind of social and legal dependence for the purpose of founding and maintaining a family". She stated that without a clear definition of marriage, the interpretation will then be left to the individuals.

(Attachment 9)

Dr. R. L. Baynham, Kansas Missionary Baptist State Convention of Kansas, testified in support of **HCR 5033**. He stated that there must be principles and standards we adhere to or else society will always be changing the standard to fit changing desires and ambitions. (Attachment 10)

Rev. Bo Melin, Assemblies of God in Kansas, appeared in favor of the proposed legislation. Civilized societies have long understood the necessity of guidelines and fair laws for governing themselves. In the United States, those laws should and must reflect the will of the people. He stated that whenever a society ignores God's natural order suffers the consequences of its own choices.

(Attachment 11)

Pastor Cecil Washington, The New Beginning Baptist Church, Topeka, testified in support of **HCR 5033**. He said he was distressed that the African American struggle was being diluted by the constant attempt to equate African American rights with homosexual rights. It was definitely not the same struggle. He stated that the United States of America and its government were founded on Biblical principles, and as a result, have grown stronger and lasted longer than any nation or other form of government. (Attachment 12)

Due to time limitations, the following conferees submitted their testimony as written in support of **HCR 5033**:

Mike Farmer, Kansas Catholic Conference (Attachment 13)

Dr. Jack M. Jacob, Topeka (Attachment 14)

Harold Smith, Topeka business owner (Attachment 15)

Quentin Martin, Topeka (Attachment 16)

Dr. Walter Schumm, Kansas State University (Attachment 17)

Diane Silver, Freedom Coalition, testified in opposition to **HCR 5033** because it writes discrimination

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into the Kansas Constitution, the state already has a law banning same-sex marriages, and that state law can only govern civil marriage. She shared her experiences in losing her partner to breast cancer, and the problems incurred with getting custody of her partner's son and other legal and financial hardships. ([Attachment 18](#))

Bruce Ney, Lawrence attorney, spoke against the proposed legislation. At a time when the Kansas economy remains sluggish, the state should be doing its best to attract new businesses and expand existing ones. **HCR 5033** does nothing to achieve that goal. He added that the bill makes our communities' efforts to attract new business even more difficult and sends the wrong message to businesses: "companies with gay or lesbian employees are not welcome in Kansas." ([Attachment 19](#))

Bonnie Cuevas, Parents, Family & Friends of Lesbians and Gays, testified in opposition to **HCR 5033**. Revising the Constitution to ensure discrimination against anyone in American is wrong and should be rejected. Mrs. Cuevas shared that she and her husband are a mixed race couple, have been married for 35 years, and have two sons; one heterosexual and one gay. She said it was important to distinguish between a marriage that is performed by a church and a legal marriage as licensed by the government. If people of the same sex are permitted to have government-authorized marriages, no church will be compelled to recognize or bless the relationship. She related reasons that access to equal legal recognition of same-sex couple is important. ([Attachment 20](#))

Sandra Stenzel, Director of Economic Development for Trego County, spoke in opposition to the proposed legislation. She stated that laws are made according to the will of the majority, but the Kansas Constitution is a permanent document that guarantees protection for those who chose a different path in life, whether that path is to embrace a religion or idea that is not popular, or a domestic lifestyle that is a political "hot potato". ([Attachment 21](#))

Pedro Irigonegary, Topeka attorney, testified against **HCR 5033** proposed amendment. He said the amendment was not necessary as the state's laws already deny civil marriage to same-sex couples. He explained the state's regulator authority is not unlimited, it's police power is not absolute, and the people give government its power, not the other way around. Gay individuals are a minority who are unable to achieve equality under the law; however, government has a duty to ensure that all citizens of our state are provided the equal protection of law found in our national and state constitutions. ([Attachment 22](#))

Rabbi Barry Albin, Kansas City attorney and Rabbi of the Nasorean Orthodox Quahal, spoke in opposition of the proposed legislation. Rabbi Albin said the bill was contrary to the Kansas Bill of Rights, Article 1, Section 1. He shared that already two states, Vermont and Massachusetts, have agreed to have at least civil unions between persons of the same-sex, and he expects Oregon, California, and New York to join that group this year. ([Attachment 23](#))

Tiffany Muller, Kansas Unity and Pride Alliance, testified in opposition to **HCR 5033**. She pointed out that this amendment had been pushed through the House with such speed that there was not even a fiscal note attached to the amendment. She said it was estimated that the total cost to send this to the public for a vote was around \$1 million, and suggested those funds could be better spent on the education plan or the general budget. ([Attachment 24](#))

Representative Jan Scoggins-Waite testified against **HCR 5033**. As legislators, we are at the Capitol to build bridges and not to single out a certain segment of society, categorizing them into a group of second class citizens. She shared that she had two very successful sons, one of which is gay. She expressed that the constitutional amendment would deny the right of many Kansans to marry the person they love, and it would deny my right to see my son marry the person he loves. ([Attachment 25](#))

David Greenbaum, Lawrence, spoke in opposition to the proposed bill. He said he and his partner were married in June 1999 in their synagogue. He explained that Reform Judaism, as well as Reconstructionist Judaism, support both civil and religious marriages of members of the same gender. He stated that voting against this amendment did not mean a legislator supports same sex marriage, a vote against this amendment means you as lawmakers trust future legislators to determine what, if any, legal recognition same sex relationships will have in the future. ([Attachment 26](#))

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Lacey Keller, Seaman High School student, Topeka, testified in opposition to **HCR 5033**. She explained how coming from a small town in North Central Kansas where ethnic and cultural diversity was not a strong point. She shared that after moving to Topeka five years ago, she learned to understand about sexual orientation through a girl who explained to a group of friends at school her sexual orientation. Ms. Keller stated that passing an amendment that denies civil right and liberties to a select few would be ironic as this is the 50<sup>th</sup> anniversary of *Brown v. Topeka Board of Education*. ([Attachment 27](#))

J. L. Cleland, Hoyt, Ks., appeared in opposition to **HCR 5033**. He gave statistics that GLBT (gay, lesbian, bi-sexual, transgender) people represent between 4% and 10% of the general population. He stated that did not choose to be born, nor did he choose to be gay. He said being gay is not a choice, and it is not a lifestyle. He asked that the Legislature provide a mechanism whereby GLBT couples can have the same privileges and responsibilities as married heterosexual couples, whether you call it a civil union, a domestic partnership, or whatever. He emphasized that this would only be fair and equal treatment of all citizens. ([Attachment 28](#))

Rev. David Grimm, Unitarian Universalist Fellowship of Manhattan, testified against the proposed bill. He told the Committee the benefits and rights that come with marriage including automatic inheritance rights, assumption of spouse's pension, bereavement leave, insurance breaks, tax break, divorce protections, etc. These benefits and rights are currently not available to same-sex persons who choose to live as a couple. He said that married citizens would be outraged if those rights were taken away, and related that to same gender marriages that do not have any of those benefits or rights under the law. ([Attachment 29](#))

Paul Osgood, Merriam, Kansas, testified in opposition to **HCR 5033**. He shared that he and his partner had been together for 28 years, and felt that their committed relationship was sacred as well. He said he hoped the citizens of Kansas could move beyond hate to acceptance. ([Attachment 30](#))

Mary Corcoran, Lawrence, spoke in opposition to the proposed bill. She stated that **HCR 5033** is divisive, distracts from more pertinent issues in the state, and rekindles hostilities and bias. She said that this bill was a drastic and unnecessary measure that would single out a class of people who already have laws that restrain them. ([Attachment 31](#))

Due to time restraints, the following conferees submitted their testimony as written in opposition to **HCR 5033**:

Tom Cyphert, Topeka ([Attachment 32](#))  
Gwendolyn Evans, GLBT Democrat Caucus, Topeka ([Attachment 33](#))  
Steve Brown, President, Kansas Democratic ([Attachment 34](#))  
Brenda Godsey, Junction City ([Attachment 35](#))  
Rev. Thomas Belote, Shawnee Mission Unitarian Universalist Church ([Attachment 36](#))  
Dr. Ernest A Benson, Pastor, East Topeka United Methodist Church and Ashbury Mt. Olive United Methodist Church ([Attachment 37](#))  
Deb Taylor, Lawrence Alliance ([Attachment 38](#))  
Steve Pinkerton, Topeka ([Attachment 39](#))  
Lawrence Hurlbert, Leavenworth ([Attachment 40](#))  
Eleanor Harris, Stillwell, Ks. ([Attachment 41](#))  
Dr. Dean Cook, Jr., Topeka ([Attachment 42](#))  
Dusty Rhodes, Wichita ([Attachment 43](#))  
Beverly Cole, Salina ([Attachment 44](#))  
Jason Chaika and Terry Bowers, Topeka ([Attachment 45](#))  
Janis McMillen, League of Women Voters of Kansas ([Attachment 46](#))  
Tymber (Lynn) Dhans, Lawrence ([Attachment 47](#))  
Linnea Johnson, Topeka ([Attachment 48](#))  
Ruben Cajanda, Lawrence ([Attachment 49](#))  
Ruth Linscheid, Newton ([Attachment 50](#))  
Margaret Childs, Douglas County ([Attachment 51](#))  
Christopher Renner, Manhattan ([Attachment 52](#))

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Christine Baker, Manhattan ([Attachment 53](#))

Joann Steuver, Wichita ([Attachment 54](#))

Jamie Oller, student from Lawrence High School ([Attachment 55](#))

Anna Holcombe, Kansas National Organization for Women ([Attachment 56](#))

Regina Brokman, Topeka ([Attachment 57](#))

Benedette Koslover, Topeka ([Attachment 58](#))

The Revs. Nicholas Warner and Amy Lippoldt, Trinity United Methodist Church, Hutchinson ([Attachment 59](#))

Donna Swall, Lawrence, Ks. ([Attachment 60](#))

Chairman Vratil expressed his appreciation to everyone for their attendance and cooperation in holding this hearing. He announced that the Committee intended to work **HCR 5033** the following Friday, March 19, 2004.

The Chair adjourned the meeting at 10:30 a.m. The next scheduled meeting is Thursday, March 18, 2004.