# Options For Dealing With Same-Sex Marriage Licenses

by Phyllis Schlafly Mar. 3, 2004

Google Ads are provided by Google and are not selected or endorsed by Eagle Forum

Congress overwhelmingly passed and President Bill Clinton signed the Defense of Marriage Act (DOMA) in 1996, and there it rested peacefully on the law books until this year. Recent events are now placing the monkey squarely on the back of President George W. Bush to do his constitutional duty to "take care that the laws be faithfully executed."

It's not enough that he is "troubled" about the marriage licenses that have been issued to over 3,000 same-sex couples in San Francisco and 26 in New Mexico, and may soon be issued in Massachusetts, or that he is carefully pondering whether to endorse a proposed amendment to the U.S. Constitution. He should meanwhile enforce existing federal law.

DOMA states unequivocally that the federal government recognizes marriage only as "a legal union between one man and one woman as husband and wife," and the word spouse only as "a person of the opposite sex who is a husband or a wife." The General Accounting Office compiled a 58-page list of 1,049 federal rights and responsibilities that are contingent on DOMA's definition of marriage.

The GAO report lists these 1,049 federal laws in many categories, including Social Security and welfare, veterans, taxation, federal employees, and private employees. The GAO report states that the man-woman marital relationship is "integral" to the Social Security system and "pervasive" to our system of taxation.

The widespread social and familial consequences of DOMA impact on adoption, child custody, veterans benefits, and sponsorship of a non-American spouse. DOMA's enormous financial consequences include joint income tax returns, survivor's rights to Social Security benefits, and the tax-free inheritance of a spouse's estate.

It is impossible for same-sex couples to apply any equal-protection theories to America's tax or Social Security architecture. Both systems are designed to prefer husbands and wives over single people because of society's consensus that it is right and economical for husbands and wives to raise their children, and for wives to be provided for after their husbands retire or die.

Even in the world of private industry, DOMA has a big impact. A third of Fortune 500 companies offer health insurance benefits to domestic partners, but employees must pay income tax on the value of such partner benefits because that insurance is not recognized by federal law as a deductible corporate expense.

Fathers and mothers are usually in shock when they discover that auto insurance for their single children costs so much more than their parents' rates. But those differences of treatment are based on accident statistics.

Gay activist groups are already starting to instruct same-sex couples to file joint income tax returns, so the Bush Administration should establish procedures right now in order that the bureaucracy will know how to handle the paperwork. The model is already in place.

In earlier times, our friendly Internal Revenue Service used to take our word for how many children we had when we claimed child exemptions, and most kids didn't get a Social Security number until they started their first job. Suspecting some hanky-panky in the matter of child exemptions, Congress required tax returns starting in 1988 to include the taxpayer identification number (usually the Social Security number) of each dependent age five or older.

The age at which a child's Social Security number must be reported was subsequently reduced to age two, then to age one, then to birth. Most children now receive their Social Security number as newborns.

Millions of children disappeared as tax exemptions when the federal forms required this specific information. But everybody's used to it now, and parents don't get income-tax exemptions unless they report their children's Social Security numbers.

The Bush Administration should immediately instruct the Internal Revenue Service to prepare 2004 income tax forms with a line requiring joint returns to include the date and place of marriage, thereby enabling Internal Revenue to identify and reject joint returns claiming fake marriages. But that's just the first step the federal government should take.

President Bush does not have the power to give orders to the San Francisco Mayor. But he should additionally (2) instruct all federal agencies to prepare for energetic compliance with the 1,049 federal regulations impacted by DOMA, (3) investigate whether Internal Revenue will have to reject joint tax returns from ALL couples (same-sex or opposite-sex) who are married in any county, state or country where the legal definitions of marriage and spouse are changed, (4) investigate how federal funds can be withheld from states that permit the travesty called same-sex marriage, and (5) announce his full support of Rep. John Hostettler's bill (H.R. 3313) to prevent the federal courts from overturning DOMA.