

Findings

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Domestic Partner Benefits

Chipping Away at Marriage and the Traditional Family

By Dorrian Horsey



According to a famous story, President Abraham Lincoln once asked a group, “If one called a dog’s tail a leg, how many legs would the dog have?” To his audience’s predictable response of “five,” the President laughingly replied, “No matter what you call a tail, it is never going to be a leg.”¹

Similarly in today’s ongoing debate over domestic partnerships, many are again falling for the same trick question when it comes to defining the family. To put it simply, the homosexual agenda stretches far beyond its current rallying cry for same-sex marriage and tolerance in the public square. It all comes down to the definition of family.

In *The Domestic Partnership Organizing Manual (Manual)*, The National Gay and Lesbian Task Force explicitly states that the “goal of domestic partnership benefits is to allow the concept of family to include a diversity of relationships, including those that are not formally recognized through marriage.”² These diverse relationships would include unmarried heterosexual couples, same-sex couples, non-romantic couples and partners’ children.³ The manual encourages every employer to extend domestic partnership benefits as an acknowledgment that “all its employees are equal, and therefore their relationships are also equal.”⁴ This broad range of entitled beneficiaries emphasizes a deliberate shift away from the traditional definition of marriage and family toward a man-made definition of family which has unlimited formations.

The emphasis on redefining family is at the center of all homosexual rhetoric. Homosexual activist Michelangelo Signorile wrote, “The most subversive actions

lesbians and gays can undertake—and one that would perhaps benefit all of society—is to transform the notion of ‘family’ entirely.”⁵ In 1972, the National Coalition of Gay Organizations issued a homosexual rights platform that included an endorsement of same-sex marriage and “the extension of legal benefits to all who cohabit regardless of sex or numbers.”⁶ The Alternatives to Marriage Project is a pro-homosexual organization that advocates acceptance of cohabitation, same-sex marriage, common-law marriage and polyamory⁷ as lifestyle choices that are the equivalent of traditional marriage.⁸

What Are They?

Homosexual advocates define domestic partnerships as “an ongoing, committed relationship between two adults of the same or opposite sex who are not otherwise legally married.”⁹ Other terms sometimes used instead of domestic partner are “life partner,” “spousal equivalent,” “alternative family” and “family type unit.”¹⁰ Domestic partner benefits are benefits that an employer may choose to offer the unmarried partners of their employees.¹¹

There are two general categories of benefits awarded in the workplace: soft benefits and hard benefits. Soft benefits are non-health benefits that may include but are not limited to bereavement and sick leave, adoption assistance and relocation benefits.¹² Hard benefits are typically insurance benefits, which may include but are not limited to medical benefits, dental and vision care and long-term care.

¹³ According to the homosexual advocacy group, Human Rights Campaign, a total of 7,149 private employers currently offer some form of domestic partnership benefits.¹⁴ Among public employers, 10 state governments and 175 local governments offer domestic partner benefits to

their employees.¹⁵ Most of these benefits fall under the soft benefit category, which is less expensive to administer. However, more public attention tends to be focused on the hard benefits such as health insurance.¹⁶ Although domestic partner advocates will generally accept soft benefits as an initial step, they have made it clear that the ultimate goal is the extension of the same benefits to domestic partners that spouses receive.¹⁷ For example, in July 2004, New Jersey implemented the Domestic Partners Act.¹⁸ This legislation amended state law to require that same-sex partners be treated as a dependant or spouse for the purposes of administering health and retirement benefits and also amended the state’s civil rights code to include “domestic partnership status” as a protected class.

Requirements for domestic partner benefits may vary based on the employer’s individual specifications. Generally, the partners must share a residence, be over the age of 18, be “emotionally interdependent” and intend to reside together indefinitely.¹⁹ Many employers require applicants to sign affidavits verifying the existence of the domestic partnership and provide additional documentation such as proof of a joint checking account.²⁰ Others require the partnership to have existed for a specified amount of time before benefits may be granted.²¹ Despite this relatively low bar for access to benefits, homosexual advocates complain that policies that require proof of the relationship are discriminatory if married couples are not asked to verify their relationship through a marriage certificate.²² However, unlike their married coworkers, advocates warn employees that signed domestic partners’ affidavits may result in “unintended legal consequences” such as support payments and assertion of property rights if

a domestic partnership is terminated.²³ This inconsistency is an example of how domestic partner advocates want the benefits of marriage without the associated responsibilities and potential liabilities.

Despite the strong push for domestic partner benefits since *The Village Voice* newspaper became the first American company to offer them in 1982,²⁴ there is still very low participation among eligible employees. By some estimates, enrollment ranges between .5 and 2.5 percent.²⁵ Among North Carolina employers offering domestic partner benefits, numbers are similarly low. Blue Cross and Blue Shield of North Carolina has only enrolled 50 of its 3,200 employees in its policy, which is open to all live-in partners regardless of sexual orientation.²⁶ Software giant IBM reports that only 600 of its 145,000 employees in the United States requested domestic partner benefits in 2002.²⁷ When benefits are offered to the unmarried partners of all employees regardless of sex, the majority of domestic partnership enrollees are heterosexual couples.²⁸ These underwhelming numbers suggest that while the actual need for benefits among homosexual couples is insignificant, the urgent priority of accessing domestic partner benefits is really part of a larger plan to indirectly gain legal legitimacy for this lifestyle. In the *Manual*, advocates wrote, “DP benefits are not the final step in the Gay Lesbian Bisexual Transgender quest for equality, but they are integral to its achievement. Equal protection for our relationships, whether through marriage or domestic partner benefits, is a key goal for millions of GLBT people.”²⁹

Domestic Partnerships in NC

Currently, only three cities and one county in North Carolina offer domestic partner benefits. In 1994, Carrboro became the first city,³⁰ followed by Chapel Hill in 1995 and Durham in 2002. The county of Durham also followed suit in 2003. In 1999, Carrboro resident Jack Godley and 11 other plaintiffs filed suit against Carrboro and Chapel Hill challenging their domestic partner ordinances.³¹ The plaintiffs argued that since state law prohibits municipalities from extending health insurance benefits to anyone but spouses and children, the cities had overstepped their municipal authority by adopting the domestic partner rules.³² At issue was North Carolina General Statute §160A-162(b), which authorizes municipalities to purchase “life, health, and any other forms of insurance for the benefit of all or any class of city employees and their

dependents.” The cities argued that since the legislature did not statutorily define the term “dependent,” local municipalities have the authority to define it to include domestic partners and their children.³³

After hearing oral arguments from both sides, Superior Court Judge Orlando Hudson granted the cities’ motion for summary judgment upholding the ordinances.³⁴ Since the plaintiffs did not appeal the case to a higher court, this decision stands as the only North Carolina ruling related to the rights of a municipality in the state to issue domestic partner benefits. As such, it is of limited value in assessing the state of the law in North Carolina related to the legality of cities extending domestic partner benefits to employees.³⁵ However, it should be noted that when the city of Durham decided to extend domestic partner benefits in 2002, advocates of the policy change relied heavily on the earlier case involving Carrboro and Chapel Hill.³⁶ Unless these policies are challenged and successfully appealed to North Carolina’s highest court for a decision, it is likely that other cities will rely on this case to support their authority to award domestic partner benefits in the future.

Chipping Away at the Family

Although domestic partner benefits advocates claim that they are not a substitute for marriage,³⁷ their insistence on gaining legal equivalence demonstrates a desire to eliminate the status of marriage as the ideal for society. Many pro-homosexual groups, including Lambda Legal, the National Gay and Lesbian Task Force and the Alternatives to Marriage project, strongly advocate issuance of domestic partner benefits for both same-sex and unmarried heterosexual couples.³⁸ In their effort to redefine the societal understanding of family, these advocates want to ensure that all familial formulations are viewed as equivalent to marriage and deserving of the same protections and legal benefits.³⁹ The 7th Circuit Court of Appeals noted this deliberate attack on marriage in a recent federal lawsuit in Chicago. In *Irizarry v. Chicago Board of Education*,⁴⁰ an unmarried cohabiting heterosexual employee brought suit against the city for its same-sex only domestic partner benefit policy. The court called a brief that was filed in support of the plaintiff by pro-homosexual group, Lambda Legal, “surprising” since it would have resulted in the elimination of benefits for same-sex couples. The court went on to point out the political motivation for the support was to “knock marriage off its perch by requiring [Chicago]

to treat unmarried heterosexual couples as well as it treats married ones, so that marriage will lose some of its luster.”⁴¹

This desire to achieve full parity with heterosexuality is nothing new. In the book *After the Ball: How America Will Conquer Its Fear & Hatred of Gays in the 90s*, homosexual activists laid out a strategy to win over the public by portraying homosexuals as wholesome victims with lives that are similar to their heterosexual counterparts. In an effort to change popular attitudes toward homosexual behavior, the authors advocated inundating heterosexual Americans with so many positive images of homosexuals that they would eventually become desensitized.⁴² Advocates of domestic partner benefits who paint heart-warming portraits of committed partners raising children in loving homes are undoubtedly following this strategy to win support for their agenda.

Truth About Domestic Partnerships

The truth about domestic partnerships is that they are not the equivalent of traditional marriages for many reasons. Since domestic partnerships may begin or end without legal consequences, they lack external pressure to stay together and are consequently unstable.⁴³ According to one study, “two-fifths of cohabiting unions do not continue as cohabitations for more than one year, only one-third last 2 years, and only 1 in 10 are still cohabiting after 5 years.”⁴⁴ Although domestic partner advocates point to high divorce rates to support their claim that marriage is no longer a feasible standard to measure relationships, only about 45 percent of first marriages are expected to break up over the course of a lifetime.⁴⁵ In *The Case for Marriage*, authors Linda J. Waite and Maggie Gallagher assert that the biggest difference between marriage and other financial and emotional relationships is the “vow of permanence.”⁴⁶ According to Waite and Gallagher, even among couples who choose divorce, the vast majority (81 percent) still believe that marriage should be a lifelong commitment.⁴⁷ By contrast, both society and participants view cohabitation as a temporary arrangement.⁴⁸

This increased level of commitment undoubtedly contributes to well-documented benefits that married couples experience over their unmarried counterparts. In the *Irizarry* case, the court referenced *The Case for Marriage* to underscore its support of a public policy that favors heterosexual marriage over cohabitation. “The evidence that on average married couples live longer, are healthier, earn

more, have lower rates of substance abuse and mental illness, are less likely to commit suicide, and report higher levels of happiness—that marriage civilizes young males, confers economies of scale and of joint consumption, minimizes sexually transmitted disease, and provides a stable and nourishing framework for child rearing...refutes any claim that policies designed to promote marriage are irrational.”⁴⁹

The Case for Marriage co-author Linda J. Waite lists several likely reasons for the benefits of marriage, including the long term marital commitment which encourages emotional investment into the relationship, the greater sharing of economic and social resources and the stronger ties that married couples have to the larger community such as churches and synagogues.⁵⁰ In fact, most Americans still view marriage as the ideal. When asked to rate their top two goals in life, a majority of Americans list a happy marriage among their top choices above other life goals such as “being in good health” and “having a good family life.”⁵¹

By contrast, cohabiters are at risk for many difficulties such as higher rates of depression and aggression, and more incidences of physical and sexual abuse aimed toward the female partner.⁵² Children raised in cohabiting homes also suffer. The 1996 poverty rate for children living in cohabiting homes was 31 percent. This high poverty rate is closer to single mother homes at 45 percent and is dramatically higher than married homes at 6 percent.⁵³

Additionally, most children in unmarried-couple homes live with their mother and an unmarried stepfather.⁵⁴ These children have significantly more behavioral problems and lower academic performance than children in married homes.⁵⁵ Another cause for concern for children of cohabiting domestic partners is that they have no claim to child support if the partnership is terminated.⁵⁶ This lack of security is especially alarming considering the high rate of dissolution associated with cohabiting couples. It is also ironic, since advocates for domestic partner benefits often use children as a compelling reason for extending the benefits.

Although very few cohabiting couples are same-sex, homosexual advocates have led the charge to obtain domestic partner benefits as a means of changing cultural views about human sexuality and family norms.⁵⁷ But despite their insistence on coupling their cause with heterosexual cohabitants to gain societal approval, there are still many clear differences. Same-sex

couples do not have the ability to reproduce, so they must adopt or use artificial means of conception or raise children from prior relationships. Since the human body is not designed for sexual relations between the same sex, there are increased physical and psychological health risks associated with this behavior.⁵⁸ Homosexuals and lesbians also have a higher risk for depression, substance abuse and certain cancers.⁵⁹ Homosexual men have an increased risk of contracting STDs that can be attributed in part to the lack of fidelity in these partnerships. In one survey, 94 percent of married couples had been faithful over the past year. By contrast, 66 percent of homosexual men surveyed were unfaithful during the first year of the relationship. After five years, the infidelity number jumped to 90 percent among homosexuals.⁶⁰ In fact, only 15-17 percent of homosexuals and lesbians have ever had a relationship that extended beyond three years.⁶¹

Although domestic partner advocates scoff at the increased costs generated by these behaviors, they are legitimate concerns for public and private employers deciding how to manage limited resources. When WellPoint, owner of Blue Cross of California reviewed a pool of employers with approximately 700,000 employees in 2001, it discovered that its costs were 17.1 percent higher for same-sex couples than for opposite-sex couples.⁶² This figure is based on the loss ratio, which is the health care cost as a percent of premiums paid.

One of the biggest problems with domestic partner benefits is the difficulty for the insurer to predict the costs. Insurance companies set prices based on historical data over a series of years. According to data presented by Michael E. Hamrick in *The Hidden Costs of Domestic Partner Benefits*, there is insufficient data associated with domestic partner benefits for five reasons:⁶³ 1) Domestic partner benefits are still fairly new, so insurers do not have much historical data to use in pricing forecasts; 2) Fluctuating estimates of enrollment range from as low as .5 percent to over 5 percent among companies surveyed; 3) Unlike marriage, definitions for domestic partners and requirements for the benefit vary depending on the individual employer. These qualifications range from the least restrictive companies that require no proof at all to the most restrictive companies that require a signed affidavit plus other proof of a domestic partnership including registering with a local government. The more the definition varies, the less valuable the classification becomes

as a predictor of future costs; 4) Costs associated with insuring domestic partners should be classified in a separate pool to track the cost of insuring this high-risk class versus the premiums collected from this group. This is what WellPoint did in 2001 when it discovered the disproportionate costs associated with insuring same-sex couples. Without this differentiation, the rest of the pool, especially married couples that have “two party” or “family” coverage will share higher costs; 5) The inherent instability of domestic partnerships that can begin or end without legal consequences makes predicting costs more difficult. It can also create a constantly shifting pool of insured individuals since 58 percent of companies require couples to reside together six months or less before enrollment.⁶⁴ Unlike married employees who are ordinarily allowed to add beneficiaries without proof of good health only within 30 days of a life event such as marriage, birth or adoption, many cohabiting employees may add a beneficiary during any open enrollment.⁶⁵

Insurance plans are most cost-effective when cost drivers are well known and predictable. Generally, 92 percent of individuals covered by health insurance are healthy and the remaining 8 percent of people account for 71 percent of the costs in a given year.⁶⁶ When an insurance plan maintains percentages that are similar to this population model, they are said to have random selection and costs remain predictable. When a plan enrolls an unusual number of individuals with known or pre-existing high-risk health conditions, it can have dramatically disproportionate effects on costs. For example, a one percentage-point increase in the unhealthy population group could result in an 8.56 percent increase in costs.⁶⁷

The risk of higher costs is increased by the unique health care costs associated with same-sex relationships. High levels of STDs among homosexuals, lesbians and bisexuals have been well documented.⁶⁸ Among homosexual men, AIDS continues to be a major health concern. According to the Centers for Disease Control, 63.5 percent of the cumulative AIDS cases in men have occurred in men engaged in same-sex relationships. Although domestic partner advocates claim that insurers have not experienced increased costs associated with HIV and AIDs, statistics show that homosexual men continue to be disproportionately affected. It is estimated that HIV treatment alone costs \$10,000-\$12,000 per person annually.⁶⁹ When the costs of treating full-scale AIDS cases are included,

these numbers can skyrocket into the billions of dollars.⁷⁰ Homosexual advocates try to dismiss this statistic by comparing the costs of HIV treatment to cancer care or the expense associated with a premature birth.⁷¹ However, these comparisons ignore the fact that cancer care and premature births are already accounted for in the random population selection of most insurance plans. Increased HIV costs among same-sex couples are not a part of this random selection, because a greater proportion of unhealthy individuals will be draining health care dollars and therefore costs are driven up significantly.

Conclusion

Aristotle once said, "Injustice arises when unequals are treated equally." Extending domestic partner benefits to cohabiting couples is doing just that. Domestic partner benefits are merely one more weapon in an ever-growing arsenal designed to destroy traditional marriage. By promoting all behaviors regardless of their social value, domestic partner advocates are attempting to redefine our common understanding of family to gain social acceptance for deviant unhealthy behavior. Marriage is not just another lifestyle choice in which to raise children. It is the proven model that has successfully guided mankind since God created it for the world's first couple.

Dorrian Horsey worked with the N.C. Family Policy Council as a legal intern from the Alliance Defense Fund's Blackstone Fellowship during the summer of 2004.

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Endnotes

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