

House Bill 4963—Support Marriage Equality
The Chicago Bar Association and the Illinois State Bar Association

“The freedom to marry has long been recognized as one of the vital personal rights essential to the orderly pursuit of happiness by free men.”¹ These words, written by the Supreme Court of the United States more than 30 years ago, continue to be a part of America’s promise of fair play and equal protection under the law.

To that end, the Chicago Bar Association and the Illinois State Bar Association support House Bill 4963 to ensure that all Illinois citizens may enjoy this basic civil right. Under current Illinois law, gay and lesbian citizens are denied the right to marry the person of their choice. Illinois has started the journey for equal protection of this basic civil right by authorizing “civil unions.” But this separate-but-unequal statute is inherently inferior to marriage and violates the Illinois Constitution’s guarantee that no person shall be deprived of life, liberty or property without due process of law nor be denied the equal protection of the laws.²

Attorney General Lisa Madigan and Cook County State’s Attorney Anita Alvarez have conceded that the denial of same-sex marriage is unconstitutional in a Cook County lawsuit filed last June. If the State’s lawyer and Cook County’s lawyer have decided that they can’t in good conscience defend current Illinois law, isn’t this an opportunity for the General Assembly to also defend the basic civil rights of its constituents as well?

Legislative recognition of marriage is important; there are more than 1,138 federal laws that are contingent on a person’s marital status or in which marital status is a factor.³ The Supreme Court of the United States is now hearing a challenge to the federal law (DOMA) that denies federal rights and benefits to married same-sex couples.⁴ If DOMA is struck down, only married same-sex couples – not those in civil unions – can enjoy federal marriage protections and benefits. Nor do civil unions enjoy the same legal recognition that marriage confers when traveling to another state or country. Why should some but not all Illinois citizens be forced to be questioned about or litigate such a basic civil right?

To quote former Senator Rickey R. Hendon during the civil union debate, “it’s about fairness, y’all, that’s all.” We agree.

¹ *Loving v. Virginia*, 388 U.S. 1, 12 (1967)

² Article I, Section 2 of the Illinois Constitution.

³ U.S. Gen. Accounting Office, Report No. GAO-04-353R, *Defense of Marriage Act: Update to Prior Report 1* (2004); <http://www.gao.gov/assets/100/92441.pdf>

⁴ *United States v. Windsor*, Docket No. 12-307; Defense of Marriage Act, Pub. L. 104-199, 110 Stat. 2419.