HB283

62937-2

By Representatives Allen, Clouse, Davis, Faust, Grimes, Hammon, Bentley, Layson, Boothe, Vance, McDaniel, Hill and Galliher (Constitutional Amendment)

RFD: Constitution and Elections

First Read: 05-FEB-04

62937-2:n:02/04/2004:LLR/agb LRS2004-614R1

SYNOPSIS: This bill would propose an amendment to the Constitution of Alabama of 1901, to provide findings and declarations of the Legislature pertaining to same sex marriages; to prohibit a court of this state from issuing any interpretation of the prohibition against the recognition of same sex marriage; and to abolish common law marriages in this state.

A BILL

TO BE ENTITLED

AN ACT

Proposing an amendment to the Constitution of Alabama of 1901, to provide findings and declarations of the Legislature pertaining to same sex marriages; to prohibit a court of this state from issuing any interpretation of the prohibition against the recognition of same sex marriage; and to abolish common law marriages in this state.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. The following amendment to the Constitution of Alabama of 1901, as amended, is proposed and shall become valid as a part thereof when approved by a majority of the qualified electors voting thereon and in accordance with Sections 284, 285, and 287 of the Constitution of Alabama of 1901, as amended:

PROPOSED AMENDMENT

Part 1. (a) The people of the State of Alabama hereby find and declare the following:

(1) Marriage is a fundamental institution of our society, our state, and our government. Within the bonds of marriage, children are entitled to be brought forth and reared by a father and a mother. This state retains an interest in preserving and fostering marriage between a man and a woman, for without the institution of marriage no society or government can long endure.

(2) Therefore, in consequence of the above, the State of Alabama should no longer recognize "common law" marriages.

(3) A marriage should always be defined to consist of a legally binding union, performed under the authority of a sovereign state, of one man and one woman.

(4) Family relationships are derived from the marriage union.

(5) A union replicating marriage of or between persons of the same sex in any other jurisdiction shall be considered and treated in all respects as having no legal

force or effect in this state and would not be recognized by this state as a marriage.

(6) Marriage is inherently a unique relationship between a man and a woman. As a matter of public policy, this state has a special interest in encouraging, supporting, and protecting the unique relationship in order to promote, among other goals, the stability and welfare of society and its children. A marriage contracted between individuals of the same sex is invalid in this state.

Part II. (a) No marriage license shall be issued in the State of Alabama to parties of the same sex.

(b) The State of Alabama shall not recognize as valid any marriage of parties of the same sex that occurred or was alleged to have occurred as a result of the law of any jurisdiction regardless of whether a marriage license was issued.

(c) The courts of this state may not issue any interpretation of this amendment that would change or have the effect of changing the meaning of this amendment.

Part III. (a) No marriage contracted after January 1, 2005, shall be valid unless the contracting parties have obtained a marriage license as required by law, and after the license has been duly issued, the marriage has been solemnized by any person authorized by the law of this state to solemnize marriages.

(b) The requirements of subsection (a) shall be construed as mandatory and not merely directory and failure to

comply with the requirements of subsection (a) shall render the purported marriage absolutely void.

(c) Nothing contained in this section shall be construed to affect the validity of any marriage, either ceremonial or common law, contracted prior to the ratification of this amendment.

Section 2. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

"Proposing an amendment to the Constitution of Alabama of 1901, to provide findings and declarations of the Legislature pertaining to same sex marriages; to prohibit a court of this state from issuing any interpretation of the prohibition against the recognition of same sex marriage; and to abolish common law marriages in this state.

"Proposed by Act _____."

This description shall be followed by the following language:

"Yes ( ) No ( )."