GAY AMMENDMENT IN OHIO 2014

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Conversations About Life

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It seems the country is moving on a Pro-Gay streak. One by one the states are passing bills and amendments that are allowing marriage or civil unions to be granted to gay or lesbian couples. For some people, this is an amazing step in the right direction. For others, it is the slow infringement on their rights that keeps coming closer and closer to home. The state of Ohio is known to be a swinger state during the election years, which means ‘hot topics’ like gay marriage are heavily debated and widely controversial. For the 2014 election year, there is a possibility of having a gay amendment on the ballot. Despite heated opposition, Ohio will pass a gay marriage amendment in 2014 because of the increasing support of younger voters to this cause, because Ohio can build on national momentum even when lacking its support, and because of the push from the national judicial system.

The gay rights movement is one that is more popularly supported by the younger group of voters, meaning that in order for it to be truly successful it has to be backed by this group. Personally, the younger generation is much more open to the idea of gay marriage than their parents are. Social battles come by generation. Their parents’ generation was the first generation to really have no major issues over race. The young generation is just opening the doors of the next social justice battle. Timing wise, right now is the perfect time to get an amendment through. There is a huge national domino effect going on. Young voters are coming out to vote more and more, often based on the fact that there is a gay rights amendment or cause in the ballot. As of April 2013 in Ohio, 68% of young registered voters-aged 18 to 34-are in favor of gay marriage being legal in their state.1 It seems that there are two major generations that vote in elections: the people who have just earned the right to vote, or the young generation, and the elderly, who still see voting as their civic responsibility. Since the younger generation who supports gay rights is voting now, Ohio needs to take advantage of this enormous support for a gay rights amendment before their voting turn out percentage goes sharply down.

1. Joe Hallett, *Gay Marriage: Is Ohio Ready?* (Columbus, Ohio: The Columbus Dispatch, 2013).

Another factor in the age of the support for this amendment is the closeness that many young people feel to the cause. Personally, I know more individuals who identify as something other than straight than my parents do. My generation knows more people who this amendment would directly affect. This is not because more young individuals are coming out as a part of a trend, but because younger LGBTQ individuals feel that they have a safe environment in which to come out, they don’t feel the need to hide who they love. While this can be a tribute to the parents who raised them, sometimes after coming out the only solace a young LGBTQ individual can find is with their close friends, not their family. This could be because the older generation likes the distance that they have between themselves and the LGBTQ community. They are okay with it as long as it does not directly affect them, a fact that can be prominently seen in the wording of the proposed amendment, which will be discussed later. This means that the people that the older generation knows that would be affected by the proposed amendment aren’t directly a part of their daily lives: distant relatives or a not-very-well-known neighbor. Their kids however know LGBTQ individuals in their classes at school, or on their sports teams, or in their extra-curricular activities with them, and/or in their residence halls. Just by comparing from where each generation knows an LGBTQ individual shows that the younger generation has to interact with an LGBTQ individual more often, and these actions usually lead to close friendships with one or more LGBTQ individuals. These close relationships and friendships lead to the more widespread support for this kind of amendment, since more young people have a face to put to the cause.

The support of the younger generation is also fostered in the environment that those individuals are in. Most of the generation in concern is in college now or is only briefly removed from the institution. College and University life fosters an atmosphere of advocacy and gains ground when there is a national hot button topic. This is a trend that can be observed through the ages of hot button topics: the Freedom Riders were college students and the worst Vietnam Anti-War demonstrations were on college campuses. As that hot button topic currently is gay rights, there hasn’t been and likely won’t be again the amount of discussion and support from the student body in the higher education environment. This is a factor that the state of Ohio needs to be aware of, and a factor that the state of Ohio should absolutely take advantage of.

The organization Freedom Ohio is striving to take advantage of this momentum, a fact that is shown by how young the organization is. Having only been around for two years, Freedom Ohio is dedicated to putting a gay marriage amendment to ballot in the 2014 election season. Freedom Ohio came about because of one man’s frustration with the slowness of other pro-gay rights institutions that are active in the state.2 Freedom Ohio is working to harness the momentum currently in place by the younger generation and is moving at a speed that pleases many of their close supporters. According to their website, Freedom Ohio is poised to put an amendment to ballot in 2014, and currently working on securing a victory.3

2. Freedom to Marry Ohio, *Freedom to Marry Ohio* (freedomohio.com, 2012)

3. Ibid.

The most prevalent factor in winning this kind of a race seems to be the national momentum. In what seems to be a giant game of dominos, states across the nation are passing amendments legalizing gay marriage. Pro-Gay Marriage seems to be a national movement, much like other social issues that have come before it. Because of this, one would think that Ohio isn’t far behind. That there is enough national push that Ohio will pass a gay rights amendment soon. However, there is one major difference between the situation in Ohio and the situation in the other states that have passed amendments or other types of legislation: Ohio doesn’t have the support of national Pro-Gay organizations.4 In fact, the largest national organizations dedicated to the support of the passage of gay rights legislation are partners with a state-level pro-gay organization, Equality Ohio.5 Equality Ohio was founded immediately after the anti-gay marriage amendment was passed in Ohio over ten years ago.6 Equality Ohio has been the rallying point for LGBTQ individuals in Ohio since their foundation, but in 2012 things began to change.7 After Freedom Ohio was founded as a result of one man’s frustration with Equality Ohio, the gay community in Ohio has been split. Some people trust in Equality Ohio’s calculated formula and want to wait to put an amendment to vote until 2016.8 Others, who support Freedom Ohio, feel that Equality Ohio has waited too long and want to put an amendment to ballot as soon as this coming November. The national organizations are siding with their long time partner, Equality Ohio.9 As a result, some individuals who are frustrated with the lengthier time line have stayed in support of Equality Ohio because they feel that without the support of the national organizations the amendment will never pass. However, since the organization of the entire gay rights movement is grassroots in nature, it seems that the amendment will be able to pass regardless. There is no doubt that if Freedom Ohio wants to put an amendment to ballot in 2014 it will be able to. It has been public information for months that the organization has enough signatures in all the required counties to put an amendment to ballot if they chose to do so.10 Freedom Ohio didn’t stop at the required number of signatures. They continue to work for more signatures and hope to have one million people who have signed in support of their amendment and their cause by November.11

4. Chrissie Thompson, *Gay Marriage Advocates in Ohio Split on Vote This Fall* (Cincinnati, Ohio: USA Today, 2014).

5. Ibid.

6. Equality Ohio, *Equality Ohio* (equalityohio.org, 2011)

7. See note 4 above.

8. See note 6 above.

Besides the timeline, the moot point for the split between Freedom Ohio and Equality Ohio and its national partners has been the exact wording of the amendment that Freedom Ohio is proposing. The anti-gay amendment as it stands on the books in Ohio is:

‘Only a union between one man and one woman may be a marriage valid in or recognized by this state and its political subdivisions. This state and its political subdivisions shall not create or recognize a legal status for relationships or unmarried individuals that intends to approximates the design, qualities, significance or effect of marriage.’ 12

Freedom Ohio wants to put an amendment to ballot that would put some of the strain off of the religious community. This seems to be a big fear. Some supporters of the current amendment feel that if gays were allowed to marry, that they would soon be asking to marry in their churches and would want be stepping on the toes of their freedom of religion. In order to combat this kind of backlash, Freedom Ohio has worded their proposed amendment this way:

9. See note 4 above.

10. Ibid.

11. Jackie Borchardt, *National Gay Marriage Advocates Will Not Support ‘Freedom to Marry Amendment’ Slated for 2014 Election* (Cleveland, Ohio: cleveland.com, 2014

12. Howard Wilkinson, *Will Ohio Reverse Course on Same-Sex Marriage in 2014?* (Cincinnati, Ohio: 91.7 WVXU Cincinnati, 2013).

‘In the state of Ohio and its political subdivisions, marriage shall be a union of two consenting adults not nearer of kin that second cousins, and not having a husband or wife living, and no religious institution shall be required to perform or recognize a marriage.’ 13

By adding the clause in about religious institutions, according to Freedom Ohio’s data, support for the amendment went up two percentage points.14 Two very key percentage points. Those points are the difference between a slight edge over an even split at 52% and a full comfortable difference at 54%.15 But it is that clause that causes the most turmoil between people that you think are on the same side. The wording of the religious institution clause is not careful enough, according to those in Equality Ohio’s camp. According to them, it is poised to cause some severe backlash and will blow up in the faces of those who are pushing it.16 While Equality Ohio has been diligent about getting their stance on this wording out to the public, they have not been efficient enough about doing so. The common person who has signed the petition or who will vote yes to this amendment will not know the intricacies of the wording of this amendment. They will not realize that a slight difference in wording will completely change how this amendment will be interpreted in the court of law. All they will see is that LGBTQ individuals get to marry and they aren’t allowed to do it in my church, which is all some people need to hear.

13. Ibid.

14. See note 4 above.

15. Ibid.

16. Ibid.

The court of law already has some serious pressure on it to get a move on about the gay marriage decision in Ohio, court cases very recently have raised major question and caused tremendous issues for married individuals in the LGBTQ community. In a recent court case, four LGBTQ couples who are all legally married in other states filed a civil rights lawsuit against the state of Ohio against the state’s failure to recognize gay marriages completed in other states.17 The couple’s major issues come from parts of marriage most people don’t even think about. Their grievances come from not listing both partner’s names on the birth certificate and listing a person as having a spouse on death certificates. Legally, Ohio has set a precedent for recognizing marriages that they have failed to uphold with gay marriages. Ohio will legally recognize marriages involving a relative or minor that is legal in one state but illegal in Ohio.18 This stance seems extremely hypocritical. It is a controversial opinion about whether or not you can marry your cousin, or if you can marry someone under the age of 18, but there are states where you can marry these people and even if you move to Ohio you will still be considered married. However if you are gay and you get married in a state where gay marriage is legal and then come to Ohio, suddenly you are not married. This is a major problem. Additionally, how difficult would it be for a child to grow up knowing that only one of the people he/she considers to be their parent’s isn’t legally their parent. What happens if that child is with the parent not listed on their birth certificate and becomes severely injured? Medical treatment of someone in need would be stalled because the person with them is ‘not their parent’ even though they are raising this child as their own. While there is no DNA involved from this parent to this child, they are still a parent to this kid. How is this situation any different from child who has a parent die when they are very young and have their living parent re-marry? No hospital would stop treatment waiting for the one living parent because their mother’s new husband isn’t good enough to be considered a parent. The same goes for children who grow up in a divorced household, both of their parents are still living but if a stepmother brings her stepson into a hospital that is a legitimate parent-child relationship. A stepparent to stepchild relationship involves no DNA but it is still considered a normal relationship. The relationship between both partners in a gay marriage to their children is the same kind of relationship between parents in a straight relationship or parents of an adopted child. What is it about gay marriage that makes the world so squeamish? There are plenty of atypical parent-child relationships in existence in the world, and many of them aren’t questioned in the court of law in Ohio. However, as soon as the two people in the parenting relationship are the same gender suddenly everything that that family stands for is wrong and only one of the two parents can legally be considered a parent.

17. Amanda Lee Meyers, *Couples Sue to Force Ohio’s Hand on Gay Marriage* (Cincinnati, Ohio: Huffington Post, 2014).

18. Ibid.

The same sort of situation goes for death certificates, except with an added factor. When a person is on their deathbed in a hospital the only people allowed back to visit the person are blood relatives and the legal spouse. Imagine if you were dying and the only person you wanted to see is your lifelong partner, and even though you aren’t married because you cannot get married legally this person means more to you than anyone else in the world and is as much a spouse to you as anyone could be. How would you fell lying there knowing that the only person you want to see can’t come and see you. It would be heartbreaking to be that person’s blood relatives knowing that while their presence does help, they aren’t the person that you long to see most. Or tying the two together, what if the person dying isn’t the parent listed on the birth certificate? That person would be all alone, and their spouse and their children would be unable to come and say goodbye. In these kinds of situations the legal implications of who you choose to love follow you until you die and not in a good way. LGBTQ individuals face many hardships in their lives, and now our legal code is forcing them to incur hardships even in their deaths. Turing to the Constitution, how can any person in their right mind say that forcing these people into the lifestyle that we have deemed as ‘normal’ and ‘right’ be considered as allowing every person the right to the pursuit of happiness. The Constitution that talks of the inalienable rights of men far trumps the Ohio Constitution that says that gay marriage is illegal. It seems that there are far reaching inconsistencies in the relationship between the federal constitution and the state-level constitution. The system was designed to have the two live in harmony, and it doesn’t seem to be the case here.

The couple’s that went to court over the birth and death certificates took their case to a federal court located in Cincinnati. In the death certificate case, the court ruled that gay marriage should be recognized on death certificates. The judge in that case was quoted in saying this about Ohio’s treatment of legally married gay individuals, “[Ohio’s ban on gay marriage demeans] the dignity of same-sex couples in the eyes of the state and the wider community.”19 Essentially this judge thinks that the ban on gay marriage in Ohio is a very real type of bullying and discrimination against gay individuals. In a country where discrimination is a widely hated way to treat other people, we are extremely hypocritical. The court case on birth certificates has yet to come to fruition, but the attorneys and people involved intend to build on the success and legal precedent set by the death certificate case.20 If an amendment were to be put to ballot in November, the success of this second case would be an important win in the journey of the amendment. If the case is successful, then the voters will see that that is where the state is going, and feel that Ohio is a less hostile territory than it was ten years ago. However, if the case is defeated then the state is seen still as a place where the gay community is not welcome and the amendment will be defeated because the state is seen as a safe place for those against gay marriage. The publicity of the case is also a big factor, if this case is highly visible in the media, then it is on the forefront of the public’s mind and will be more talked about, which brings out more of the moderate voters. Moderate voters, because of the wording of the proposed amendment tend to be in favor of the amendment. However, if other stories push the case back into the background then the very important swing vote will be lost. Since the swing vote may be the biggest factor in the passage of this amendment, the loss of the middle ground voters would be absolutely detrimental to the success of the amendment. There seems to be much more riding on this court case over birth certificates than most people actually realize.

19. Ibid.

This amendment faces more challenges than its supporters may realize. Not only are they facing the other pro-gay marriage supporters who do not support the amendment for a variety of reasons, but they also are faced with opposition from the traditional anti-gay parties. Not surprisingly, the anti-gay marriage base in Ohio is fairly strong. Shortly after the passage of the current amendment, when Equality Ohio was formed, a coalition of churches and religious institutions formed their own organization dedicated to protecting their religious freedom and their own beliefs.21 Both groups are working hard to make sure that Freedom Ohio’s Amendment doesn’t become codified law. This coalition now faced with a very real threat of a complete upset of their so valued status quo, have strengthened their forces immensely. They have added members to their ranks and are working just as hard in their member churches to add new parishes and to get voters to pledge that they will not sign petitions about the amendment, and if it does come to ballot will not vote for the amendment. To some, this massive push on the side of anti-gay marriage is only the spreading of a whole different kind of ignorance. Those arguments aside, religion is a very important factor in most voters’ decisions and these new forces could prove fatal to the life of the amendment.

20. Ibid.

Maybe if the amendment were faced only with the anti-gay supporters there would be a good chance of gay marriage becoming legal in Ohio. The percentages alone don’t lie: in 2004 the amendment passed by 68% of the vote.22 This means that roughly 32% of those who voted on the issue were in favor of gay marriage. The race is much closer now. According to polls conducted by Equality Ohio and Freedom Ohio the percentage of registered voters in Ohio who would vote in support of a gay marriage amendment is somewhere between 48% and 54%.23 These numbers are well above what the numbers were ten years ago. However if the numbers are around 48% like Equality Ohio is reporting, Freedom Ohio’s amendment will be defeated.24 Freedom Ohio’s numbers tell a different story. According to their numbers, without the provision about religious institutions 52% of registered voters would be inclined to vote in favor of an amendment in favor of allowing gay marriage in the state of Ohio.25 That is a 20% increase from 2004. However, just 2% over half of the voters doesn’t come close at all to ensuring a win for the amendment. Yet when representatives from Freedom Ohio explained to those put on the fence by a fear that their church may have to preform a homosexual marriage ceremony that the amendment is worded so that religious institutions will never have to perform these ceremonies if they chose not to do so the support increased by 2%.26 54% of registered voter’s support is just barely enough to possibly win a constitutional amendment vote. Broken down even more, in 2013 roughly the same percentage of Ohio Democrats supported gay marriage as the percentage of Ohio Republicans were against it.27 Factor that in with the whopping statistic of the percentage of young voters reported earlier, and things get interesting. All of these numbers bet on the fact that the population of Ohio exactly resembles the mood of the sample taken. Knowing the difficulties of taking accurate surveys and the overall trend in opinions about gay marriage, the numbers reported by Freedom Ohio seem to be more correct, and thus amendment will pass. It will face difficulty because of the overwhelmingly Republican mood of the 2014 ballot, but the importance of this issue will bring out more than the usual non-presidential group of voters.

21. See note 2 above.

22. Ibid.

23. Ibid.

24. Ibid.

The amendment proposed by Freedom Ohio will pass because the increasing support of younger voters for this cause, because Ohio can build on national momentum even lacking its support, and because of the push from the Ohio’s federal court system. Despite all the controversy surrounding this topic that is highly debated and often extremely personal, the state and nation is moving in that direction. Freedom Ohio has taken steps to ensure that the amendment is more of a liberation from years of discrimination towards LGBTQ individuals and less of an infringement on the rights of those who think that it is morally wrong to not be married in a church and to someone of the opposite gender. Those steps will be the pushing factor to the passage of this amendment. It’s completely true, the nation is rolling in a domino effect of passing gay marriage amendments and swing state Ohio is the next one to fall.

25. Ibid.

26. Ibid.

27. See note 1 above.

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