

Minnesotans Say “No Thanks” To Definition Of Marriage Amendment

Minnesota nixes marriage definition amendment

Tuesday’s election made Minnesota the first state to reject a proposed constitutional amendment which would have defined [marriage](#) to include only heterosexual couples. In all other states in which such a constitutional amendment had previously been placed on a ballot, the measure had passed. What does this mean for Minnesota family law?

Minnesota’s constitutional amendment process

Minnesota’s process for amending its constitution is relatively straightforward. First, a majority of votes in both the state House and Senate are required to place the proposed amendment on an election ballot. Because a simple majority is a low threshold (many other states require two-thirds majorities, or have other additional requirements), there are more constitutional amendments proposed per year than you might think; in 2011, there were over 25 when you combine those proposed in the House and Senate.

If the proposed amendment makes it onto the ballot, only a simple majority is again needed to pass the amendment. However, if a voter does not vote either yes or no on their ballot, that blank vote will count as a no.

Why a constitutional amendment?

With a state law prohibiting gay marriage already in effect, why did proponents of banning gay marriage seek a constitutional amendment? One object was to head off any potential challenges to the state law. Courts in other jurisdictions have previously found laws which ban gay marriage to be unconstitutional; for example, in February, a federal appellate court struck down California’s gay marriage ban. It would be hard to argue that a prohibition of gay marriage was unconstitutional if a constitutional amendment were passed explicitly defining marriage as between one man and one woman!

A constitutional amendment can also be a convenient way of bypassing a state governor of an opposing political viewpoint, since the governor’s signature is not required to place a proposed constitutional amendment on the ballot.

Effect of election outcome

As stated above, Minnesota already has a law banning gay marriage (“The following marriages are prohibited... a marriage between persons of the same sex”). This means that defeat of the proposed constitutional amendment does not legalize gay marriage. However, it does open the door for either a new law specifically legalizing gay marriage, or for a challenge to the current law as unconstitutional.