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All in the So-Called Family

Social Policy

By Shawn Zeller

The spreading debate over offering employee benefits to unmarried couples has taken an interesting turn, pulled both by the drive for gay rights and by the growing political pressures to bolster the traditional family.

Last month, Massachusetts' acting Republican governor, Paul Cellucci, vetoed legislation that would have provided domestic partnership benefits to city of Boston employees. Though Boston Mayor Thomas M. Menino quickly signed an executive order instituting the benefits plan—expected to eventually help a mere 30 to 50 city workers—Cellucci's opposition highlights a new twist in the debate over the benefits plans for unmarried couples that municipalities and companies around the country have been putting into place.

AP/VICTORIA AROCHO

Paul Cellucci: He says it's OK to offer employee benefits to gays, but not to heterosexuals, for their live-in lovers.

Menino told *The Boston Globe* he was caught "totally by surprise" by the governor's veto. He wasn't alone. Cellucci, after all, had long been considered a strong advocate for gay rights, which has been identified with the movement to provide marriage-like benefits to same-sex couples, who aren't permitted to marry. Former Gov. William Weld, whom Cellucci served as lieutenant governor, had a gay chief of staff and implemented several first-in-the-nation initiatives supporting gay rights. What, then, could be the problem?

It had nothing to do with gay rights, Cellucci explained. In fact, Cellucci wrote in a June 22 letter to the *Boston Herald*, "I believe that same-sex couples should have access to the health care benefits. . . . I would support a [bill] that extends those benefits to same-sex couples only." The problem, he went on, wasn't same-sex couples, but rather unmarried heterosexual couples. "Extending those benefits to unmarried couples undermines strong marriages and leads to our children growing up without fathers," Cellucci said at a press conference after his veto.

The situation in Boston mirrors the debates—little noticed—that have arisen in municipalities and businesses across the nation. Last year, both Oakland and Santa Barbara, Calif., tried to implement domestic partnership plans for same-sex couples, only to expand the programs later to include heterosexuals as well. In each case, city attorneys feared sex-discrimination lawsuits. A proposed plan in Milwaukee fell apart last year when city aldermen decided that unmarried heterosexuals would have to be included. And in Chicago, which instituted a same-sex-only plan in March 1997, antagonistic city councilors exhorted unmarried heterosexuals to challenge the plan on sex-discrimination grounds.

Altogether, at least 34 municipalities, spanning the country from New York to Detroit to Los Angeles, now offer health care benefits to domestic partners, whatever their sexual orientation. At least seven others, including Baltimore, Chicago, Denver, New Orleans and Philadelphia, have stuck with same-sex-only plans.

In Boston, gay-rights advocates castigated Cellucci for what Sean Cahill, chairman of the state's Lesbian and Gay Political Alliance, called an "anti-gay" veto. After all, he argued in an interview, "the vast majority of those who will benefit [from Menino's executive order] will be gay."

But not necessarily. The majority of Boston's 197 registered domestic partnerships—including those who currently work for the city and are affected by the initiative—are heterosexual. That is true in other municipalities as well. New York City officials, for example, estimate that 55 percent of the Big Apple's registered partners are heterosexual.

Cahill acknowledged that the debate over whether to include these unmarried heterosexuals in domestic partnership plans has frustrated the gay community. The bill, as initially proposed, was a gay-only plan, but it was condemned by some Boston city councilors for providing "special rights" to gays. Extending the bill to heterosexual couples, however, wound up killing it.

The Human Rights Campaign, the nation's largest gay-rights group, hasn't taken a position on benefits for unmarried heterosexuals. But, said Kim Mills, education director with the Washington-

based gay-rights group, "we think a law tailored to [providing] just same-sex [benefits] is defensible." Because gay couples can't legally marry, she explained, they have no other way to secure benefits for their partners—unlike heterosexual couples, who can walk to the altar if they want benefits.

But that position has provoked disagreement, on legal and principled grounds. "Old-timers in the gay-rights movement know that inclusive plans are the only way to go," said attorney Thomas Coleman, the founder of the Los Angeles-based Spectrum Institute, which lobbies for domestic-benefits plans that don't distinguish by sexual orientation. Unmarried heterosexual couples, he contended, may have good reasons not to wed, whether it's elderly people who risk losing Social Security benefits and survivors' pensions or heirs who stand to lose an inheritance if their partner dies without a will.

Coleman's arguments have won over the American Association of Retired Persons and the National Organization for Women, and he's now attempting to organize an informal lobbying alliance with the American Civil Liberties Union and the National Gay and Lesbian Task Force. Coleman used his contention that same-sex-only plans smack of sex discrimination in persuading city attorneys in Oakland and Santa Barbara that their original plans were constitutionally flawed.

These days, he's assisting Paul Foray, a New Jersey cable splicer who's suing Bell Atlantic—his employer for 28 years—because the company won't provide benefits for a woman he has long lived with. Bell Atlantic has a same-sex-only domestic partnership plan, which Foray claims discriminates against him because he's a man. The company has asked a federal judge in New York state to dismiss the lawsuit.

The drive to include heterosexual couples in domestic-partnership plans has various sources. Some advocates concede that they see it as a step in the direction of universal health care.

Some other advocates invoke principles of personal freedom. Dorian Solot and Marshall Miller, co-founders of the Alternatives to Marriage Project, which is based in Sharon, Mass., have argued that Americans need to expand their definition of families to include people who decide that marriage isn't for them. "Co-habitation is becoming a lifetime decision for lots of people, and more and more are choosing to co-habit before getting married," Solot said in an interview, noting Census Bureau estimates that the number of unmarried cohabitants in the United States has grown from 523,000 in 1970 to almost 4 million in 1996. In an op-ed piece in *The Boston Globe*, the pair ripped Cellucci's absent-father critique. "Targeting unmarried couples doesn't make sense if you think about it—we're couples," they wrote. "There is no absent father." In fact, Solot added, domestic partners who register in Boston must be at least 18 years old, share household expenses and assume responsibility for each other's welfare—all requirements that married couples can sidestep.

LIZ LYNCH (LEFT); SAM KITTNER

ODD BEDFELLOWS: Kim Mills (left) approves of gay-only benefit plans because homosexuals can't marry. Wade Horn wants to discourage heterosexuals from living in sin.

But Cellucci also has defenders, who are armed with some powerful statistics. The moderate Republican governor "did precisely the right thing," said Wade F. Horn, who heads the Gaithersburg, Md.-based National Fatherhood Initiative. Horn cited a 1993 Urban Institute study that found that 57 percent of unwed fathers visit their child at least weekly during the first two years of the child's life, but only 25 percent do so by the time the youngster is 7½ years old. Besides, Horn noted, studies have shown that married partners "are happier, healthier and wealthier" than their unmarried counterparts.

Work by sociologists Larry Bumpass at the University of Wisconsin (Madison) and Linda J. Waite at the University of Chicago has essentially confirmed Horn's claims. Unmarried couples are far less likely to stay involved over the long term, regardless of whether they've become parents, Waite said in an interview. She disputed claims made by Coleman of the Spectrum Institute about financial reasons for avoiding marriage. "Most of the issues surrounding inheritance, Social Security and survivors' benefits can be worked out legally," she maintained. "So it is very hard to make an argument for including heterosexuals in these plans. All they have to do is get married."

Conservative critics of making unmarried heterosexual couples eligible for employee benefits make a larger, politically resonant, point. "It ruins the notion of commitment and weakens the institution of marriage," said Steven A. Schwalm, a cultural studies analyst at the Family Research Council. The rising number of co-habiting couples suggests an eroding respect for marriage, Horn added, meaning "this is precisely the wrong time to give benefits to domestic partners. It takes away just one more incentive to get married."

For Solot, though, the erosion of marriage is a reality that businesses and governments must get used to. "This is really an issue of equal pay for equal work," she said. "Society shouldn't judge people for their personal choices. It should support them." ■