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December 14, 1995

FOR IMMEDIATE RELEASE
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Re: A Domestic Partnership Act In Hawaii Would Be A Blessing in Disguise

The Hawaii Commission on Sexual Orientation officially issued its report yesterday to the leadership of the Hawaii Legislature.

The report recommends that the Legislature legalize gay marriage. However, if legislators are not ready to make such a drastic change, the report recommends that, at the very least, they should adopt a comprehensive domestic partnership act.

Many gays and lesbians are under the misapprehension that supporting a domestic partnership law in Hawaii would be settling for second best. In fact, the opposite is true.

A comprehensive domestic partnership act would give Hawaiian same-sex couples every one of the benefits and obligations of marriage under Hawaii law. Hawaii could become a model state that activists elsewhere could point to as they lobby their own legislatures to end discrimination against same-sex couples.

By not using the term "marriage," the Hawaii legislature would actually do the national gay and lesbian movement a big favor. Passing a comprehensive domestic partnership act would allow the state of Hawaii to eliminate all discrimination against same-sex couples under state law, without triggering unwinnable legal and political battles with Congress and with the other states.

Many gays and lesbians have been deluded into thinking that if Hawaii legalizes gay marriage that the federal government and each of the other states must recognize such marriages as valid within their jurisdictional boundaries. This is not true. Many constitutional law experts predict, and with good reason, that the United States Supreme Court will rely on a "public policy" exception to the Full Faith and Credit Clause of the federal constitution as justification for other states to refuse to recognize Hawaiian same-sex marriages. It is hard to imagine a conservative Supreme Court -- one that has upheld the right of states to punish consenting adult sex in the privacy of a bedroom as a felony -- forcing all of the states to legalize gay marriage just because Hawaii does.

With the public opposed to same-sex marriage by a two-to-one margin, it is not likely that any state will recognize same-sex marriage for years, and then only after a long and sophisticated program of public education -- which is nowhere near on the horizon.

If gay marriage is legalized in Hawaii, a battle will erupt with Congress that will make the gays in the military debate look tame by comparison. With the Congress as conservative as it is, and with the president already opposed to same-sex marriage, the political fallout will be devastating.

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The backlash from a big push for gay marriage now may take several forms. At the federal level, we could see Congress initiate a federal constitutional amendment forbidding states to legalize same-sex marriage. Prohibition occurred before, although in a different form, and it could happen again.

Congress is also likely to redefine marriage, for purposes of federal laws, as an opposite-sex relationship. Such a bill would sweep through Congress with little opposition, and with Bill Clinton already opposed to gay marriage, don't count on a presidential veto.

However, the worst nightmares of the gay and lesbian community would materialize at the state level. To strengthen their case against gay marriage, some states may reenact sodomy laws, especially in places where they were repealed by a close vote or where they were struck down by liberal courts. This means putting gays back in jail!

But there's more. Many legislatures would vote to put a state constitutional amendment to the voters. Conservatives will not be satisfied with an anti-gay marriage ballot measure. They may put co-parent adoptions in the same measure (since the public opposes gay adoptions by 70% to 30%), and, they also may include an anti-domestic partnership clause that limits the definition of "family" in state law and that prohibits cities from enacting domestic partnership laws. With the public mood against gay marriage and gay adoptions so strong, a broad-based "traditional family initiative" could be enacted by the voters in many states. Such reactions to gay marriage could turn back the clock on the gains that have been made in privacy law, family law, and domestic partnership rights. It could also prevent us from regaining these rights without winning statewide voter approval.

Legalizing gay marriage in Hawaii, and pushing a gay marriage agenda nationally, have other ramifications. Since marriage is viewed by most people as a religious institution -- it is a sacrament in most churches -- the religious right will rouse their members to donate millions of dollars to stop gay marriage in its tracks. By contrast, domestic partnership has never gotten the religious troops up in arms the way gay marriage has.

Is the push for gay marriage now really worth the risks? Some gay rights leaders have taken a position of "going for broke." They want it all now and are tired of incremental change. However, let's be realistic. Hundreds of years of oppression won't be erased by 25 years of gay rights activism. Achieving full equality takes persistence, patience, and strategic moves. With such strong public opposition to gay marriage at this time, it makes sense to continue with what is working: a moderate and incremental agenda. Domestic partnership fits the bill on this score.

Passage of a comprehensive domestic partnership act in Hawaii would be a blessing in disguise. It would put Hawaii in the forefront of equal rights for same-sex couples. It would grant Hawaii couples all of the rights of marriage under Hawaii law. But it would avoid the national political backlash that legalizing gay marriage would create.

The gay press should keep in mind that there is a diversity of viewpoints on these issues within the gay and lesbian community itself. When the dust settles, history may prove that gay activists were shortsighted in pushing domestic partnership aside in 1996 by jumping on the gay marriage bandwagon as it drove down a dead end street.

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