EXHIBIT 11
DATE 2/16/09
HB 252

Testimony to the Montana House Judiciary Committee
Opposing House Bill 252 – Sexual Orientation and Gender Identity
In Human rights and Government Practices
February 16, 2009
By Richard W. Bennett, Bozeman, Montana

Chairman Stoker and members of the House Judiciary Committee,
Thank you for the opportunity to testify in opposition to House Bill 252, which would grant special rights to homosexuals in civil rights and other law.

Homosexual behavior is not a civil right granted under the U.S. or Montana constitution. The homosexual rights movement claims that homosexuals are fighting for basic civil rights denied them by an oppressive society that "discriminates" against them. When homosexual activists talk about their "civil rights," they are not talking about their constitutional rights, which have never been systematically denied to them as a class (unlike the historical experience of black Americans). Instead, they are talking about "civil rights" in the sense that the term was used in the Civil Rights Act of 1964, which laid down five protected categories in which it was illegal for an employer or banker or hotelier, and others, to practice discrimination ("race, color, religion, sex, or national origin").

The truth is that homosexuals have the same rights, with the same restrictions, as everyone else. They have the right of free speech, freedom of religion, due process under the law, the right to engage in commerce, to enter into contracts, own property, vote, along with a host of other rights. An ACLU handbook lists dozens of rights homosexuals already enjoy.[1]

What do the protected categories under existing Montana and U.S. civil rights laws have in common? The most logical answer would seem to be that the case for granting legal protection against "discrimination" is strongest when based on a personal characteristic that is:

- Inborn, involuntary, and immutable (like race and color);
- Innocuous (because it does no harm to the employer, to the individual, or to society as a whole); and/or
- In the Constitution.[2]

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Is "sexual orientation" and "gender identity or expression" like race and sex, a characteristic that is inborn, involuntary, immutable, innocuous, and in the Constitution? Is it, like religion (which is not inborn, involuntary, immutable, or necessarily innocuous, but is in the Constitution), a characteristic that meets even one of these criteria? The only truthful answer is no.

The argument that homosexuals are a true minority group is false. Minority groups share inborn, immutable, innocuous, non-behavioral characteristics such as race, sex, ethnicity, disability, or national origin. Homosexuals are the only group to claim minority status based on behavior.

No reliable scientific evidence exists which shows that homosexual behavior is biological in origin. A comprehensive examination of genetic claims for homosexuality in the Archives of General Psychiatry (March, 1993) concludes, "There is no evidence at present to substantiate a biologic theory." Probably the greatest indicator that homosexuality is not genetic or immutable is the existence of thousands of people who have come out of their homosexuality, as evidenced by the growing population of PFOX (Parents and Friends of Ex Gays) and Exodus International just to name a few.[3]

Homosexuals also do not meet two other criteria that characterize true minority groups: economic deprivation and political powerlessness.

As a group, homosexuals are among the most advantaged people in the country. Research shows that homosexuals fare at least as well or better than the rest of the country. According to The Human Rights Campaign, 82 percent of the Fortune 50 offer sex-partner benefits. What's more, a Comm Group/G Society study released in October 2001 shows that the median household income of homosexual households is $65,000 - compared to the national average of $40,800. Also, 47 percent of homosexual men and

40 percent of lesbians hold professional or managerial jobs - more than twice the figure for the general population.[4]

Homosexuals display political power far beyond their numbers, despite constituting only about 1 percent of the population. The top eleven homosexual activist groups spent approximately $36 million in 1999 fighting for homosexual "rights," according to the *Washington Blade*. Openly homosexual politicians hold various high public offices in Congress.[5] The most recent demonstration of homosexual political power came last year in California. Opponents of Proposition 8, which amended the state constitution to define marriage as between one man and one woman, raised $37.6 million to try and defeat the measure.

Many black Americans, including Jesse Jackson, are offended when homosexual activists, who have never been relegated to the back of a bus, equate their agenda with racial discrimination. In supporting traditional marriage, several black pastors wrote: "We find the gay community's attempt to tie their pursuit of special rights based on their behavior to the civil rights movement of the 1960s and 1970s abhorrent." (Cheryl Wetzstein, "Blacks Angered by Gays' Metaphors," Washington Times (March 3, 2004): 3).

For additional information to support voting against this bill, I have included a publication written by Peter Sprigg of the Family Research Council.

I urge you to vote AGAINST House Bill 252.

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[1] Nan D. Hnter, Sherryl E. Michaelson, Thomas B. Stoddard, The rights of Lesbians and Gay Men: The Basic ACLU Guide to a Gay Person's Rights, Third Edition, Southern Illinois University Press, Carbondale and Edwardsville, 1992.
[2] Sprigg, Peter, "Homosexuality Is Not a Civil Right," *Family Research Council Special Publication.* Available at: http://www.frc.org/get.cfm?i=BC07I01

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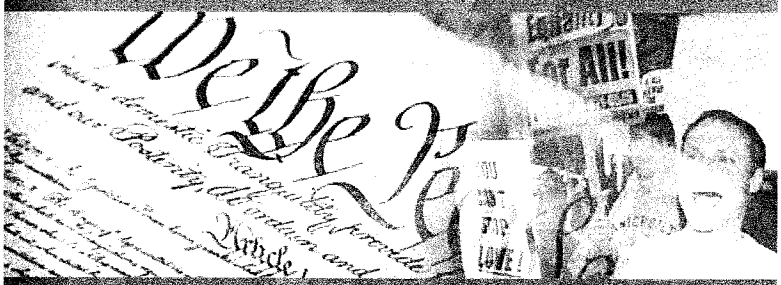
[3] Garcia, Daniel S., and Regier, Robert E., "Homosexuality Is Not a Civil Right," *Family Research Council Issue No. 229*. Available at: : http://www.frc.org
[4] "Fact or Fiction - Popular Myths," *Alliance Defense Fun,* Available at:

[5] Garcia, Daniel S., and Regier, Robert E., "Homosexuality Is Not a Civil Right," *Family Research Council Issue No. 229*. Available at: : http://www.frc.org

Homosexuality Is Not a Civil Right



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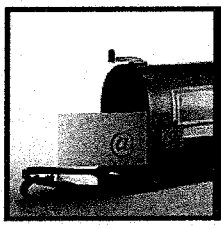

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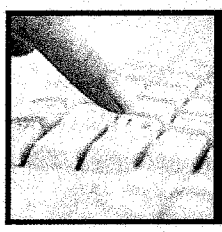

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Homosexuality Is Not a Civil Right

BY PETER SPRIGG

Early in 2004, San Francisco mayor Gavin Newsom began giving out marriage licenses—illegally—to same-sex couples. One of the homosexuals who traveled to San Francisco in search of a marriage license explained his rationale succinctly: "I am tired of sitting at the back of the bus."[1]

The allusion, of course, was to the famous story of Rosa Parks. Parks is the African-American woman who, one day in 1955, boarded a racially segregated city bus in Montgomery, Alabama, sat down near the front, and refused the driver's order to "move to the back of the bus." Parks' act of civil disobedience violated one of the "Jim Crow" laws that enforced racial segregation in various public services and accommodations in some states.

Parks' arrest for her courageous defiance sparked the Montgomery bus boycott, led by a young minister named Martin Luther King, Jr., which is generally viewed as the beginning of the great civil rights movement of the 1950s and 1960s. It culminated legislatively in the passage of the Civil Rights Act of 1964, banning racial discrimination in employment, housing, and public accommodations.

The stories of Rosa Parks and Martin Luther King, Jr. have become an inspiring part of American

PETER SPRIGG is vice president for policy at the Family Research Council in Washington, D.C. This essay is adapted from his book *Outrage: How Gay Activists and Liberal Judges Are Trashing Democracy to Redefine Marriage* (Washington, D.C: Regnery Publishing, Inc., 2004).

history. It's not surprising that homosexual activists have tried to hitch their caboose to the "civil rights" train. They do this in the context of efforts to change the definition of marriage in order to allow same-sex "marriages" (by comparing same-sex "marriage" to interracial marriage) and efforts to pass "hate crime" laws (which stigmatize opposition to homosexual behavior as a form of "hate" comparable to racism). The arguments in this essay are relevant to those debates, but focus particularly on laws that would ban employment "discrimination" on the basis of "sexual orientation" (such as the federal Employment Non-Discrimination Act, which is regularly introduced each Congress).

This essay is not a legal treatise, but an exploration of the philosophical justification for including various characteristics as categories of protection under historic civil rights laws—and why "sexual orientation" simply does not compare with them.

Defining Terms: What Are "Civil Rights," Anyway?

The dictionary defines civil rights as "rights belonging to a person by virtue of his status as a citizen or as a member of civil society."[2] The Bill of Rights in the United States Constitution guarantees every American the right to freedom of religion, speech, and the press, as well as "due process of law," and gives protections against unreasonable search and seizure, "double jeopardy" (being tried twice for the same crime), and self-incrimination.

These are true "civil" rights, in that they belong to a person (every person) "as a citizen or as a member of civil society." But please note well—homosexuals have never been denied any of these rights, nor is anyone proposing to deny such rights to homosexuals in the future.

When homosexual activists talk about their "civil rights," they are not talking about their constitutional rights, which have never been systematically denied to them as a class (unlike the historical experience of black Americans). Instead, they are talking about "civil rights" in the sense that the term was used in the Civil Rights Act of 1964, which laid down five protected categories in which it was illegal for an employer or banker or hotelier, and others, to practice discrimination ("race, color, religion, sex, or national origin"). Many states now have similar laws as well.

The true "constitutional" rights cited above place a restriction on the actions of governments in carrying out the law. And when a constitutional right is extended to a group previously deprived of it, no one else suffers any reduction in their rights as a result. For example, when the right to vote was extended to blacks and then to women, this did nothing to limit the right of whites or of men to vote.

Civil rights laws that bar employment discrimination, however, place a restriction upon the action of private entities (such as corporations) in carrying out their private business. This is why Congress rested its authority to pass the Civil Rights Act not on the Constitution's guarantee of the "equal protection of the laws,"[3] but on its power to regulate interstate commerce.[4] When such a "right" is extended (for the individual to be free

from "discrimination" in employment), it infringes upon what would otherwise be the customary right of the employer to determine the qualifications for employment. The extension of historic constitutional rights is a "win-win" situation, but the extension of laws against employment discrimination is more of a "zero-sum" game—when one (such as the employment applicant) wins more protection, another (the employer) actually loses a corresponding measure of freedom. It is because of this that lawmakers should be exceedingly cautious, rather than generous, about expanding the categories of protection against private employment discrimination.

Because of our national shame at the historic legacy of racial discrimination against blacks, many people have come to think of "discrimination" as inherently evil. However, the basic meaning of "discriminate" is simply "to make a distinction."[5] To compare and evaluate candidates based on their education, experience, intelligence, and competence is inherently "discrimination." The question, therefore, is not whether "discrimination" will take place—it can, it will and it must. The question for public policy is: which forms of "discrimination" are so profoundly offensive to the national conscience that they justify government action that interferes with the rights of employers and other private entities and gives special protections to certain classes of people?

In the Civil Rights Act of 1964, Congress answered that question by including only five categories of protection. As noted above, those categories were: "race, color, religion, sex, or national origin."[6] For instance, a banker could deny an applicant a loan because the applicant was not credit-worthy, but not because he or she was Jewish or black. What do these protected categories have in common?

While there is no definitive legal answer, the most logical answer would seem to be that the case for granting legal protection against "discrimination" is strongest when based on a personal characteristic that is:

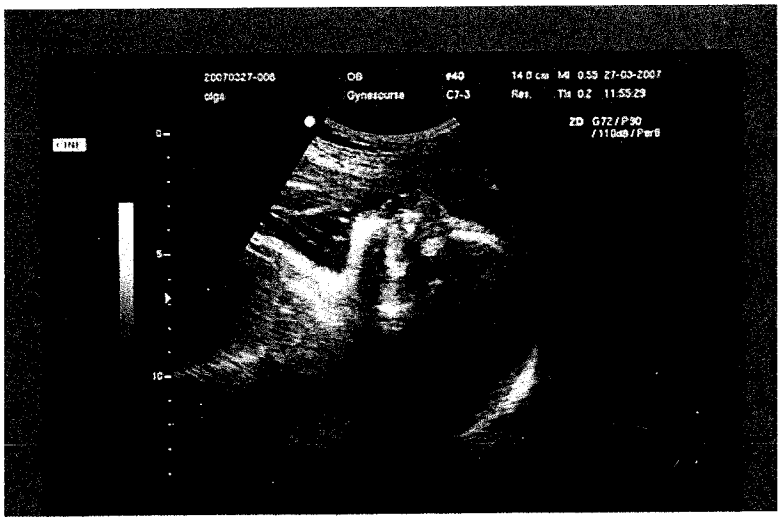
- Inborn, involuntary, and immutable (like race and color);
- Innocuous (because it does no harm to the employer, to the individual, or to society as a whole); and/or
- In the Constitution.

Is "sexual orientation," like race and sex, a characteristic that is inborn, involuntary, immutable, innocuous, and in the Constitution? Is it, like religion (which is not inborn, involuntary, immutable, or necessarily innocuous, but is in the Constitution), a characteristic that meets even one of these criteria?

The only truthful answer is no.

Is Homosexuality Inborn?

The notion that "people are born gay" is nothing less than the "Big Lie" of the homosexual movement. The widespread—and erroneous—belief that there is a "gay gene" can largely be traced to the publicity surrounding three scientific studies in the early 1990s. One studied brains, one studied twins, and one studied genes.



The Brain Study

In 1991, following the death of his homosexual lover from AIDS, researcher Simon LeVay decided to search the brains of cadavers (of six women and thirty-five men) to find a physical determinant for homosexuality.[7] He examined the size of a particular brain structure known as INAH3, which has been linked to sexual behavior in animals, and reported that INAH3 was larger in heterosexual men than in heterosexual women, but also larger in heterosexual men than in homosexual men. This result, LeVay concluded, "suggests that sexual orientation has a biological substrate."[8]

There are numerous problems with this interpretation. For example, six of the sixteen supposedly "heterosexual" male subjects had died of AIDS—an extraordinarily large percentage in comparison to the general heterosexual population. As one analyst put it, because of this unlikely circumstance "it seems quite possible that LeVay . . . classified some homosexuals as heterosexuals."[9]

Other problems included the significant overlap in the overall range of INAH3 sizes between the "homosexual" and "heterosexual" groups and the possibility that the observed effect was a result of AIDS (which caused the death of all of LeVay's "homosexual" subjects).[10]

A 1993 critique in the *Archives of General Psychiatry* concluded that this and two other studies of brain structures remain "as yet uncorroborated" and noted that even if such studies are replicated, "we will not know whether the anatomic correlates are a cause or a consequence of sexual orientation."[11]

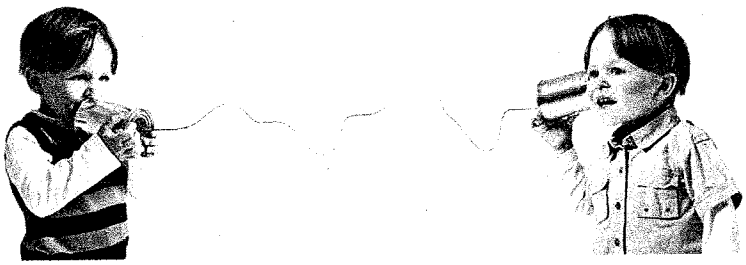
The Twins Study

The twins study was conducted by J. Michael Bailey and Richard C. Pillard. Bailey and Pillard sought to identify homosexuals who had an identical twin. Among the study's subjects, they found that when one identical twin was homosexual, 52 percent of the time his identical twin was homosexual as well. They took this as confirmation of the theory of a genetic component in homosexuality.[12]

This study also has problems, is contradicted by other studies, and falls down on its own evidence. Remember, identical twins have an identical genetic make-up. Therefore, a study showing that 52 percent of the identical twins of homosexuals are also homosexual proves only one thing—that at least 48 percent of the time homosexuality is not genetically determined.

Similar twin studies, however, have not found a concordance rate for homosexuality that is anywhere near as high as 50 percent. For example, a more recent study of twins in Minnesota found "no significant genetic effects" on sexual orientation among males and some effect among females, but reached the overall conclusion that "Environmental effects were . . . more important in the aggregate than genetic effects."[13] A 2002 study in *The American Journal of Sociology*, using a large, population-based sample, found a concordance rate for same-sex attraction of only 6.7% among identical twins.[14]

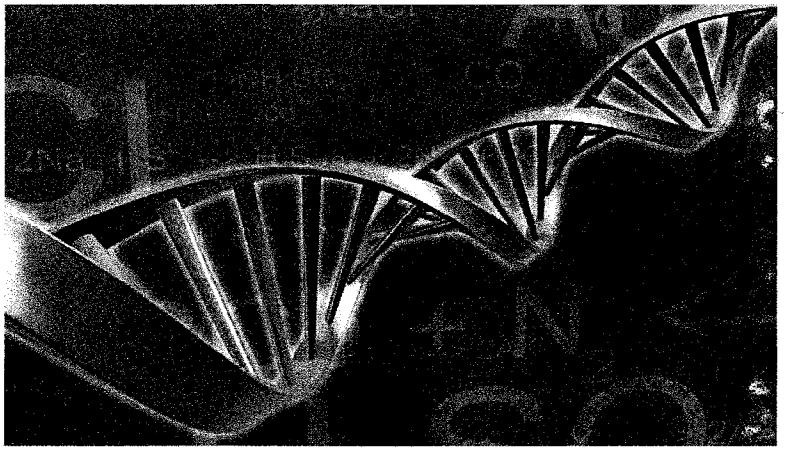
Bailey and Pillard also made no effort to control for environment in the development of the twins. The twins studied were raised in the same home, and given that they were identical in age, appearance, and natural talents and dispositions,



it is not surprising that their environment and experiences (including ones that might influence the development of homosexuality) would be more similar than those of other siblings. An analysis in the *Archives of General Psychiatry* noted that this could mean that "any difference in the true concordance rates would be attributable to environmental rather than genetic factors."[15]

The Gene Study

Only one of the three most famous "gay gene" studies actually looked directly at genes. This was the 1993 study by Dean Hamer, a geneticist with



the National Cancer Institute. Studying patterns of male homosexuality in extended families, he found a correlation between the existence of homosexual brothers and homosexuality among maternal uncles and other male relatives on the maternal side. From this, he theorized the existence of a gene influencing the development of homosexuality that is transmitted through the maternal line (that is, on the X chromosome, which men inherit from their mothers). Hamer then examined DNA from these related men, and claimed to have found "a gene that contributes to homosexual orientation in males" at a location called Xq28.[16]

This supposed discovery of a "gay gene" made headlines. Hamer's numerous caveats were less widely reported. Hamer reported that "the observed rates of homosexual orientation . . . were lower than would be expected for a simple Mendelian [i.e., directly inherited] trait."[17] He also admitted that not all cases of homosexuality could be explained by this gene marker,[18] and that no conclusion could be drawn as to what percentage of homosexuality might have a genetic link.[19] Finally, Hamer said there was a need to identify "environmental, experiential, or cultural factors . . . that influence the development of male sexual orientation."[20]

Even with those qualifying remarks, however, Hamer's finding remains suspect for one key reason—other scientists have been unable to replicate it. One team of researchers, who tried but failed to confirm Hamer's findings, declared in the journal *Science* in 1999 that their "results do not support an X-linked gene underlying male homosexuality."[21]

Two scientists who reviewed the data regarding biological or genetic theories on the origin of homosexuality concluded that "the appeal of current biologic explanations for sexual orientation may derive more from dissatisfaction with the present status of psychosocial explanations than from a substantiating body of experimental data. Critical review shows the evidence favoring a biologic theory to be lacking."[22]

In other words, the scientific evidence is that homosexuality is not inborn.

Is Homosexuality Involuntary?

There are three aspects to "sexual orientation": attraction, behavior, and self-identification.

Attractions are indeed "involuntary." But people do choose, and can be held responsible for, what

overt sexual behaviors they actually engage in. A heterosexual married man might feel sexually attracted to a woman who is not his wife, but if he acts on that attraction, he is rightly condemned for an act of adultery. The fact that his sexual attraction was "involuntary" is no excuse for failing to control his actual behavior.

Homosexuals complain, however, that in effect they are being asked to refrain from sex altogether. Yet this argument only makes sense if "homosexuals" are utterly incapable of engaging in heterosexual relationships—a contention not borne out by the research. According to the 1994 National Health and Social Life Survey, the most comprehensive national survey of sexuality ever conducted, 2.8 percent of American adult men and 1.4 percent of American adult women identify themselves as homosexuals.[23] But the same survey showed that only 0.6 percent of men and 0.2 percent of women report having had only same-sex sexual experiences since puberty.[24] In other words, about 80 percent of self-identified "homosexuals" have engaged in heterosexual relationships.

So homosexual attractions might indeed be involuntary, but such attractions are psychological, invisible, and secret, and therefore essentially irrelevant to public policy. Homosexual behavior (and the desire of homosexual activists to have official governmental affirmation of such behavior) is what is really relevant to the debate over protecting homosexuals under "civil rights" laws. Such behavior is clearly voluntary, and thus the criterion (for civil rights protection) of being an "involuntary" characteristic does not apply.

Is Homosexuality Immutable?

There is no such thing as a former black person, nor, despite sex-change surgery, is there such a thing as a former woman or a former man, since even such surgery does not change the sexual identity inscribed in a person's chromosomes. There are, however, thousands of former homosexuals.

The strongest scientific evidence of this was provided by one of the most unlikely sources. Robert L. Spitzer is a psychiatrist who was instrumental in pushing for the controversial 1973 decision of the American Psychiatric Association to remove homosexuality from its list of mental disorders. That event was a crucial early victory for homosexual activists.

Nevertheless, Dr. Spitzer had the intellectual honesty to accept a challenge to study the results of what is called "reparative therapy" for homosexuality. Reparative therapy is a mental health treatment designed to reduce unwanted homosexual attractions and behavior.

Dr. Spitzer studied 200 people who had reported some measure of change from a homosexual to a heterosexual orientation. He published his conclusions in 2003:

> This study indicates that some gay men and lesbians, following reparative therapy, report that they have made major changes from a predominantly homosexual orientation to a

predominantly heterosexual orientation. The changes following reparative therapy were not limited to sexual behavior and sexual orientation self-identity. The changes encompassed sexual attraction, arousal, fantasy, yearning, and being bothered by homosexual feelings. The changes encompassed the core aspects of sexual orientation.[25]

Spitzer also notes that a survey of the literature in 2001 by another researcher found at least 19 studies that include tangible data suggesting a homosexual orientation can be changed.[26]

Is Homosexuality Innocuous?

One of the main reasons why discrimination based on race is so widely condemned is because virtually everyone agrees that the mere color of a person's skin, in and of itself, cannot rationally be viewed as posing a threat to society. While males and females are clearly different, they are equal in essential value, and the existence of both is necessary for the survival of society. But can one say the same about homosexuality?

Some advocates of "gay rights" openly claim, as writer Andrew Sullivan has, that "homosexuality . . . is a moral good."[27] But there is considerable evidence that homosexuality causes tangible harms and imposes significant costs on the individuals who practice it and on society.

In fact, homosexual behavior is associated with higher rates of:

- promiscuity
- sexually transmitted diseases
- mental illness
- substance abuse
- domestic violence; and
- child sexual abuse.

Let's look at each of these in turn.

Homosexual Promiscuity

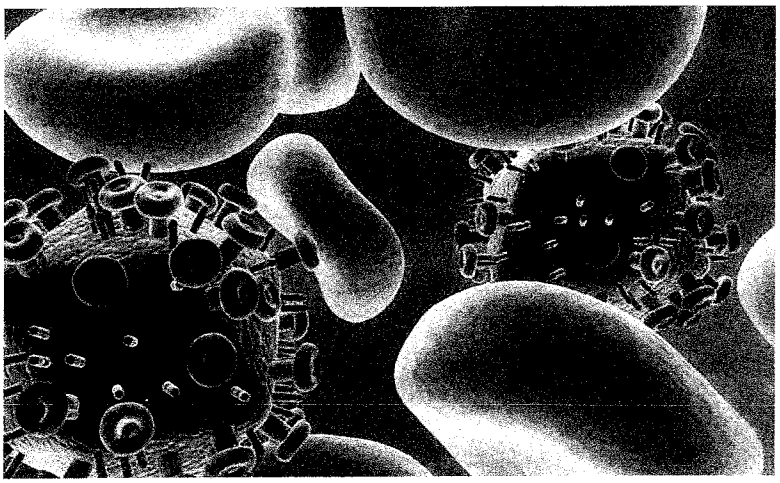
Studies indicate that the average male homosexual has hundreds of sex partners in his lifetime.

- A. P. Bell and M. S. Weinberg, in a classic study of homosexuality, found that 43 percent of white male homosexuals had sex with 500 or more partners, with 28 percent having 1,000 or more sex partners.[28]

- In a study of the sexual profiles of 2,583 older homosexual men published in the Journal of Sex Research, Paul Van de Ven and others found that "the modal range for number of sexual partners ever [of homosexual men] was 101–500." In addition, 10.2 percent to 15.7 percent had between 501 and 1,000 partners. A further 10.2 percent to 15.7 percent reported having had more than 1,000 lifetime sexual partners.[29]

Startlingly, lesbians have higher rates of promiscuity—*with men*—than do heterosexual women.

- The journal *Sexually Transmitted Infections* found that "the median number of lifetime male sexual partners was significantly greater for WSW (women who have sex with women) than controls (twelve partners versus six). WSW were significantly more likely to report more than fifty lifetime male sexual partners."[30]



Sexually Transmitted Diseases

- Sixty-two percent of the cumulative total of reported AIDS cases among males in the United States have been in men who have sex with men,[31] even though only 5.3 percent of American men have had sex with another man even once since age 18.[32]

- Even the Gay and Lesbian Medical Association acknowledges, "Sexually transmitted diseases (STDs) occur in sexually active gay men at a high rate." Their website notes that these include STD infections "for which no cure is available (HIV, Hepatitis A, B, or C virus, Human Papilloma Virus, etc.)."[33]

- *Sexually Transmitted Infections* also reported "a higher prevalence of BV (bacterial vaginosis), hepatitis C, and HIV risk behaviors in WSW [women who have sex with women] as compared with controls [women who have sex with men]."[34]

Mental Illness

- A 1999 study in the *Archives of General Psychiatry* found that gay, lesbian, or bisexual young people were at increased risk for major depression, generalized anxiety disorder, conduct disorder, multiple disorders, suicidal ideation, and suicide attempts.[35]

Substance Abuse

- The Gay and Lesbian Medical Association (GLMA) says, "Gay men use substances at a higher rate than the general population, and not just in larger communities such as New York, San Francisco, and Los Angeles." They add that evidence suggests that "gay men have higher rates of alcohol dependence and abuse than straight men," and "gay men use tobacco at much higher rates than straight men."[36]

- The GLMA also reports that "illicit drugs may be used more often among lesbians than heterosexual women;" that "tobacco and smoking products may be used more often by lesbians than by heterosexual women"; and that alcohol "use and abuse may be higher among lesbians."[37]

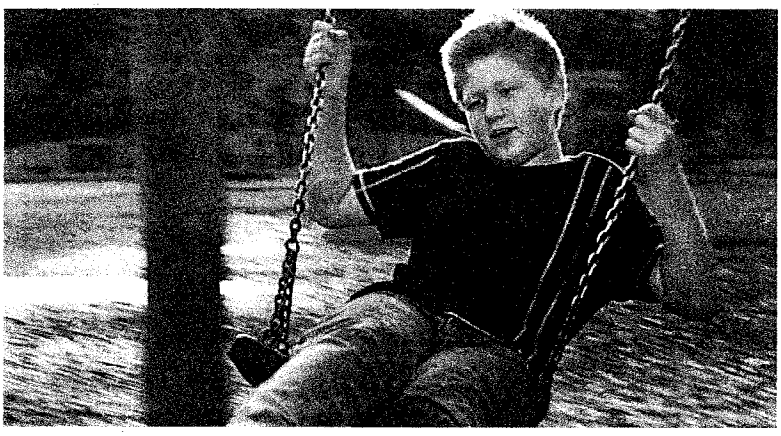
Domestic Violence

- A 1994 study in the *Journal of Interpersonal Violence* examined conflict and violence in lesbian relationships. The researchers found that 90 percent of the lesbians surveyed had been recipients of one or more acts of verbal aggression from their intimate partners during the year prior to this study, with 31 percent reporting one or more incidents of physical abuse.[38]

- In their book *Men Who Beat the Men Who Love Them*, authors Island and Letellier estimate that "the incidence of domestic violence among gay men is nearly double that in the heterosexual population."[39]

Child Sexual Abuse

- Pedophiles are invariably males: A report by the American Professional Society on the Abuse of Children states: "In both clinical and non-clinical samples, the vast majority of offenders are male."[40]



- Significant numbers of victims are males: A study in the *Journal of Sex Research* found that although heterosexuals outnumber homosexuals by a ratio of at least 20 to 1, about one-third of the total number of child sex offenses are homosexual in nature.[41]

- Many pedophiles consider themselves to be homosexual: Homosexual activists try to argue that the sex of his child victims is irrelevant to an abuser's sexual orientation with respect to adults, but a study of 229 convicted child molesters in *Archives of Sexual Behavior* found that "eighty-six percent of offenders against males described themselves as homosexual or bisexual."[42]

There is nothing innocuous about these dangerous behaviors that correlate with homosexual behavior and the grave consequences that result from it.

Is Homosexuality in the Constitution?

When deciding to extend "civil rights" protections of the type described in this essay, legislators are not inherently limited to categories or characteristics already mentioned in the Constitution. However, the argument in favor of such special protections is stronger for those categories that already play a role in our nation's highest law. This is the case with regard to the five categories mentioned in the Civil Rights Act of 1964: "race, color, religion, sex, or national origin."

The 13th, 14th, and 15th Amendments to the Constitution, adopted after the Civil War, were designed to eliminate legal discrimination against blacks in the wake of over two centuries of slavery. The 15th Amendment mentions race and color explicitly, declaring that "the right to vote shall not be denied or abridged . . . on account of race, color, or previous condition of servitude."[43] "National origin" would be comparable to "race" and "color" in this respect.

The constitutional amendment process was explicitly used in 1920 to give women the right to vote, which they had been denied for most of our nation's history. The 19th Amendment, using language directly parallel to that of the 15th regarding race, declared that the right to vote "shall not be denied or abridged . . . on account of sex."[44]

Constitutional reference to religion can be found in the First Amendment, which guarantees religious liberty by declaring, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."[45] In addition, the Constitution explicitly forbids the government to discriminate on the basis of religion in filling public offices, declaring that "no religious test shall ever be required as a qualification to any office or public trust under the United States."[46]

These explicit constitutional references to race, sex, and religion greatly strengthen the historical argument for including them in civil rights laws. There is no reference to homosexuality or to "sexual orientation" in the U.S. Constitution.

In fact, the historical record shows the founding fathers considered homosexual acts to be an abominable crime. Just weeks after the Declaration of Independence, Thomas Jefferson wrote in a letter that "buggery" (i.e., homosexual sodomy) should be punished "by castration." While at Valley Forge in 1778, General George Washington drummed out of his army a soldier who had attempted to commit sodomy with another, declaring his "abhorrence and detestation of such infamous crimes."[47]

Conclusion

In summary, homosexual behavior is not inborn, involuntary, immutable, or innocuous, nor is it found in the Constitution. There is no compelling, logical basis for treating it as a protected category under civil rights laws, or for granting special protection against "discrimination" based on "sexual orientation."

ENDNOTES

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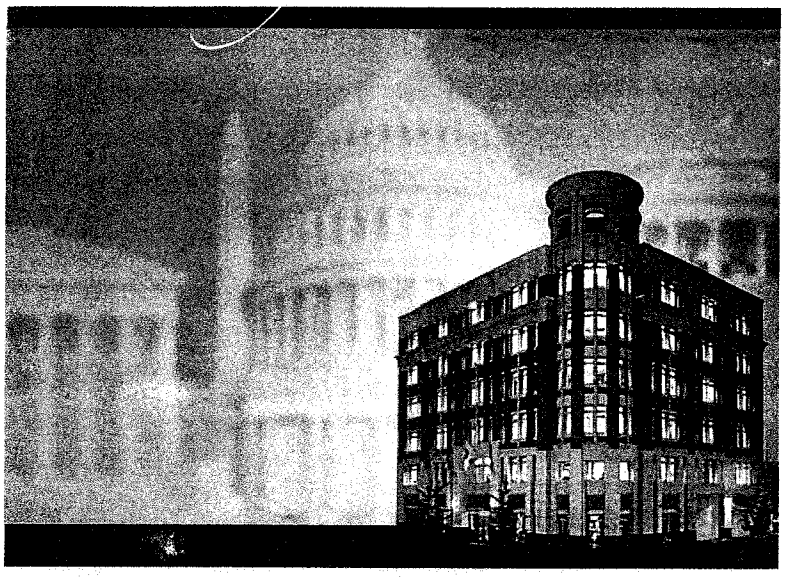

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