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## ***Why Marriage Matters***

*Maureen Brodoff and Ellen Wade have been together now for 24 years. They are the legal parents of a 13-year-old daughter, Kate, and participate in numerous community activities, including coaching Little League. They share a bank account and jointly own most of their property. In other words, Maureen and Ellen are just like many other loving and devoted couples across America. And yet they have long been denied the fundamental human right that millions of other Americans enjoy- the right to marry the person they love. That is why they, along with six other gay and lesbian couples in Massachusetts, filed a suit against the Department of Public Health, which oversees the granting of marriage licenses by city and town clerks. On November 18, 2003, the Massachusetts Supreme Judicial Court ruled that same-sex couples have a constitutional right to marry in Massachusetts.*

*Why was this so important to Maureen and Ellen? Why does the refusal to grant gays and lesbians access to marriage really matter? What is marriage and how will it change the lives of gay and lesbian families?*

### ***What is marriage?***

While marriage ceremonies can take a number of forms, there is only one type of legal marriage -- civil marriage. The religious rite of marriage is separate. Couples may have both a civil marriage and the religious rite: a civil marriage if they meet the government's requirements, and a religious ceremony if they meet the requirements of their faith tradition. However, only a *civil* marriage confers the legal protections of marriage, and it is only the legal right to civil marriage that these couples seek.

**Civil Marriage** – Civil marriage is the legal relationship of two people who meet certain basic state requirements. In Massachusetts, examples of these requirements include that the couple is of the proper age, that neither member of the couple is already married, and that the members of the couple are not closely related to one another. Despite fulfilling these requirements, gay and lesbian couples are not allowed to marry anywhere in the United States, although they are now permitted to marry in the Netherlands, in Belgium and most recently in Canada. This is true no matter how committed their relationships, how long they have been together, or how much their families need the protections that marriage would provide.

**Religious Rite of Marriage** – This is the spiritual union of couples meeting marriage requirements based on that faith's tenets. Religions have complete autonomy in deciding what marriages to consecrate. Because of the separation of church and state, the right of religious communities to perform or not perform any marriage rite is absolute, and will remain unaffected even when the right of gay and lesbian couples to marry is recognized.

The rules for who can marry religiously in different faith traditions vary. Many faith communities allow gay and lesbian couples to wed. Individual congregations of Reform Jews, Unitarian Universalists and Presbyterians have performed marriages for same-sex couples. The religious rite of marriage, however, unlike civil marriage, accords a couple no legal rights or responsibilities.

### ***Why does marriage matter?***

Marriage is a major building block for strong families and communities. Weddings are an opportunity for friends, family and neighbors to come together to recognize a couple's lifelong commitment to one another. This occasion strengthens a couple's bond and marks their inclusion as a family into the communities of which they are a part.

But marriage is much more than that.

First, it is a unique relationship -- synonymous with "family" -- so that if you are "married," no one would dare challenge a person's right to be by his or her spouse's side. The word itself is one of the protections.

Second, it is a gateway to hundreds of legal protections established by the state and over 1000 by the federal government. Married couples can take for granted rights of hospital visitation, security for their children, and rights of inheritance. This security has long been unavailable to same-sex couples.

- Consider a couple like David Wilson and Robert Compton. Rob has been in the emergency room four times recently, and each time, David's right to be by the bedside of the person he loves has been uncertain.
- Think about Gary Chalmers and Rich Linnell. Gary's health insurance policy at work covers only him and their daughter because Massachusetts law does not consider Rich, his committed partner of over 10 years, to be a dependent. The household must therefore purchase a separate individual health insurance policy at considerable expense.
- Think about Gloria Bailey and Linda Davies. Despite having been in a committed relationship for over 30 years and business partners for nearly all of that time, the law still treats them as strangers. When one of them dies and passes on the home and business they have built together, the surviving partner will face immediate tax liabilities, which would be deferred for a surviving spouse until his or her death.

*(For a more detailed look at the protections and rights that marriage confers, see GLAD's publication, "Protections, Benefits and Obligations of Marriage Under Massachusetts and Federal Law").*

While gay and lesbian families can protect themselves in limited ways by creating wills, health care proxies and co-parent adoptions, this does not come close to emulating the automatic protections and peace of mind that marriage confers. People cannot contract their way into changing pension laws, survivorship rights, worker's compensation dependency protection, or the tax system, to name just a few.

Marriage is also a social institution of the highest importance, the ultimate expression of love and commitment. While it remains exclusive to opposite sex couples, gay men and lesbians will continue to fall short of the status of full citizenship, marking them and their children with a stamp of inferiority. The 2000 census figures for Massachusetts showed that there are gay and lesbian families in virtually every county, city and town. Denying the security that marriage can bring only serves to weaken gay and lesbian families and the communities of which they are a part.

Far from undermining marriage, the struggle for full equality for gay and lesbian couples is an acknowledgement of the importance marriage has in society and the power it has over all our lives. Increasing access to marriage for adults in committed relationships will strengthen the institution, not weaken it. Marriage will not be destroyed by allowing same-sex couples to marry, just as it was not destroyed by women's equality within marriage or the repeal of interracial marriage bans. In seeking the freedom to marry, gay and lesbian couples have simply asked that their relationships be given the same respect under law accorded to others, so that they may obtain the security and protection their families need.