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Testimony of
The Permanent Commission on the Status of Women
Before the
Judiciary Committee
Friday, March 6, 2009

In Support of:

S.B. 899, AA Implementing the Guarantee of Equal Protection under the Constitution of the State for Same Sex Couples

Senator McDonald, Representative Lawlor and members of the committee, thank you for this opportunity to provide testimony in support of S.B. 899, which would codify the Supreme Court's decision in Kerrigan v. Commissioner of Public Health into State law; thereby declaring it unconstitutional to deny same-sex couples the right to marry in Connecticut.

PCSW monitors and make recommendations on policies or practices that grant or withhold benefits to individuals based on gender, or that are grounded in and reinforce stereotyped notions of gender roles. Same-gender marriage and more generally, all issues related to full equality and respect for gay, lesbian, and bisexual individuals, fall squarely into this category. PCSW urges this Committee to statutorily extend the fundamental civil right of marriage to all Connecticut citizens.

This bill would have no legal force with respect to religious marriage in Connecticut. Faith-based communities remain free to offer religious marriage to, or withhold religious marriage from, same-gender couples, as their religious beliefs dictate. Even so, opponents of this bill, with arguments frequently grounded in theology, contend that the long history of marriage as between one woman and one man compels the conclusion that civil marriage was meant to be, and therefore must remain, an exclusively heterosexual institution. We respectfully disagree.

As an initial matter, we should remember that, even though the institution of marriage does have a long history, the rules governing civil marriage in our state have never been etched in stone. Rather, they have evolved over time, in the direction of broader access, greater equality,

and more respect for the privacy and individual choice essential to liberty. Under Connecticut law, married women are no longer deemed the property of their husbands, nor denied the right to own property or bring suit in their own names. People of all races can marry and can do so across racial lines. Alimony is available to both men and women, and joint custody of children after divorce is no longer an anomaly. Each of those changes was controversial in its time, but each was required to correct an injustice.

However, even if the form of marriage codified in Connecticut today had been in place since the beginning of time, that fact would not necessarily lead to the conclusion that the perpetuation of marriage in its historical form is just. That argument is no more persuasive with respect to same-gender marriage than were similar assertions by those opposed to equal treatment under law for women and people of color, who likewise could cite to long “traditions” in support of their views. There, as here, traditions of injustice were the sorts of traditions that no society committed to liberty and equality under law could uphold.

Notwithstanding the dire predictions of opponents of equal marriage rights, the changes you are considering today will not weaken marriage. Rather, they will strengthen marriage, by affirming its importance as an institution for establishing and protecting families – an institution based on individual choice and consent, and giving rise to an extensive set of mutual rights and obligations. Moreover, by codifying this law, the State will not relegate same-gender couples, who under both our state and federal constitutions are entitled to equal treatment under the law, to second-class citizenship.

Connecticut has always been in the forefront of efforts to eliminate discrimination based on gender and sexual orientation. Our adoption statutes permit homosexual individuals and same-sex partners of biological parents to adopt; our anti-discrimination statutes forbid discrimination on the basis of gender or sexual orientation in housing, employment, education, public accommodations, credit practices, licensing, even golf club membership. We hope that the members of this Committee, your colleagues in the General Assembly, and our Governor will act in this session to eliminate discrimination based on gender and sexual orientation in marriage, as well.