

# DO MARRIAGE AMENDMENTS REALLY PROTECT MARRIAGE? AN ANALYSIS OF DATA FROM 2000 TO 2009

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## EXECUTIVE SUMMARY

At a recent press conference, State Representative Paul Stam advocated amending North Carolina's constitution to exclude same-sex couples from state recognition. He contended that an amendment is necessary to promote marriage and to prevent heterosexuals from losing interest in marriage, which he believes will happen if the state were to recognize same-sex couples. He called this presumed devaluation the "depreciation" of marriage.

**Representative Stam has offered no evidence to support his assertion.** As North Carolinians consider the proposed constitutional amendment, it is important to ground the debate in evidence rather than unsubstantiated theories. In this paper, I analyze ten years' worth of data from the National Vital Statistics System to evaluate the assertion that amending the constitution is necessary to promote marriage and protect it from depreciation. I conclude that the claim is invalid. Key findings and conclusions from my research include the following:

- Extending recognition to same-sex relationships in other states has neither increased divorce rates nor decreased marriage rates. **This finding suggests that there is no need to pass a constitutional amendment to protect marriage from depreciation because fears of such depreciation are unfounded.**
- In North Carolina's neighboring states, marriage amendments have failed to alter preexisting trends in divorce rates. **Marriage amendments are unlikely to promote people's interest in marriage enough to decrease divorce rates.**
- Marriage rates declined steadily in North Carolina's neighboring states after they passed marriage amendments. **This fact casts doubt on marriage amendments' ability to slow the decline of marriage rates.**
- Out of the five states with the lowest divorce rates, none has ever had an amendment banning same-sex marriage. In contrast, states with the highest divorce rates in the country also have marriage amendments. **This fact challenges the claim that a marriage amendment in North Carolina would promote stable marriages.**

# DO MARRIAGE AMENDMENTS REALLY PROTECT MARRIAGE? AN ANALYSIS OF DATA FROM 2000 TO 2009

by Holning Lau\*  
September 12, 2011

On August 30, 2011, State Representatives Dale Folwell and Paul Stam held a press conference to advocate amending the North Carolina Constitution to limit state recognition of coupled relationships to married different-sex couples.<sup>1</sup> Representative Stam argued that an amendment is necessary to promote marriage and protect it from “depreciation.”<sup>2</sup> He contended that state recognition of same-sex relationships would diminish people’s interest in marriage and, as a result, heterosexuals would become less likely to enter and stay in marriages.<sup>3</sup> An amendment, according to Representative Stam, is thus imperative to prevent people from losing interest in the institution of marriage.<sup>4</sup> Representative Stam, however, offered no evidence to support his assertion.<sup>5</sup>

In this paper, I analyze data from a ten-year period to evaluate the validity of Representative Stam’s claims. The paper proceeds in four parts. Part I investigates whether *marriage* rates in other states have changed over time due to either the enactment of marriage amendments<sup>6</sup> or governmental recognition of same-sex couples. Part II examines whether *divorce* rates in other states have changed over time due to either the enactment of marriage amendments or governmental recognition of same-sex couples. Part III explores

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<sup>1</sup> At the press conference, Representatives Stam and Folwell intimated that they supported the Senate version of the amendment, which at the time stated: “Marriage between a man and a woman is the only domestic legal union that shall be valid or recognized in this state.” As of September 9, 2011, the following sentence was added to that text: “This section does not prohibit a private party from entering into contracts with another private party; nor does this section prohibit courts from adjudicating the rights of private parties pursuant to such contracts.” For a video of the press conference, see “Marriage Amendment Presser Video,” *News & Record* (Greensboro, NC), Aug. 30, 2011, [www.news-record.com/blog/53964/entry/126238](http://www.news-record.com/blog/53964/entry/126238).

<sup>2</sup> Representative Stam stated that he is concerned about same-sex marriage “delegitimizing the institution of marriage as a whole.” He claimed that, when same-sex marriage is legitimized “marriage itself is depreciated.” It is worth noting that, although Representative Stam seems concerned primarily about same-sex couples, the proposed amendment for North Carolina would also strip unmarried different-sex couples in North Carolina of certain rights that they currently have.

<sup>3</sup> Specifically, Representative Stam stated that, when marriage is not limited to different-sex couples, “those who are considering whether to get married or not, and who don’t have strong opinions one way or another, just don’t . . .”

<sup>4</sup> *See id.*

<sup>5</sup> To support his speculation, Representative Stam made a vague reference to foreign countries, but did not provide any specific evidence from abroad. He stated: “We see in countries around the world where they legitimize same-sex marriage, that marriage itself is depreciated.” In fact, data from other countries contradict Representative Stam’s claim. Data from foreign countries show that offering legal recognition to same-sex couples did not have an effect on those countries’ overall rates of marriage and divorce. *See* below, notes 13-15, and accompanying text.

<sup>6</sup> For brevity, this paper uses the term “marriage amendments” to refer to constitutional amendments intended to exclude same-sex couples from legal recognition.

whether states with marriage amendments generally have lower divorce rates than states without such amendments. I conclude in Part IV by explaining that this paper's analyses cast serious doubt on the soundness of Representative Stam's claims regarding the protection of marriage.

## I. CHANGES IN MARRIAGE RATES OVER TIME

Studying changes in marriage rates over time allows us to evaluate Representative Stam's marriage protection argument. The experiences of states that have passed marriage amendments ("amendment states") shed light on whether the enactment of such amendments helps to prevent marriage depreciation, as suggested by Representative Stam. I investigated the change in marriage rates in Georgia, South Carolina, and Virginia from 2000 to 2009, the time period for which there are annual marriage rates provided by the National Vital Statistics System.<sup>7</sup> I chose Georgia, South Carolina, and Virginia because they all passed marriage amendments between 2000 and 2009: Georgia passed its amendment in 2004, and South Carolina and Virginia passed their amendments in 2006. I also chose these states because of their geographical and cultural similarity to North Carolina.

Figure 1 shows marriage rates<sup>8</sup> for the three amendment states. As the graph illustrates, marriage rates in Georgia increased from 2001 to 2004, the year that its amendment passed. Starting in 2004, Georgia's marriage rate declined for four straight years. Although there was a slight uptick in the marriage rate between 2008 and 2009, the marriage rate in 2009 (6.5) was still below the marriage rate for the year that the amendment passed (7.8) and the year preceding the marriage amendment (6.9). Thus, there is no evidence from Georgia that its amendment prevented marriage rates from falling. To the contrary, Georgia's marriage rates fell *after* the passage of its amendment.<sup>9</sup> Likewise, data from South Carolina and Virginia cast doubt on the presumed effects of marriage amendments. Figure 1 shows that marriage rates in South Carolina and Virginia had generally been declining from 2000 to 2006, the year that those two states passed their amendments. From 2006 onward, marriage rates continued to decline in those two states. The rate of decline remained relatively steady, neither increasing nor decreasing after 2006.

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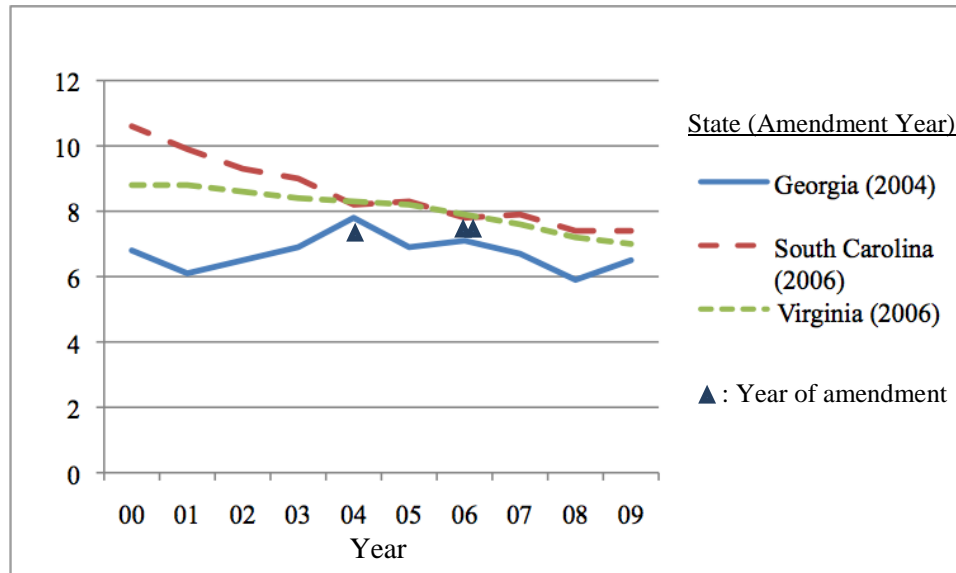
<sup>7</sup> The Centers for Disease Control and Prevention's National Center for Health Statistics (CDC/NCHS) administers the National Vital Statistics System. The National Vital Statistics on marriage and divorce rates, which I used in this report, are available at the CDC/NCHS's website. During the writing of this report, marriage and divorce rates by state were available for 1990, 1995, and 1999-2009. See [www.cdc.gov/nchs/data/nvss/marriage\\_rates\\_90\\_95\\_99-09.pdf](http://www.cdc.gov/nchs/data/nvss/marriage_rates_90_95_99-09.pdf); [www.cdc.gov/nchs/data/nvss/divorce\\_rates\\_90\\_95\\_99-09.pdf](http://www.cdc.gov/nchs/data/nvss/divorce_rates_90_95_99-09.pdf).

<sup>8</sup> Marriage and divorce rates in this paper are per 1,000 total population. This definition of marriage rates is used by the National Vital Statistics System.

<sup>9</sup> To be clear, I do not mean to suggest a causal relationship between the introduction of Georgia's marriage amendment and the decline of its marriage rate.

Figure 1. Marriage Rates in Amendment States (per 1,000 population)

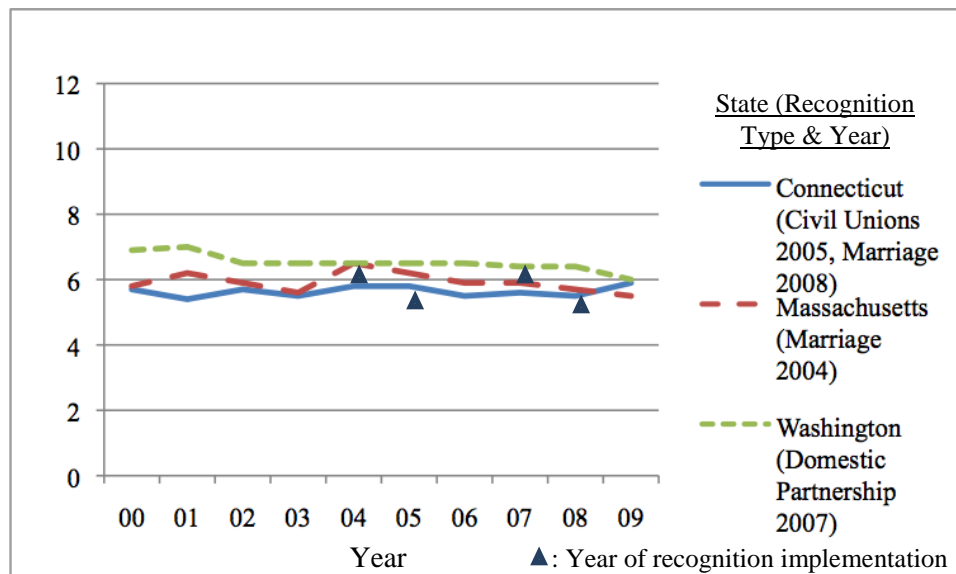
Source: National Vital Statistics System, CDC/NCHS



I also examined states that legally recognize same-sex couples through marriages, civil unions, or domestic partnerships (“recognition states”). North Carolina’s proposed amendment would ban not only same-sex marriage, which is already banned by state statute, but also other forms of recognition such as civil unions and domestic partnerships. If Representative Stam were correct that state recognition of same-sex couples would make people less willing to marry, we should see drops in marriage rates in places like Connecticut, Massachusetts, and Washington State after they began legally recognizing same-sex unions. The data in Figure 2 provide no evidence that state recognition of same-sex unions decreased marriage rates.

Figure 2. Marriage Rates in Recognition States (per 1,000 population)

Source: National Vital Statistics System, CDC/NCHS



I chose to study Connecticut, Massachusetts, and Washington State because out of the states that introduced substantial state recognition of same-sex couples during the time period studied, they are the three states for which relevant data are available.<sup>10</sup> Connecticut introduced civil unions in 2005 and same-sex marriage in 2008. Marriage rates in the three-year period before and after 2005 were very similar to each other. In 2009, the marriage rate in Connecticut reached its highest level in the time period studied. In Massachusetts, there was a notable increase in the marriage rate in 2004. Pent-up demand for same-sex marriage may have caused an unusual number of same-sex marriages that year, raising the overall marriage rate. Otherwise, the rate for marriage in Massachusetts before 2004 was similar to the rate after 2004. Washington State began recognizing domestic partnerships in 2007.<sup>11</sup> Despite that change, marriage rates remained relatively stable between 2002 and 2009. Most notably, none of these states experienced meaningful drops in marriage rates after they began legally recognizing same-sex couples. This finding suggests that state recognition of same-sex couples does not create the sort of depreciation envisioned by Representative Stam.

One might attempt to argue that, after a state begins to recognize same-sex couples, there is a lag time before the depreciation of marriage manifests—a lag time that cannot be captured in the data presented above. To assess that claim, we can look abroad because some European countries have been legally recognizing same-sex couples for about two decades.<sup>12</sup> For example, Denmark began legally recognizing same-sex couples in 1989. Scholars who have analyzed data from Europe have concluded that state recognition of same-sex couples in Europe has not caused any corresponding drop-off in marriage rates.<sup>13</sup> In fact, marriage rates in some European countries increased after they began legally recognizing same-sex couples.<sup>14</sup>

In sum, this analysis of marriage rates over time casts serious doubt on Representative Stam's depreciation argument. Marriage rates in states with amendments suggest that the amendments did not change people's views of marriage in ways that slowed the decline of marriage rates in those states. Meanwhile, the fact that marriage rates did not drop off in states that recognize same-sex unions suggests that the state recognition of same-sex couples did not deter people from getting married.

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<sup>10</sup> I chose not to study Vermont, which began recognizing same-sex civil unions in 2000, in part because the dataset for this paper did not include annual statistics for years preceding 2000. Similarly, I did not select Colorado, Delaware, the District of Columbia, Illinois, Iowa, Nevada, New Hampshire, New Jersey, New York, Oregon, Rhode Island, Vermont, or Wisconsin, even though they all now offer at least some statewide partnership rights to same-sex couples, because they all began recognizing same-sex couples too late to provide a basis for meaningful analysis. I did not choose California or Hawaii, even though they recognize same-sex couples, because data for them were missing. I did not choose Maine because its legal recognition of same-sex couples is very limited.

<sup>11</sup> Washington State began offering limited recognition to same-sex couples in 2007. The following year, it increased the bundle of rights and responsibilities afforded to registered partners. In 2009, the state began offering registered partners all the rights and responsibilities that the state offers to married couples.

<sup>12</sup> Consider, for example, Denmark (1989), Norway (1993), Sweden (1994), Iceland (1996), and the Netherlands (registered partnerships in 1998 and marriage in 2001).

<sup>13</sup> See M.V. Lee Badgett, *When Gay People Get Married: What Happens When Societies Legalize Same Sex Marriage* (NYU 2009), pp. 65-80; William N. Eskridge, Jr. & Darren R. Spedale, *Gay Marriage: For Better or for Worse?: What We've Learned from the Evidence* (Oxford 2006), pp. 91-129.

<sup>14</sup> Professor M.V. Lee Badgett cautions against viewing this connection between recognition of same-sex couples and increased marriage rates as a causal relationship. See Badgett (note 13), p. 69.

## II. CHANGES IN DIVORCE RATES OVER TIME

In addition to marriage rates, an analysis of divorce rates sheds light on whether amendments, such as the one proposed for North Carolina, protect marriage against depreciation. As illustrated in Figure 3, divorce rates in South Carolina decreased from 2000 to 2005. However, the year that South Carolina passed its marriage amendment, its divorce rate increased slightly (2.9 to 3.0) and then remained relatively unchanged in subsequent years. Meanwhile, in Virginia, the divorce rate had been slowly decreasing since 2000. The rate of decrease, however, was not affected by Virginia’s 2006 marriage amendment. (Unfortunately, complete divorce data were not available for Georgia, the third amendment state that I analyzed in Part I.) Because the data in Figure 3 do not show that amendments altered the trends in divorce rates, the marriage amendments in those states likely did not strongly change people’s valuation of marriage.

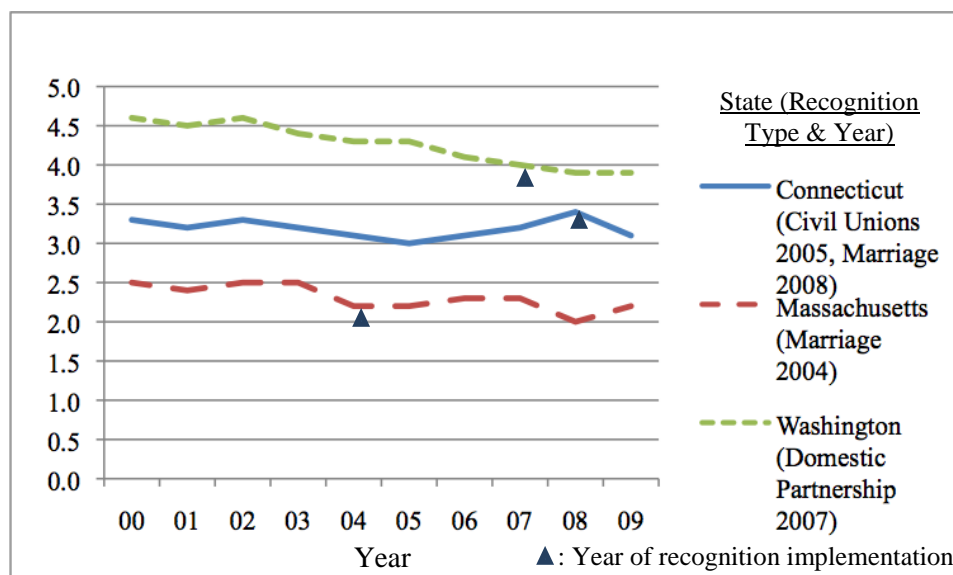
Figure 3. Divorce Rates in Amendment States (per 1,000 population)  
 Source: National Vital Statistics System, CDC/NCHS



If Representative Stam were correct that legally recognizing same-sex couples would lead people to devalue the institution of marriage, we should see retreats from marriage reflected in the divorce rates of recognition states. However, the data do not show such change. For example, as illustrated by Figure 4, the divorce rate in Massachusetts was lower for every year after the legalization of same-sex marriage, compared to the four years preceding legalization of same-sex marriage. Meanwhile, in Washington State, the divorce rate has been decreasing fairly consistently over the time period studied. The introduction of domestic partnerships had no effect on that decrease. In Connecticut, there were more fluctuations in the divorce rate than in Massachusetts and Washington. However, by 2009—four years after the introduction of civil unions and one year after the introduction of same-sex marriage—Connecticut’s divorce rate dropped to the lowest point ever for the time period studied.

*Figure 4. Divorce Rates in Recognition States (per 1,000 population)*

Source: National Vital Statistics System, CDC/NCHS



As was the case for Part I's findings on marriage rates, my conclusions based on divorce data are supported by research on Europe. In European countries that have a longer history of recognizing same-sex unions, the introduction of such recognition had no effect on divorce rates.<sup>15</sup>

This analysis of divorce rates over time severely undermines Representative Stam's depreciation argument. Data suggest that state recognition of same-sex unions does not encourage divorce, contrary to Representative Stam's reasoning. Moreover, data from the amendment states suggests that marriage amendments are unlikely to alter people's appreciation of marriage or lack thereof. As such, an amendment in North Carolina is unlikely to have any effect on divorce rates.

### III. COMPARISON OF DIVORCE RATES IN 2009

In this Part, I provide a comparison of divorce rates in 2009, the most recent year for which the National Vital Statistics System provides divorce data.<sup>16</sup> Specifically, the National Vital Statistics System has provided 2009 divorce data for 44 states and the District of Columbia. Using those data, I created Table 1, which lists the five jurisdictions that had the highest divorce rates and the five jurisdictions that had the lowest divorce rates.

<sup>15</sup> See Badgett (note 13), pp. 65-80; Eskridge & Spedale (note 13), pp. 91-129.

<sup>16</sup> I do not compare marriage rates in 2009 because examining marriage rates at one point in time can be misleading. Because the National Vital Statistics System's marriage rates also include second marriages and marriages of even higher orders, which are predicated on divorces, the marriage rate in any state at a given point in time fails to convey the stability of marriages or the culture of marriage in that state.

*Table 1. Highest and Lowest Divorce Rates in 2009 (per 1,000 population), and Treatment of Same-sex Unions in 2009*

*Source: National Vital Statistics System, CDC/NCHS*

Lowest Divorce Rates		Highest Divorce Rates	
Massachusetts (same-sex marriage)	2.2	Nevada (marriage amendment, domestic partnerships)	6.7
Iowa (same-sex marriage)	2.4	Arkansas (marriage amendment)	5.7
Illinois (no marriage amendment)	2.5	West Virginia (statutory ban of same-sex marriage)	5.2 <i>tied</i>
District of Columbia (domestic partnerships)	2.6 <i>tied</i>	Wyoming	5.2 <i>tied</i>
New York (recognition of out-of-state same-sex marriages)	2.6 <i>tied</i>	Idaho (marriage amendment)	5.0

Of the five states with the lowest divorce rates, none has ever had an amendment limiting relationship recognition to different-sex couples. In fact, by 2009, Iowa and Massachusetts legalized same-sex marriage, the District of Columbia legalized same-sex domestic partnerships, and New York recognized same-sex marriages from other states and countries.<sup>17</sup>

In contrast, of the five states with the highest divorce rates, none has ever recognized same-sex couples. Three of these five states passed marriage amendments by 2009—Arkansas (2004), Idaho (2006), and Nevada (2002). Arkansas and Nevada had the highest divorce rates in the country. It is worth noting, however, that Nevada created a domestic partnership registry that went into effect in October 2009. The two remaining states in the bottom five included West Virginia, which enacted a statute in 2000 that excludes same-sex couples from recognition.

This pattern shows that states with marriage amendments purported to strengthen marriage also have the highest divorce rates in the country. This fact challenges Representative Stam's claim that a marriage amendment in North Carolina would promote stable marriages.

<sup>17</sup> Iowa began issuing same-sex marriage licenses in 2009 and Massachusetts began in 2004. The District of Columbia implemented its domestic partnership registry in 2002; it began issuing same-sex marriage licenses in 2010. In 2008, Governor David Paterson directed New York State agencies to begin recognizing out-of-state same-sex marriages; New York legalized same-sex marriage in 2011. Illinois implemented its civil union law in 2011.

#### IV. CONCLUSION

As North Carolinians consider the proposed constitutional amendment, it is important to ground the debate in evidence rather than unsubstantiated theories. This paper fills a glaring factual gap in the debate by presenting marriage and divorce data from states that have implemented marriage amendments, as well as from states that have recognized same-sex couples. The findings of the analysis are unambiguous. There is no support for claims that marriage amendments increase marriage rates or decrease divorce rates. Further, there is no evidence that legal recognition of same-sex couples devalues marriage, thereby deterring people from marrying or encouraging divorce. These results cast substantial doubt on arguments that North Carolina must protect marriage by passing a constitutional amendment. As the debate in North Carolina continues, individuals engaged in deliberation should be skeptical of marriage protection claims.