

CONSTITUTIONAL AMENDMENTS AND GAY MARRIAGE Background

Article V of the U.S. Constitution outlines the procedure for modifying, or amending, its content. Since 1789 (when the Constitution was officially accepted, or ratified, by all states) there have been only 27 amendments out of the thousands proposed by lawmakers in Congress. In fact, the 27th Amendment, which concerns congressional pay, was originally proposed in 1789 but not put into place until 1992 -- over 200 years later.

As Article V states, there are technically two ways to amend the Constitution. The first requires that both houses of Congress (the Senate and the House of Representatives) agree by a two-thirds vote on an amendment.

The next step is to have the proposed amendment ratified by three-fourths of the state legislatures (or, in rare instances, by special state conventions). The second method has never been utilized in the Constitution's history. It requires that two-thirds of the states call for a special constitutional convention during which the amendment is proposed. Three-fourths of the states must then ratify the amendment for it to become official.

Clearly, amendments to the Constitution do not come easily. The 13th Amendment, outlawing slavery, emerged from the ashes of the Civil War and was ratified Dec. 18, 1865. The 19th Amendment (ratified Aug. 26, 1920) granted women the right to vote after more than a century of lobbying and activism.

Currently, the United States is embroiled in a debate over whether there should be an amendment to the Constitution that would define marriage as the legal union between a man and a woman. This debate is a direct result of the decision by some state courts that homosexuals cannot be denied the benefits and recognition of a legal marriage.

In 1996, President Clinton signed the Defense of Marriage Act, which defines marriage to be a "legal union between one man and one woman." Many other political leaders, Republicans and Democrats alike, have aligned themselves with this.

President Obama supports full civil unions, federal recognition of LGBT couples and voted against the Federal Marriage Amendment in 2006 but has said that marriage is between a man and a woman.

Several religious institutions, most recently the Catholic Church, have formally renounced the idea of same-sex marriage, referring to religious texts that define marriage as solely the union of a man and woman.

Supporters of gay marriage stress, though, that not only are they seeking to protect civil liberties (often citing the 14th Amendment), they are also seeking to protect their families; over a million children nationwide are currently in the care of homosexual parents.

The way the federal laws are currently written, gay parents in times of crisis (such as when a child is seriously sick or injured and must be hospitalized) are not afforded the same rights as married (or legally divorced) straight parents.

Several states now have gay marriage or grant rights to gay couples under civil unions. If history is a guide, an actual amendment to the U.S. Constitution defining marriage is unlikely. Nonetheless, the issue is bound to spark debate for some time, both within the courts and in the public.