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SENATE JOINT RESOLUTION NO. 91

Offered January 14, 2004

Virginia Resolution Federal Marriage Amendment

Patrons—Cuccinelli, Blevins, Bolling, O'Brien and Obenshain

Referred to Committee on Rules

Whereas, marriage is the unique cornerstone of the family, which is the foundation of human society.

Whereas, only marriage between one man and one woman has been permitted or recognized historically throughout the United States.

Whereas, history has shown marriage between a man and a woman to be the best context for the reproduction of the human race itself and for raising children to be responsible adults.

Whereas, religious and civil laws have granted marriage special recognition, benefits, responsibilities and protections since at least the beginning of recorded history.

Whereas, Virginia accords marriage more protection than other partnerships of unrelated individuals.

Whereas, in 1996, the U.S. Supreme Court invalidated a Colorado constitutional amendment that sought to prohibit legislation granting special rights on the basis of "sexual orientation." The Court ruled in *Romer v. Evans* that there could be no rational basis for the citizens of Colorado to pass such an amendment.

Whereas, in 2003, the U.S. Supreme Court said in *Lawrence v. Texas* that the right to "liberty" in the 14th Amendment extends to homosexuals engaged in sodomy.

Whereas, marriage's unique legal status is in danger from constitutional attacks on state marriage laws and the federal Defense of Marriage Act, which attacks may succeed in light of recent decisions of the United States Supreme Court.

Whereas, marriage provides lower risk of infant mortality, provides better physical health for children, and has numerous health benefits for the father and mother.

Whereas, cohabitation is not the functional equivalent of marriage.

Whereas, the Full Faith and Credit Clause in the U.S. Constitution provides that states must recognize the laws and judicial acts of every other state in the Union.

Whereas, in 1996 Congress enacted the Defense of Marriage Act to exempt states from being required to afford full faith and credit to laws recognizing marriages between persons of the same sex. However, under the reasoning of *Lawrence* and *Romer*, and in light of the Full Faith and Credit Clause in the U.S. Constitution, there is significant risk that the federal courts may hold the 1996 federal Defense of Marriage Act unconstitutional. Should that happen, Virginia would be required to recognize homosexual "marriages" performed in other states.

And Whereas, the only sure way to protect marriage is by a federal constitutional amendment.

Therefore, be it resolved, The Virginia General Assembly memorializes the Congress to initiate an Amendment to the U.S. Constitution to provide:

"Marriage in the United States, whether entered into within or outside of the United States, shall consist only of the legal union of one man and one woman. The uniting of persons of the same or opposite-sex in a civil union, domestic partnership or other relationship analogous to marriage shall not be valid or recognized in the United States."

"Neither the federal government nor any state shall predicate benefits, privileges, rights or immunities on the existence, recognition, or presumption of non-marital sexual conduct or non-marital relationships, with the exception of children, parents and guardians."

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