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SENATE JOINT RESOLUTION NO. 91
AMENDMENT IN THE NATURE OF A SUBSTITUTE
 (Proposed by the Senate Committee on Rules
 on February 17, 2004)

(Patron Prior to Substitute—Senator Cuccinelli)

Memorializing the Congress of the United States to propose a federal marriage amendment to the Constitution of the United States.

WHEREAS, marriage is the unique cornerstone of the family, which is the foundation of human society; and

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

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; and

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

WHEREAS, Virginia accords marriage more protection than other partnerships of unrelated individuals; and

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

WHEREAS, in 2003, the United States Supreme Court said in *Lawrence v. Texas* that the right to "liberty" in the 14th Amendment extends to homosexuals engaged in sodomy; and

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; and

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

WHEREAS, cohabitation is not the functional equivalent of marriage; and

WHEREAS, the Full Faith and Credit Clause in the United States Constitution provides that states must recognize the laws and judicial acts of every other state in the Union; and

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; and

WHEREAS, 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; and

WHEREAS, if the Defense of Marriage Act was held unconstitutional, Virginia would be required to incur the cost to defend its law against recognition of homosexual "marriages" performed in other states; and

WHEREAS, the only sure way to protect marriage is by a federal constitutional amendment; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Congress of the United States be urged to propose a federal marriage amendment to the Constitution of the United States; and, be it

RESOLVED FURTHER, That the Congress of the United States be urged to provide in the amendment that:

"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 nonmarital sexual conduct or nonmarital relationships, with the exception of children, parents and guardians;" and, be it

RESOLVED FINALLY, That the Clerk of the Senate transmit copies of this resolution to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Virginia Congressional Delegation so that they may be apprised of the sense of the General Assembly of Virginia in this matter.