



FACT SHEET ***Varnum v. Brien***

ABOUT Varnum v. Brien

Iowa passed its Defense of Marriage Act in 1998 to protect marriage against any attempts to redefine it. Lambda Legal filed a lawsuit in December 2005 against Polk County Clerk Timothy Brien on behalf of six same-sex couples, demanding that marriage be redefined to include same-sex couples. After a trial judge ruled Iowa's DOMA unconstitutional in August 2007, the case was appealed to the Iowa Supreme Court.

CURRENT STATUS OF Varnum v. Brien AS OF 02/25/09

On April 10, 2007, ADF attorneys filed a friend-of-the-court brief with the Polk County District Court on behalf of 16 state legislators in support of Iowa's DOMA. After the court ruled the act unconstitutional, ADF attorneys filed a friend-of-the-court brief on Jan. 29, 2008, with the Iowa Supreme Court on behalf of legislators who are calling into question the trial judge's decision in August 2007 to reject the state's expert testimony in defense of the act. ADF-allied attorneys Steven W. Fitschen of the National Legal Foundation and Joshua Baker of the Institute for Marriage and Public Policy wrote separate friend-of-the-court briefs for the case. On Dec. 9, 2008, a hearing in the case was held at the Iowa Supreme Court. The court has not yet issued its ruling.

A recent University of Iowa poll found that an overwhelming majority of Iowans favor retaining the definition of marriage as the union of one man and one woman, 65% would not support a court decision redefining marriage, and 56% support a constitutional amendment to protect marriage. Only 28% of registered Iowa voters favor redefining marriage (<http://news-releases.uiowa.edu/2008/november/112508gaymarriagetopline.pdf>).

Five of the seven justices on the Iowa Supreme Court were appointed by Democratic governors: Gov. Chet Culver appointed David L. Baker in 2008; Gov. Tom Vilsack appointed Brent R. Appel and Daryl L. Hecht in 2006, David S. Wiggins in 2003, and Michael J. Streit in 2001. Republican Gov. Terry Branstad appointed Mark S. Cady in 1998 and Marsha K. Ternus in 1993.

WHAT IS AT STAKE?

If the Iowa Supreme Court rules the state's DOMA unconstitutional, the court will be overstepping its authority and overriding the lawmaking authority of the legislature. Such a side-step of the democratic process would not only lead to the court-imposed radical redefinition of society's most enduring social institution within the state of Iowa, but would have far-reaching impact in areas such as religious liberty and free speech, as has already occurred in other states where attempts have been made to redefine marriage.

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ABOUT ADF

ADF is a legal alliance of Christian attorneys and like-minded organizations defending the right of people to freely live out their faith. Launched in 1994, ADF employs a unique combination of [strategy, training, funding, and litigation](#) to protect and preserve religious liberty, the sanctity of life, marriage, and the family.

ABOUT Austin R. Nimocks

Austin R. Nimocks is senior legal counsel for the Alliance Defense Fund. Before joining ADF in 2007, he served more than 10 years in private practice, most recently at Austin R. Nimocks & Associates, P.L.L.C, in Biloxi, Miss. Nimocks earned his J.D. from the Baylor University School of Law in Waco, Texas, and is admitted to the bars of Texas, Mississippi, and Alabama, along with several other federal and state courts.