

(H.B. 1013)

(No. 94)

(Approved March 19, 1999)

## **AN ACT**

To amend Article 68 of the Puerto Rico Civil Code of 1930, as amended, in order to deny juridical recognition to marriages contracted in other jurisdictions by persons of the same sex or transsexuals.

### **STATEMENT OF MOTIVES**

The purpose of this measure is to deny juridical recognition in Puerto Rico to any marriage contracted in other jurisdictions by persons of the same sex or transsexuals. Marriage, as provided in the Civil Code, “is a civil institution, originating in a civil contract whereby a man and a woman mutually agree to become husband and wife...”

In spite of the drastic changes our society has undergone, the family continues to be the cornerstone that upholds it. Although these social changes have affected the family, this institution still retains a strong public interest. The institution of marriage, being a basic component of the family unit, is still of great public interest and therefore the regulations as to how it must be celebrated, conducted and dissolved corresponds to the Legislature.

The institution of marriage has been affected by various judicial decisions and laws approved in other jurisdictions, as well as in several states of the United States. This has been done in order to grant juridical recognition to marriages contracted by persons of the same sex or

transsexuals and to extend the same benefits and rights that have been traditionally granted to heterosexual marriages.

One of the best known cases arose in the state of Hawaii, Baehr v. Lewin, 74 Haw. 530, whereby the Supreme Court of Hawaii determined that classifications [based upon] sex are doubtful and that the statute of that State prohibiting the marriage of persons of the same sex was subject to strict scrutiny. In order for the corresponding analysis to be conducted, the case was returned to the Court of Instance and said court decided that the government did not have a compelling interest to protect. Said determination is still pending final resolution before the Supreme Court of Hawaii.

On September 21, 1996, the Congress of the United States approved Public Law 104-199, by virtue of which Chapter 115 of Title 28 of the United States Code was amended to add a Section 1738C which provides that “No State, territory or possession of the United States, or Indian tribe, shall be required to give effect to any public act, record, or judicial proceeding of any other State, territory, possession or tribe respecting a relationship between persons of the same sex that is treated as a marriage under the laws of such other State, territory, possession or tribe, or a right or claim arising from such relationship.”

Likewise, by virtue of the aforementioned Law 104-199, Section 7 of Chapter 1 of Title 1 of the United States Code, was amended to provide that, “In determining the meaning of any Act of Congress, or of any ruling, regulation or interpretation of the various administrative bureaus and agencies of the United States, the word ‘marriage’ means only a legal union between one man and one woman as husband and wife, and the word

‘spouse’ refers only to a person of the opposite sex who is a husband or a wife.”

By virtue of the authorization given by Congress, several states have approved legislation prohibiting the marriage of persons of the same sex and denying recognition to said marriages when contracted in other States, territories, possessions or Indian tribes of the United States. Some of these States are: Alaska, Arkansas, Arizona, Delaware, Georgia, Idaho, Illinois, Indiana, Kansas, Maine, Mississippi, Missouri, Michigan, North Carolina, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Virginia, North Dakota and Alabama, this last one through an executive order.

The purpose of this measure is to establish that marriages between persons of the same sex or transsexuals shall not be recognized or given juridical validity in Puerto Rico.

***BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:***

Section 1.- Article 68 of the Puerto Rico Civil Code of 1930, as amended, is hereby amended to read as follows:

“Marriage is a civil institution, originating in a civil contract whereby a man and a woman mutually agree to become husband and wife and to discharge toward each other the duties imposed by law. It is valid only when contracted and solemnized in accordance with the provisions of law, and it may be dissolved before the death of either spouse only in the cases expressly provided for in this title. Any marriage between persons of the same sex or transsexuals contracted in other jurisdictions shall not be valid or given juridical recognition in Puerto Rico.”

Section 2.- This Act shall take effect immediately after its approval.

September 12, 2001

Dynorah R. Requena-Gallego, Esq., Acting Director of the Office of Legislative Services of the Legislature of Puerto Rico, hereby certifies to the Secretary of State that she has duly compared the English and Spanish texts of Act No. 94 (H.B. 1013) of the 5<sup>th</sup> Session of the 13<sup>th</sup> Legislature of Puerto Rico, entitled:

**AN ACT** to amend Article 68 of the Puerto Rico Civil Code of 1930, as amended, in order to deny juridical recognition to marriages contracted in other jurisdictions by persons of the same sex or transsexuals,

and finds the same are complete, true and correct versions of each other.

Dynorah R. Requena-Gallego