The Kentucky
CITIZEN
STRENGTHENING FAMILIES AND THE VALUES THAT MAKE FAMILIES STRONG

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Two key issues: Ultrasound and Marriage

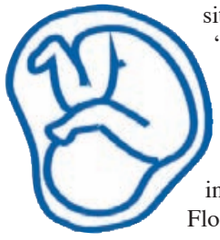
No new pro-life bill has reached the House Floor in nine years, but the ***NEW Ultrasound Bill - HB 575*** *- has a real chance.*

Pressure is mounting and so are options since HB 575 emerged March 4 as the latest ultrasound and informed consent initiative in the General Assembly. Sponsored by Rep. Gerald Watkins (D-Paducah) and Rep. Robert Benvenuti III (R-Lexington), this bill differs slightly from its ultrasound predecessors by creating a website run by the state on which information about fetal development, pregnancy and abortion would be made available to women considering an abortion. And, HB 575 has 61 cosponsors.

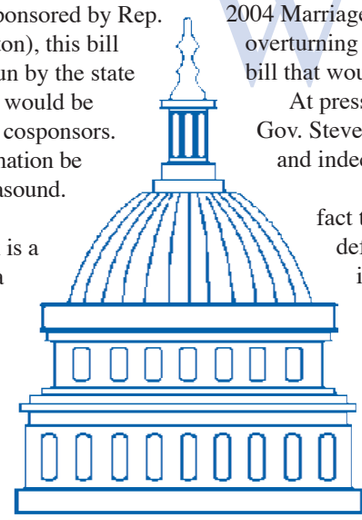
Before consenting to an abortion, the bill also requires critical information be made available to women from the abortionist's routinely performed ultrasound.

At this time, HB 575 is the third ultrasound/informed consent option lawmakers could potentially vote on in this 2014 session. The first option is a combination of two Republican bills initiated by the Senate; the second, a Democrat bill from the House with 59 House members signed on as cosponsors; and this latest, a bipartisan bill from the House, endorsed by both Kentucky Right to Life and The Family Foundation.

At press time the previous ultrasound/informed consent bills were sitting in the infamous House Health and Welfare "graveyard" committee, the first having languished there since being assigned to the committee by House Leadership on Jan. 8.



History confirms that any pro-life bill making it to the House Floor will pass by an overwhelming 85-15 margin. Which bills reach the House Floor is a decision of House Leadership.



Rally in Frankfort
Wednesday, March 19
(See pages 2 & 7)

SB 221: *Senate Republicans ask for "standing" in the marriage case in order to defend the will of the people in court.*

With the Feb. 12 decision by Federal Judge John G. Heyburn II to overturn half of the 2004 Marriage Protection Amendment and with his decision on Feb. 28 to consider overturning the other half of the law, the State Senate has introduced a "standing" bill that would allow members of the General Assembly to defend that law in court.

At press time, the confusion generated by Attorney General Jack Conway's and Gov. Steve Beshear's apparent differences still had not abated. Their lack of clarity and indecisiveness with the judge up to this point is suspect.

The concerns that SB 221 addresses are confirmed further given the fact that Conway and Beshear submitted only 10 pages of briefing in the defense of marriage in the first place. In contrast, the judge's decision itself was 23 pages, the *amicus brief* filed by The Family Foundation was 28 pages, and the plaintiffs' brief was 31 pages.

These circumstances and the ongoing executive branch unclarity indicate a half-hearted attempt to appear that they are upholding their respective oaths to defend the state constitution, but many are concluding that it's just another pair of Democrat leaders in office who are unwilling to do the people's business when it comes to defending marriage.

"Conway had known about a possible need to appeal since July 26, 2013, when the case was begun," said Kent Ostrander, executive director of The Family Foundation. "Why has he only now confessed his ambivalence for the law?"

Take Action!

HB 575 - The Ultrasound Bill *see pages 4 & 6*

SB 221 - Marriage Standing Bill *see pages 2, 5 & 8*

If you don't offer God's Truth, who will?

Think about it . . .

Regarding HB 575, The Ultrasound Bill - a window into the womb.

"Fewer women will abort when they actually see their unborn baby. That's good for mother and child!"

Regarding Marriage - Why isn't the Attorney General appealing?

"In 2004, this was the will of over 1.2 million Kentuckians who voted lawfully to protect marriage from redefinition."

Feb. 12: A bad day for marriage in Kentucky

On that day, one federal judge hijacked our state marriage laws and our Attorney General and Governor have been negligent.

On Feb. 12, John G. Heyburn, a federal district judge, struck down part of Kentucky's Marriage Amendment. He ruled that Kentucky must recognize same-sex marriages performed in other states. He argued that the law violated the "Equal Protection Clause" and used what is called the "rational basis test" to prove it.

The rational basis test automatically considers morality, tradition, or religion as insufficient reasons for distinctions in the law. The rational basis test is a judicial doctrine not found in the Constitution, but has been applied increasingly in legal cases to strike down laws. "Kentucky marriage policy will now be dictated from places like Boston and San Francisco," said Martin Cothran, spokesman for The Family Foundation. He called it an issue of "voters' rights," and pointed to the fact that almost 75 percent of Kentuckians had ratified the Marriage Amendment in 2004 and that the judge had effectively disenfranchised them.

On Feb. 26, Judge Heyburn held a meeting in his offices to determine if Kentucky Attorney General Jack Conway was going to move for a stay to delay the implementation of his order. But Conway did not show up for the meeting, sending other officials from his office instead, who, when asked by the judge if they wanted a stay, seemed confused and said they would have to ask Conway whether he wanted a stay. The next day The Family Foundation criticized the Attorney General for failing to make competent arguments in the case and for failing to move for a stay. "If this were a private case," said Cothran, "it would be legal malpractice."

After facing criticism for not filing a motion for a stay, Conway's office finally filed the motion at the eleventh hour. "We shouldn't have to babysit the state's attorney general in order to make sure he does his job," said Cothran, who later in the day criticized Conway for failing to sign a single motion in the case. "Until today," said Cothran, "the only people in the Attorney General's office who hadn't signed a motion in the marriage case are the janitor, the office boy, and Jack Conway." The Family Foundation charged that the AG was "spiking the case."

On Feb. 28, a teleconference was called by the judge to discuss the motion. As it turned out, Conway's office had moved for a stay, but the stay only affected the effective date of the judge's ruling, not the implementation of the ruling. Its chief effect was to allow the Attorney General more time to decide whether he was going to appeal the ruling. "Jack Conway needs to file a motion for a stay of the order, not a stay for Jack Conway," said Cothran.

> **"If this were a private case, it would be legal malpractice."**
>
> *– Martin Cothran*
> *The Family Foundation*

Later on the 28th, the judge issued a stay, remarking that Conway had "not made a strong argument" for a stay, but that he was issuing one anyway. The Family Foundation, pointing to the judge's low view of Conway's argument, remarked, "Attorney General Jack Conway appears to be sleepwalking through the most important case that has faced him during his term of office."

On March 3, with still no indication from Conway as to whether he was going to appeal the case, The Family Foundation issued a press release pointing to a statement made by his own spokeswoman to *The Daily Beast*, saying that Conway was required "by statute and oath . . . to defend the Kentucky Constitution."

On the morning of March 4, after facing mounting criticism for his indecision, Conway announced in a press conference that he was not going to appeal the decision because he agreed with the judge's ruling that prohibiting same-sex marriage was discrimination. "Jack Conway announced today that he is not going to defend the state's Constitution and the rights of Kentucky voters despite the fact that he took an oath of office to do exactly that," said Cothran, who was surrounded by reporters outside the state press room immediately following Conway's announcement. "The voters have been disenfranchised and the Attorney General said today that he is not going to do anything about it. Jack Conway has raised the white flag after the first shot was fired. He isn't going to win any medals for bravery in the fight to protect Kentucky voters."

Moments after Conway's announcement, Gov. Steve Beshear issued a statement saying that in light of Conway's decision, he would hire outside attorneys to appeal the case. The next day, it was revealed that the job posting from the Governor was only offering $125 per hour for an attorney to take the case. "That may sound like a lot of money to some people," said Cothran, "but in the legal world, that is slave wages. My plumber makes more than that. First we had Jack Conway spiking the case at the federal district level and now Gov. Beshear appears to be prepared to do it at the appellate level. No wonder we've been losing this case."

Kentucky Supreme Court grants TFF discovery; "Instant Racing" ordered back to trial court

After more than three years of court battles, on Feb. 20, The Family Foundation was finally granted its constitutional right of discovery.

On Feb. 20, the Kentucky Supreme Court granted The Family Foundation a major victory in a 7-0 "Instant Racing" decision which will enable Stan Cave, attorney for The Foundation, to do the discovery he asked to do over three years ago.

"Today's opinion is a victory for transparency," said Cave in response to the Court's decision. "We said all along we were entitled to ask questions and take discovery. The Court saw through the secrecy and concealment of the Instant Racing proponents and now is going to allow light to be shed on what these devices really are."

The case began on July 20, 2010, and The Family Foundation was granted entrance into the case six weeks later on Sept. 2. However, at the insistence of the attorneys for the horse racing tracks as well as the Kentucky Racing Commission and the Kentucky Revenue Cabinet, The Foundation was almost immediately denied discovery by the court before it had even asked one question.

"Today's opinion is a victory for transparency. The Court saw through the secrecy and . . . now is going to allow light to be shed on what these devices really are."

– Stan Cave, attorney for The Family Foundation

The Family Foundation lost at the trial court level but appealed the decision to the Kentucky Court of Appeals. On June 15, 2012, the Court of Appeals ordered a retrial with discovery, but the Race Tracks, the Racing Commission and the Revenue Cabinet appealed that decision to the Kentucky Supreme Court.

The High Court accepted that appeal on Jan. 11, 2013, and oral arguments were heard on Aug. 21, 2013. This Feb. 20 ruling starts the process all over again in Franklin Circuit Court.

The Family Foundation was not the only party that received good news from the court. Those pushing "Instant Racing" had the Court affirm the Kentucky Racing Commission's authority to promulgate regulations that many felt were beyond the scope of that entity.

This difference of opinion will be heightened by the newly granted discovery process in Franklin Circuit Court. During the first hearing, even the trial court judge had asked factual questions of the Instant Racing attorneys – factual questions that were never answered or cross-examined.

The bottom line is that if these "slot-like machines" are *NOT* pari-mutuel, there is no regulation process that can make them so.

Stay tuned . . .

Photo of Instant Racing terminal. Proponents say this is a horse race. Video of its operation can be seen at *www.kentuckyfamily.org*

Instant Racing's Case History

July 20, 2010 - Kentucky Racing Commission and eight horse racing tracks "sue" one another.

Sept. 2, 2010 - The Family Foundation is granted entrance into the case as full party.

Sept. 23, 2010 - The Court denies discovery to The Foundation; Case proceeds *WITHOUT* questions.

Dec. 29, 2010 - Franklin Circuit Court rules that "Instant Racing" is within the law.

Jan. 20, 2011 - The Foundation appeals case to Kentucky Court of Appeals.

June 15, 2012 - Court of Appeals rules 2-1 in Foundation's favor; orders retrial *WITH* discovery.

July 16, 2012 - Gambling industry moves for discretionary review by the KY Supreme Court.

Jan. 11, 2013 - KY Supreme Court accepts gambling industry's appeal *WITHOUT* discovery.

Aug. 21, 2013 - Oral arguments presented before the KY Supreme Court.

Feb. 20, 2014 - KY Supreme Court reverses Franklin Circuit Court 7-0 to allow discovery.

Summary of arguments that "Instant Racing" violates Kentucky law

1) ***It is not "pari-mutuel":*** A player at one of these electronic video machines is "the only" wagerer betting on that one particular race. Since there is only one wagerer on the one video race, there is no way to create odds (like with horse races) with other wagerers. There is no "pari-mutuel."

2) ***"Wagering pools" are non-existent:*** One wagerer's bet accumulates until another bettor, wagering on a different race, wins and collects. There is no pool where bettors are wagering against one another.

New Ultrasound Bill offered in bipartisan way

*HB 184 - The Ultrasound Bill - had 59 cosponsors, but was blocked by House Leaders. **HB 575**, its replacement, is even better!*

On the last day of this 2014 Session that new bills could be filed in the House of Representatives, Rep. Gerald Watkins (D-Paducah) and Rep. Robert Benvenuti III (R-Lexington) filed House Bill 575, the second ultrasound/informed consent bill to originate in the House this session. In less than three days it had 61 cosponsors.

Similar to HB 184, which was filed the third day of the General Assembly, this new bill has an ultrasound requirement that would allow the pregnant woman to view the ultrasound that is already routinely done and charged for by the abortionist. But, it would also require that she be made aware of information vital to her abortion decision (age of unborn child, presence of twins, and absence or presence of a heartbeat) as well as ruling out a dangerous ectopic pregnancy.

One frame of an ultrasound of a 9-week unborn child

HB 575 Ultrasound *and* Informed Consent Bill

(Note: KY abortionists say that they already perform an ultrasound.)

An ultrasound must be performed
- **prior to an abortion**
- **prior to the woman being sedated**
- **prior to a woman giving her informed consent.**

The screen will be placed so the woman could choose to view it.

The following info will be provided:
- **gestational age**
- **if multiple unborn children are present**
- **viability** *(heartbeat or absence)*
- **location of fetus** *(confirming it's not an ectopic pregnancy)*

A state-run website *(like Kansas')* **will offer scientific, medical information** to pregnant women. Also included would be the risks/benefits of both abortion and carrying the child to term, and 3D ultrasound images and descriptions of unborn children at various stages of development.

"Kansas has a similar requirement," said Joyce Ostrander, policy analyst for The Family Foundation. "Their state-run site was developed with input from both pro-abortion and pro-life groups."

According to Cathy Ostrowski of Kansans for Life, "It has been a successful way to get good information to women in a neutral, private, inexpensive and convenient manner."

The only abortion provider in Kentucky is EMW with a clinic in Louisville and a satellite clinic one day per week in Lexington. Women make appointments using EMW's website. Like Kansas' statute, HB 575 would require abortion providers to have a direct link to the state's website on the abortion clinic's homepage.

The other House sponsored ultrasound bill/informed consent bill, HB 184, has 59 out of the 100 House members as cosponsors, far more than enough votes to pass the bill should it be allowed on the House Floor. However, it has been sitting in the "graveyard" Health and Welfare Committee since Jan. 13 along with the other pro-life bills.

By press time on March 7, 61 sponsors – a Constitutional Majority – had signed on to the new ultrasound/informed consent bill, HB 575. Unfortunately, House Leadership assigned this new bipartisan bill to Health and Welfare – the "graveyard committee." If it's going to receive a fair hearing, it will only happen if an overwhelming majority of Kentuckians desire it to become law and make the call to Frankfort *(see box right)*.

HB 575 has the full support of Kentucky Right to Life, the Catholic Conference and The Family Foundation.

Should the baby's heartbeat not be present, another benefit of this bill is that it would protect the woman from an unnecessary abortion. "When there is no heartbeat, the pregnancy often ends in miscarriage, or the woman needing a D&C, which is vastly different than choosing to end the life of her child," explains Cindy McDaniel, Director of Assurance pregnancy center in Lexington, KY. "Another benefit, especially to financially strapped women, is that should a D&C be necessary, it would usually be covered by health insurance or Medicaid. Abortions are not."

HB 575 includes a newer approach to informed consent by requiring that the state establish a website displaying information regarding services and alternatives available

To view the model website from Kansas go to

http://www.womansrighttoknow.org

Make Two Calls!

Call 1-800-372-7181

Call the toll-free Legislative Message Line and leave the following two messages for your Representative(s).* It's easy and convenient. You do not have to speak to them – simply leave a message for them with a receptionist. If you do not know who your Representative is, the receptionist can tell you. *OR*, just say "Give my message to *ALL* the Representatives in my county." (Some counties have more than one.)

Multiply your impact by: 1) Having your spouse call; 2) Calling once each week; and 3) asking the receptionist to "copy" your messages to "members of House Leadership" so the key Leaders of the Chamber are also hearing from you.

***Note:* At press time (March 7), HB 575 had 61 co-sponsors (only 51 votes are needed to pass), but forces are already at work to kill it along with other pro-life bills. Your calls will help get it out.**

"Pass HB 575 - The Ultrasound Bill"

Requires abortionist to allow the woman to see her own ultrasound and the state to create a fully educational website.

"Pass the 'Standing Bill' - SB 221"

If the Attorney General and the Governor won't defend our laws, this allows legislators who passed them to have standing in court.

***Note:* You can call in the evening! The Legislative Message Line is open from 7:00 am until 11:00 pm EST Mon. thru Thurs. It closes at 6:00 pm on Fridays.**

*** Representatives in the House are most important – the Senate and individual State Senators have already committed to these bills.**

Legislators offer to defend marriage with bill

***Senate Bill 221** filed to give "standing" to legislators when Governor and Attorney General refuse to defend Kentucky law.*

Judge John G. Heyburn's Feb. 12 decision to overturn part of the 2004 Marriage Protection Amendment and Attorney General Jack Conway's poor defense of it in court has generated some push back in the State Senate. Senate Bill 221 was filed on March 6 by Sen. Sara Beth Gregory (R-Monticello) to enable legislators to have standing in court to defend their statutes or constitutional amendments when they are not being properly defended by the Governor or the Attorney General.

"The issue ironically is about 'fairness,'" said Gregory. "When the Attorney General violates his oath of office to defend our Constitution, someone needs to step up. The lawmakers are perfect for that task since they know what they passed into law and why they passed it."

Heyburn struck down the second half of the Marriage Protection Amendment which states that Kentucky will not "recognize" marriages from other states or nations that are not between "one man and one woman."

Heyburn has now accepted a second pair of plaintiffs who want to overturn the first half of the amendment so that they can be married in Kentucky — have a same-sex marriage "validated" by state law.

Judges have been undoing state constitutional amendments ever since the various Democrat Attorneys General have decided that they would rather support their Party Platform rather than follow their oath of office. This happened with California's constitutional referendum, Virginia's constitutional amendment and the nation's Defense of Marriage Act. Republican Attorneys General defend marriage in court, as is currently being done in Texas.

Senate Bill 221 has a good chance of passing through the Senate but is likely to have trouble in the Democrat-controlled House.

"We're hoping that House Leadership recognizes that this is just about a level-playing field in Court," said Kent Ostrander, executive director of The Family Foundation. "It's not about bashing any group or attempting to discriminate against anyone."

With three weeks to go in the 2014 Session, the question is: "How many calls can supporters generate?"

Court Case: By The Numbers . . .

The Plaintiffs' brief was 31 pages.
(They want the law overturned.)

The Family Foundation offered 28 pages of an *amicus* brief.
(They wants to have the law upheld.)

The judge's decision was 23 pages.

The Defendants' Brief (Governor & Attorney General) was only 10 pages.
(What were THEY wanting???)

Kentucky Oath of Office
(for Governor and Attorney General

"I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of this Commonwealth, and be faithful and true to the Commonwealth of Kentucky so long as I . . ."

Marriage Protection Amendment

"Only a marriage between one man and one woman shall be valid or recognized as a marriage in Kentucky. A legal status identical or substantially similar to that of marriage for unmarried individuals shall not be valid or recognized."

By The Numbers in 2004 . . .

1,222,125 Kentuckians ratified the traditional definition of marriage — more than had ever voted both "for" and "against" *combined* in any previous constitutional amendment in Kentucky history.

Of Kentucky's 120 counties: 10 voted over 90% *FOR* marriage; 77 voted over 80%; and another 26 over 70%. Only one voted under 60%.

That 2004 election brought out a record 1.79 million Kentucky voters.

61 cosponsors prove Ultrasound Bill would pass if voted on:

HB 575 reaches Constitutional Majority

But the ultimate question is this: "Will House Leadership allow a vote?"

With 61 cosponsors on a bill that is filed in a Chamber made up of 100 representatives, there should be a sense of confidence that the bill will pass. (It only takes 51 votes.) But there is no confidence. Here's why . . .

There are 100 members of the Kentucky House of Representatives and 54 of them are Democrats, making the Democrats the Majority Party of the House. (Republicans make up the Majority Party of the Senate.) Those 54 House Democrats decide who will be in the five "seats of power" in that Chamber: the Speaker of the House, the Speaker Pro Tempore, the Majority Floor Leader, the Majority Caucus Leader and the Majority Whip.

Clearly, it would only take 28 votes from the 54-member caucus to install someone into one of the Leadership positions.

Imagine if you were running for a Leadership position, say for Speaker, and your opponent (from within your Party and your Caucus of 54) has already secured 26 votes while you had only 18 – all you would have to do is *make a deal* with the "liberal caucus" and they would vote as a 10-vote block and secure your needed 28 votes to become Speaker. *They* actually would control who is elected into Leadership!

What would it take to be awarded their 10-vote block?

Sources close to House Leadership have revealed that it is simply a promise not to let conservative, "pro-family" legislation come to the floor where it would likely pass. This includes bills that would limit or shed light on abortion (like HB 575 - The Ultrasound Bill).

Clearly, there has been no new pro-life legislation passing the House or even allowed to come to the House Floor in the last nine years, even though the Senate has passed such each year with bi-partisan, landslide votes (like 33 to 5 on this year's Ultrasound Bill) and sent it to the House. Yes, over the years there have been several Committee hearings, but always *so carefully orchestrated* (by none other than House Leadership) so the bill cannot get out of Committee in order to go to the House Floor.

In 2004, when Rep. Bob Damron's Fetal Homicide Bill passed the House, the vote was 88-5. The bill sent a clear message that the unborn child was a human life, yet the Chamber passed it overwhelmingly. The Chamber didn't change much in 2005, it was still very pro-life . . . but power struggles in Leadership changed everything.

Whether it's a House or Senate bill, all new pro-life bills die in the House:

2005 Session: HB 149-Prohibit Clone and Kill.
HB 386-Prohibit Destructive Embryonic Research.
Both died in House Judiciary Committee.

2006 Session: HB 489-Abortion Ban.
SB 125-Fully Informed Consent.
Both died in House Health & Welfare Committee.

2007 Session: SB 179-Fully Informed Consent.
Died in House Health & Welfare Committee.

2008 Session: SB 40-The Ultrasound Bill.
Died in House Judiciary Committee.

2009 Session: SB 79-The Ultrasound Bill.
Died in House Health & Welfare Committee.

2010 Session: SB 38-The Ultrasound Bill.
Died in House Health & Welfare Committee.

2011 Session: SB 9-Ultrasound Bill/Face-to-Face
HB 243-Ban on Abortions on Out-of-State Minors
HB 215-Pain-Capable Unborn Child Protection Act - no abortion after 20 weeks
All three died in House Health & Welfare Committee.

2012 Session: SB 102-Face-to-Face Consultation.
SB 103-The Ultrasound Bill
HB 164-Fetal Heartbeat Bill – must advise woman if a heartbeat is present.
All three died in House Health & Welfare Committee.

2013 Session: SB 4-Face-to-Face Consultation.
SB 5-The Ultrasound Bill
HB 132-Fetal Heartbeat Bill
HB 215-Pain-Capable Unborn Child Protection Act
HB 251-Admitting Privileges – abortionist must have admitting privileges at a local hospital.
All five died in House Health & Welfare Committee.

Here is the breakdown of support by Party for House Bill 575

Republican Co-sponsors as of March 7

Adams, Julie Raque - 32
Bechler, Lynn - 4
Benvenuti, Robert - 88
Bratcher, Kevin - 29
Bunch, Regina - 82
Butler, Dwight - 18
Carney, John - 51
Couch, Tim - 90
Crimm, Ron - 33
DeCesare, Jim - 21
DeWeese, Bob - 48
Dossett, Myron - 9
Embry Jr., C.B. - 17
Fischer, Joseph - 68
Floyd, David - 50
Harmon, Mike - 54
Heath, Richard - 2
Herald, Toby - 91
Hoover, Jeff - 83
Imes, Kenny - 5
Kerr, Thomas - 64
King, Kim - 55
Koenig, Adam - 69
Lee, Stan - 45
Linder, Brian - 61
Mayfield, Donna - 73
Meade, David - 80
Meredith, Michael - 19
Miles, Suzanne - 7
Montell, Brad - 58
Moore, Tim - 26
Osborne, David - 59
Quarles, Ryan - 62
Rader, Marie - 89
Rowland, Bart - 53
Rudy, Steven - 1
Santoro, Sal - 60
Shell, Jonathan - 36
St. Onge, Diane - 63
Stewart, Jim - 86
Turner, Tommy - 85
Upchurch, Ken - 52
Waide, Ben - 10
Webber, Russell - 49
Wuchner, Addia - 66
York, Jill - 96

RED *are Republican co-sponsors*

BLUE *are Democrat co-sponsors*

STRIKETHRUs *are not co-sponsors as of March 7*

Democrat Co-sponsors as of March 7

Collins, Hubert - 97
Coursey, Will - 6
Damron, Robert - 39
Gooch, Jim - 12
Greer, Jeff - 27
Hall, Keith - 93
Henderson, Richard - 74
King, Martha Jane - 16
Mills, Terry - 24
Nelson, Rick - 87
Riner, Tom - 41
Short, John - 92
Steele, Fitz - 84
Thompson, Tommy - 14
Watkins, Gerald - 3

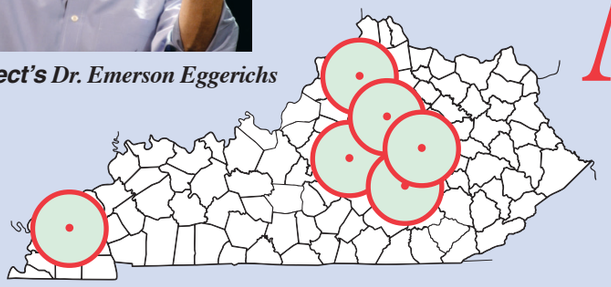
Dems Not Co-sponsoring

Adkins, Rocky - 99
Bell, Johnny - 23
Burch, Tom - 30
Butler, Denver - 38
Clark, Larry - 46
Combs, Leslie - 94
Crenshaw, Jesse - 77
Denham, Mitchel - 70
Donohue, Jeffery - 37
Flood, Kelly - 75
Glenn, Jim - 13
Graham, Derrick - 57
Horlander, Dennis - 40
Jenkins, Joni - 44
Kay, James - 56
Keene, Dennis - 67
Lee, Jimmie - 25
Marzian, Mary Lou - 34
McKee, Tom - 78
Meeks, Reginald - 42
Miller, Charles - 28
Overly, Sannie - 72
Owens, Darryl - 43
Palumbo, Ruth Ann - 76
Pullin, Tanya - 98
Rand, Rick - 47
Richards, Jody - 20
Riggs, Steve - 31
Simpson, Arnold - 65
Sinnette, Kevin - 100
Smart, Rita - 81
Stacy, John Will - 71
Stone, Wilson - 22
Stumbo, Greg - 95
Tilley, John - 8
Watkins, David - 11
Wayne, Jim - 35
Westrom, Susan - 79
Yonts, Brent - 15

Love & Respect's Dr. Emerson Eggerichs

The Kentucky Marriage Movement

Love & Respect's Sarah Eggerichs



Various regional events listed below

Lexington, March 21-22

Love and Lordship - Greg Williams
Porter Memorial Baptist Church
4300 Nicholasville Road, Lexington, KY 40515

Lexington, April 25-26

The Art of Marriage video conference - Family Life
Broadway Christian Church
187 North Broadway, Lexington, KY 40507

Paducah, May 9-10

Love and Respect video conference - The Eggerichs
Twelve Oaks Baptist Church
2110 New Holt Road, Paducah, KY 42001

Wheatley, April 11-12

The Art of Marriage video conference - Family Life
Dallasburg Baptist Church
4760 Kentucky 227, Wheatley, KY 40359

Nicholasville, May 2-3

Love and Respect video conference - The Eggerichs
Catalyst Christian Church
4000 Park Central Avenue, Nicholasville, KY 40356

Lexington, May 16-17

The Art of Marriage video conference - Family Life
Lexington First Assembly of God
2780 Clays Mill Road, Lexington, KY 40503

For more or to register, call (859)255-5400 or go to www.kentuckymarriage.org

Please join us at the Capitol . . . for life and for marriage

Wed., March 19
11:00 AM
Capitol Rotunda
Frankfort

(Call 859-255-5400 for more info)

House Bill 575:
Ultrasound and Informed Consent

Senate Bill 221:
Legislative "Standing" Bill

Be sure to make your calls - yellow box pages 4-5

Opinion: We are no longer ruled by law, but by personal opinions.

One nation under judges

Politics is a messy business. Thankfully, we have the federal courts to deliver us from it.

On Feb. 12, a federal judge struck down a part of Kentucky's Marriage Protection Amendment and in the process partially nullified the votes of 1,222,125 Kentuckians who voted in 2004 in favor of the traditional view of marriage — more than voted both "for" and "against" *combined* on any previous constitutional amendment in Kentucky history.

In the ruling, *Bourke v. Beshear*, Judge John G. Heyburn struck down the part of Kentucky's marriage law that allows Kentucky to determine its own marriage policy by not having to recognize same-sex marriages from other states.

The decision is one of an increasing number of court cases that nullify democratically enacted laws and referenda — or, as in this case, constitutional amendments — that had been placed on the ballot and ratified by voters.

The *Bourke* case, like similar cases which are systematically invalidating marriage laws in other states, forcibly takes marriage policy out of the hands of voters and their elected representatives and places it in the hands of unelected federal judges whose political opinions differ starkly from those of the general public.

In fact, on almost every social issue, from marriage to school prayer to abortion, policy is now being made in the least

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democratic of our branches of government: the federal courts.

Of course, the judges now deciding our policy issues for us claim constitutional warrant for their decisions. The trouble is that there is nothing in the Constitution they can actually point to. So they point to earlier decisions by earlier judges who claimed such warrant in an infinite regress that never arrives at any actual constitutional language that justifies their ruling.

In reality, the views of current courts are the result of an accretion of judicial doctrines with little relation to the Constitution they claim to interpret that has grown like barnacles on a ship. In cases such as those related to same-sex marriage, the judicial ship is now almost all barnacles.

Liberals have cheered this development and understandingly so: It largely benefits them. As issues are more and more frequently taken out of the democratic process and appropriated by judges, the findings of courts almost necessarily end up reflecting the views of the class from which its members are drawn. With liberal judges now in control of social issues, liberals don't even have to argue their case anymore.

Social liberals, their views now determined by the prescriptive power of the courts, can pretty much do as they please. Conservatives, on the other hand, must go to the back of the bus.

So much for "fairness."

All this has been accomplished by appointing to the courts people who have accepted the liberal conception of what can be counted reasonable and what cannot. The "rational basis" test, which several courts have at least claimed is the basis for their decisions on same-sex marriage, automatically counts out anything a conservative would recognize as a legitimate reason.

According to recent court rulings, tradition, custom, religion and morality itself cannot count as rational. This is something that is itself not argued for, but simply asserted. There is, in other words, no rational basis for the rational basis test as it is currently imposed by the courts.

The decision in *Bourke* – and the decision in the *Windsor v. The United States* that struck down the Defense Of Marriage Act — are basically declarations that laws can only be justified for liberal reasons. Conservative reasons simply don't count.

And complicating the situation is that those whose constitutional obligation it is to defend these laws and the rights of the voters who passed them are shirking their oaths of office. In Kentucky, Attorney General Jack Conway, after a period of reflection on whether he should do his job, decided to leave voters in the lurch by not appealing the *Bourke* case. His decision came despite the fact that the marriage amendment was part of the Constitution when he took the oath and which he swore to defend.

Judge Heyburn in an unusual part of his ruling — and Jack Conway in his press conference March 4 — addressed the very citizens they were complicit in disenfranchising, patted them patronizingly on the head and told them that they may not like it, but they must live with this new regime in which their views no longer matter.

And what of consequence can these citizens say, now that their power of saying anything of consequence has been taken away?

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