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Lawmakers hear arguments on gay marriage ban

By Erica Peterson

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July 14, 2009 · The Legislature plans to continue studying the issue of same-sex marriage, after a hearing Tuesday at the state Capitol.

The question is whether West Virginians should be allowed to vote on a constitutional amendment defining marriage as between a man and a woman.

Right now, 30 states have language in their constitution limiting marriage to heterosexual couples.

West Virginia doesn't. But the legislature has passed the Defense of Marriage Act, restricting the definition of marriage to one man and one woman.

Legislators stressed that Monday's meeting wasn't a public hearing. It's part of a yearlong legislative study, and they said there's not any legislation on the table.

The first speaker was **WVU** law professor Bob Bastress. He said the state constitution has only been amended 73 times. Fifteen were minor issues, such as the sale of bonds.

With the exception of prohibition, Bastress says the state has never amended the constitution to restrict rights.

But Jeremy Dys of the **Family Policy Council of West Virginia** argued that traditional, heterosexual marriage is at risk in West Virginia.

Dys says the issue is something that voters want to weigh in on.

"The constitution of West Virginia belongs to the people," he said. "There's no legitimate reason to not let the people decide the legal definition of marriage. So we should let them do it. The recent experience of several states has closed the debate over whether there's a nationwide effort to redefine marriage.

"West Virginians want to vote on the definition of marriage. It's the responsibility of our legislators to protect every West Virginian's right to vote on this issue."

He added his organization conducted a phone poll suggesting that 94 percent of West Virginians want the matter to come to a vote, and 86 percent think marriage should be defined in the state constitution.



Erica Peterson
 Leah Devine questions Jeremy Dys about his testimony on Tuesday, while Casie McGee looks on.

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Others argued with Dys' logic. Stephen Skinner of **Fairness West Virginia** argued that constitutional amendments should expand rights, not restrict them.

After the testimonies, legislators lobbed questions at all of the presenters.

Del. Danny Wells (D-Kanawha) asked about the rising numbers of divorce rates among heterosexual marriages.

Del. John R. Frazier (D-Mercer) took issue with Skinner's definition of Fairness WV as an organization that fights bigotry. If he voted for the amendment, Frazier asked, would that make him a bigot?

But the longest exchange of the afternoon was between Del. Carrie Webster (D-Kanawha) and Dys.

"If we do this, when West Virginia has never done this before, when do we draw the line?" she asked. "If we're operating under a majority rule, then my question was, wonder if a majority of the public thinks we should eliminate property taxes, which funds our public education system?"

"What about if we want to ban immigrants receiving citizenship?"

Webster says there are plenty of things West Virginians could vote for that the legislature shouldn't ratify.

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