



## MEMORANDUM

TO: To Whom It May Concern  
FROM: Brian W. Raum, Senior Legal Counsel, Alliance Defense Fund  
Austin R. Nimocks, Senior Legal Counsel, Alliance Defense Fund  
DATE: December 31, 2008  
RE: How Same-Sex Adoption Is Currently Threatening Marriage in West Virginia

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Same-sex “marriage” is a closer reality in West Virginia than many think. Three recent cases demonstrate how marriage can be easily and inexpensively undermined or even destroyed in West Virginia. All of these cases occur “under the radar.” The redefinition of marriage in West Virginia won’t happen how you might think.

- *Cole et al v. State of Arkansas et al* – Lawsuit filed December 30, 2008 challenging Arkansas law that prevents unmarried, cohabitating persons from adopting. The lawsuit claims that the constitutional right parenting extends to all circumstances, and that the law hurts the “family integrity” of homosexual households. Any ruling dignifying the “family integrity” of same-sex couples will substantially undermine Arkansas’ marriage laws.
- *Finstuen et al v. Crutcher et al* – Decided on August 3, 2007, striking down part of Oklahoma’s DOMA expressly preventing the recognition of same-sex adoptions. Three same-sex couples adopted children in other states and demanded that the children’s birth certificates be altered to reflect the same-sex couples as the children’s biological parents.
- *Adar v. Smith* – Case decided on December 22, 2008, and basically identical to *Finstuen*. In *Adar*, the State of Louisiana was ordered by the court to modify the child’s birth certificate by placing the names of the two adoptive fathers on it.

How do same-sex adoption cases threaten marriage? Same-sex adoption involves the choice by the state to permit children to be raised without a father and a mother. The state is deciding that fathers and mothers are not essential for the family, and that gender is irrelevant. If a parent’s gender is irrelevant for the family and child-rearing, why does marriage then need to be restricted to just opposite sex couples? Marriage cannot be detached from child-rearing. Children deserve a mom and a dad. Government should do all it can to make sure they are given that opportunity. That includes defending the definition of marriage from the collateral attack same-sex adoptions presents.

This scenario is playing out in West Virginia even now. On March 11, 2009, the Supreme Court of West Virginia will be asked to decide whether or not the State of West Virginia, in caring for foster children, is entitled to prefer placement with opposite-sex couples over same-sex couples. Hanging in the balance of this decision is the life and future of a wonderful baby girl. Yet, a female same-sex couple is insistent that they can somehow provide the same atmosphere, influence, and childhood development as an opposite-sex couple. However, it is well-understood that children need both a mother and a father. All the love in the world cannot turn two lesbian mothers into a father. If the Supreme Court of West Virginia does not come to understand this fundamental truth, marriage in West Virginia may be permanently and irreparably damaged.