
Why the California Legislature Cannot Create "Same-Sex Marriages"

1. Californians Have Voted to Reserve Marriage for a Man and a Woman

Proposition 22 passed in the 2000 Primary Election by 61.4 percent of the vote. Prop. 22 placed "Only marriage between a man and a woman is valid or recognized in California" in the Family Code:

Family Code 308.5. Only marriage between a man and a woman is valid or recognized in California.

2. The California Constitution Prohibits the Legislature from Repealing the Vote of the People

CALIFORNIA CONSTITUTION
ARTICLE 2 VOTING, INITIATIVE AND REFERENDUM, AND RECALL

SEC. 10. (c) The Legislature may amend or repeal referendum statutes. It may amend or repeal an initiative statute by another statute that becomes effective only when approved by the electors unless the initiative statute permits amendment or repeal without their approval.

3. The Courts Have Ruled That the Legislature Cannot Repeal the People's Vote

The California Court of Appeal, 1st District *Marriage Cases* (October 5, 2006)

"The Legislature has control of the subject of marriage, subject only to initiatives passed by the voters and constitutional restrictions."

4. The Courts Have Ruled That Prop. 22 Prohibits the Legislature from Creating Same-Sex Marriages

The California Court of Appeal, 3rd District *Knight v. Superior Court* (April 4, 2005)

"The plain language of Proposition 22 and its initiative statute, section 308.5, reaffirms the definition of marriage in section 300, by stating that only marriage between a man and a woman shall be valid and recognized in California. This limitation ensures that California will not legitimize or recognize same-sex marriages from other jurisdictions, as it otherwise would be required to do pursuant to section 308, and that California will not permit same-sex partners to validly marry within the state."