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June 16, 2010

My name is Cathy Marino-Thomas. I am the Board President for Marriage Equality NY, a statewide grassroots organization working for the right to civil marriage for all families. Marriage Equality NY has been working on this issue for more than 12 years, making us the oldest LGBT organization in the state working on this issue.

Thank you for the opportunity to speak on behalf of Speaker Quinn's proposed Int. No. 260-A.

Marriage Equality New York strongly advocates for the implementation of this initiative. There is a substantial amount of confusion regarding laws and rights related to the various forms of relationship recognition available for same-sex families. This initiative would be a first step toward rectifying the confusion.

We at Marriage Equality New York feel it's extremely important that the City clarify the fact that only a handful of rights are afforded to a couple seeking a New York City Domestic Partnership. Among those would be:

- Bereavement leave and child care leave for City employees only - this does not cover anyone that does not work for the City of New York.
- Visitation in a City correctional and juvenile detention facilities
- Visitation in facilities operated by the New York City Health and Hospitals Corporation - this does not cover privately run hospitals and care centers.
- Eligibility to qualify as a family member to be added by the New York City Housing Authority to an existing tenancy as a permanent resident.
- Health benefits provided by the City of New York - this does not cover health benefits provided by private corporations, or state or federal agencies.

In addition to educating couples on the limitations of domestic partnership, we feel it's important to educate couples on New York State's recognition of out-of-state marriages. With marriage come over 1,000 rights that are somewhat portable between states and countries with marriage recognition for all families. We feel the public needs to be made aware of locations that such marriages are legally performed. In addition, we feel the general public is NOT aware that New York State honors these marriages.

Finally, we would advocate that information be added referencing the inequities of even these marriage licenses. Some of those inequities are:

- Inability to legally change name in another State and have the name change recognized in New York. Same-sex couples currently have bare the expense of hiring a lawyer and go through the legal process of a name change since there is no New York State Marriage license to fill in the blank.
- Same-sex couples will have to keep a copy of their out of state Marriage License with them at all times as proof of marriage since they cannot register with the State.
- Since there is no New York State Law/License to protect same-sex families. If any of the 1,324 rights are denied or contested, same-sex families will have to sue for to obtain these rights.

In closing, I'd like you all to imagine what it would be like to be a couple in love wanting to validate their commitment through civil ceremony. You arrive at the City Clerk's office and pay your fees for Domestic Partnership because you think it's the same as obtaining a marriage license. You say your "I Dos" just like any other couple wanting to be committed to each other. You leave the office and - you're protected, right? Well, then you start to live in the real world and discover that you only have a very small fraction of the rights and obligations that a marriage license gives you. You find that when you leave the City of New York to visit your relatives in Westchester, Long Island, Middletown, Buffalo, you have absolutely no rights at all.

Wouldn't you have wanted someone to tell you that? Wouldn't you have wanted someone to tell you that all you had to do was drive to Connecticut or Massachusetts and you would be able to obtain a marriage license to protect your loved one? With that simple ride, you would have secured over 700 state level rights bestowed on a couple with a marriage license. You would have also gained the right to fight for the over 1,138 rights at a federal level and not even have to buy another wedding cake!

I would like to strongly express my commitment to making marriage equality a reality in New York State and advocate that this committee pass this initiative and implement immediately.

Thank you.

# NEW YORK CITY BAR

Contact: Maria Cilenti - Director of Legislative Affairs - mcilenti@nycbar.org - (212) 382-6655

## **TESTIMONY OF JEANNETTE A. VARGAS, MEMBER OF THE COMMITTEE ON LESBIAN, GAY, BISEXUAL & TRANSGENDER RIGHTS IN SUPPORT OF THE ADOPTION OF SECTION 3-207.1 OF THE NEW YORK CITY ADMINISTRATIVE CODE,**

My name is Jeannette Vargas, and I am a member of the Lesbian, Gay, Bisexual and Transgender Rights Committee (the "Committee") of the Association of the Bar of the City of New York (the "City Bar"). On behalf of the City Bar, the Committee voices its support for the City Council's proposed enactment of section 3-207.1 of the administrative code of the City of New York, requiring the City Clerk to provide the public with information regarding New York State's recognition of marriages between same-sex couples performed in other domestic or international jurisdictions.

While the State of New York has traditionally been a leader in the areas of equality and civil rights, we trail behind other jurisdictions in the important area of marriage equality. There are, however, five states, the District of Columbia, Canada and seven other countries that have full marriage equality. More jurisdictions are proceeding rapidly toward it. Until such time as the New York State legislature enacts marriage equality legislation, it is vitally important that same-sex couples residing within New York City be informed as to the other options that are available to them --- specifically, the fact that they can potentially be married in another jurisdictions, and that pursuant to the common law, executive order, and judicial decisions, marriages between same-sex couples performed in accordance with the laws of such other jurisdictions will be accorded full recognition in both the City and State of New York.

In the area of recognition of validly executed marriages between same-sex couples, in particular, the state of the law is constantly in flux and misinformation among the public is rampant. Yet New York State's domestic laws deny unmarried same-sex couples at least 1,324 legal rights and duties<sup>1</sup> that married different-sex couples currently receive. Accordingly, it is essential that same-sex couples in New York City be provided with accurate information regarding their right to have their validly performed marriages accorded the full panoply of rights under state and local law.

New York's more than 50,000 same-sex couples, like their opposite-sex counterparts, confront life's challenges. Many have modest incomes. Approximately 20% are raising children under age 18, and more than 25% have one disabled partner. Thirty two percent of individuals in these couples are nonwhite.<sup>2</sup> The inability of these long-term couples to marry in the State of New

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<sup>1</sup> See Empire State Pride Agenda Found. & New York City Bar, *1,324 Reasons for Marriage Equality in New York State* (June 12, 2007), available at [http://www.nycbar.org/pdf/report/marriage\\_v7d21.pdf](http://www.nycbar.org/pdf/report/marriage_v7d21.pdf).

<sup>2</sup> See Williams Institute, "Census Snapshot New York" (Apr. 2004), available at

York has real and devastating consequences. For example, in death, without inheritance rights, the surviving partner can be thrown out of the family home. Further, upon relationship dissolution, without the right to maintenance, custody or visitation, the lives of a partner and the couple's children may be turned upside down. Marriage provides the legal stability that many couples, lacking financial resources, knowledge or willingness to plan for the future, fail to create on their own. Half or more of the general public has failed to prepare many crucial documents: only 53% of New York State residents have a health care proxy; nationwide, only 40-50% of people have wills, 15-42% have living wills, and a mere 5% have prenuptial agreements.

Despite entering into valid marriages in other jurisdictions, same-sex married couples in New York, unlike opposite-sex married couples in the State, face selective recognition within New York, as well as a confusing array of relationship recognition rules outside New York. The unfortunate reality is that same-sex couples are not adequately or consistently protected by New York's piecemeal recognition of same-sex relationships over the last two decades by statutes, executive orders and regulations, and court decisions. Despite the efforts of governors, state officials, local executives and legislators of both parties, the lack of clear legislative action has and will continue to generate decades of litigation, complex private domestic partnership agreements, and scattershot legislation and regulations meant to establish inheritance, divorce, child custody, pension and tort rights under a range of relationship recognition rules.<sup>3</sup>

For these reasons, the Committee supports the City Council's proposed amendment to the administrative code of New York City requiring the City Clerk to provide the public with information regarding the legal rights that will be accorded to marriages between same-sex couples performed in other domestic or international jurisdictions. While this provision is no substitute for the enactment of state legislation according same-sex couples residing in New York with full marriage equality, the proposed amendment represents an important step forward towards protecting the rights of LGBT residents of New York City.

Respectfully submitted,

Jeannette A. Vargas  
Member  
Lesbian, Gay, Bisexual and Transgender Rights Committee  
The Association of the Bar of the City of New York

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<http://www.law.ucla.edu/williamsinstitute/publications/NewYorkCensusSnapshot.pdf>.

<sup>3</sup> Compare *Matter of the Estate of H. Kenneth Ranftle*, 4585-2008 (Surr. Ct. N.Y. Co. 2009) (recognizing same-sex marriage for notice purposes in probate proceeding) with *Will of Alan Zwerling* (NYLJ, Sept. 9, 2008) (Surr. Ct. Queens Co.) (notice to parents required because validity of same-sex marriages not determined).

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 260A Res. No. \_\_\_\_\_

in favor  in opposition

Date: 6/16/10

(PLEASE PRINT)

Name: MICHAEL McSWEENEY

Address: 141 NORTH STREET

I represent: OFFICE OF CITY CLERK

Address: \_\_\_\_\_

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THE CITY OF NEW YORK**

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in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: BRENDAN FAY

Address: 22-22 28<sup>th</sup> ST ASTORIA NY 11105

I represent: THE CIVIL MARRIAGE TRAIL PROJECT

Address: 22 22 28<sup>th</sup> ST ASTORIA NY 11105

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in favor  in opposition

Date: 6/16/10

(PLEASE PRINT)

Name: CAROL MARTINO-THOMAS

Address: \_\_\_\_\_

I represent: MARRIAGE EQUALITY NY

Address: 71 W 23<sup>RD</sup> ST NY NY

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THE CITY OF NEW YORK**

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Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Ann Northrop

Address: 465 W. 23<sup>rd</sup> St. - 17 B  
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I represent: \_\_\_\_\_

Address: \_\_\_\_\_

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**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 260-A Res. No. \_\_\_\_\_

in favor  in opposition

Date: 6-16-10

(PLEASE PRINT)

Name: Jeannette Vargas

Address: One Fifth Avenue #1410

I represent: Association of the Bar - City of New York

Address: 42 W 44<sup>th</sup> Street, N.Y., N.Y.

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