

Marriage Protection Ordinance

Legislative Authorization.

This chapter is adopted pursuant to Sections 300, 301, 308.5, 350, 351, 352, and 505 of the Family Code. All words used in this chapter which also are used in Sections 300, 301, 308.5, 350, 351, 352, and 505 are used in the same sense and mean the same as the same respective word used in Sections 300, 301, 308.5, 350, 351, 352, and 505 of the Family Code.

Marriage Defined.

As used in this chapter and in Sections 300, 301, 308.5, 350, 351, 352, and 505, "marriage" means a civil contract between an unmarried man and an unmarried woman, who are of legal age, not first cousins or closer in consanguinity, who are capable of consenting to and physically consummating marriage, and who are not currently registered in a domestic partnership or civil union. This definition does not supersede the provisions of the above sections.

Findings.

The Board of Supervisors of Kern County finds that:

1. The California Constitution upholds the Separation of Powers principle by expressly prohibiting the judicial, executive, and legislative branches of California from exercising the powers of each other (Article 3, Section 3).
2. The California Constitution expressly states that only the Legislature and the people using the initiative process possess legislative powers to change the law or make new laws (Article 4, Section 1).
3. The California Constitution requires the Governor to faithfully implement California's statutes (Article 5, Section 1).
4. The California Constitution clearly states that only the people, not the courts, can amend the constitution. (Article 18).
5. The definition of marriage and requirements for processing marriage forms are clearly defined and controlled by the California statutes.
6. The statutes in the California Family Code clearly state that marriage is only for "a man" and "a woman" and that marriage application forms must have spaces for the "bride" and the "groom."
7. California Family Code, Section 308.5, which reads "Only marriage between a man and a woman is valid or recognized in California," was approved in Kern County by 80 percent of the voters in 2000.
8. The California Legislature has not yet changed the marriage statutes in response to the May 15, 2008 opinion of the California Supreme Court.

9. The State Office of Vital Records had no statutory authority to change marriage forms from “a man” and “woman” and a “bride” and “groom” to “Party A” and “Party B.”

10. The Board of Supervisors respects and upholds the written Constitution, which respects the legislative process, which respects the statutes that expressly state that marriage licenses are only for a man and a woman, as defined.

11. The Board of Supervisors finds that an amendment to the Constitution reserving marriage licenses for a man and a woman has qualified for the November 4, 2008 ballot.

12. The California Constitution authorizes the Board of Supervisors to make and enforce countywide ordinances that do not conflict with California statutes (Article 11, Section 7).

13. The Board of Supervisors affirms our cherished American democratic process, described by Abraham Lincoln as “government of the people, by the people, for the people.”

14. The Board of Supervisors specifically finds that marriage only for a man and a woman is the law of the land and the foundation of family and society in Kern County.

15. Therefore, no employee of Kern County, and no elected or appointed official of Kern County, may issue a marriage license to any couple other than a statutorily-qualified man and woman, or perform or solemnize a marriage for any couple other than a statutorily-qualified man and woman, or record a marriage certificate for any couple other than a statutorily-qualified man and woman.

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