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Cook County Establishes the Domestic Partnership

Andrew Dougherty

On October 1, 2003, Cook County became the second community in Illinois to formally acknowledge the commitment of same-sex couples by enacting a domestic partnership registry.¹ While conferring no new legal rights, the Cook County Domestic Partnership Registry does serve as an official recognition by the County of same-sex couples, and supporters of the Registry hope that its symbolic weight will ultimately help to secure greater rights for lesbian and gay couples. Oak Park has maintained a similar registry since 1997.²

The Cook County Registry was introduced by Commissioner Mike Quigley, and passed with overwhelming support of the Cook County commissioners in a 13 to 3 vote in the summer of 2003.³ According to Quigley, the impetus for the Registry was "simply a matter of fairness and equity."⁴ Although the Registry does not change the legal status of same-sex couples, Quigley is hopeful that the Registry will lead to changes in standing and treatment, especially in regards to hospital visitation rights and probate proceedings.

According to Tim Dever, the Director of Vital Statistics in Cook County, "the response to the Registry has been overwhelmingly positive."⁵ Thus far, 323 couples have obtained Domestic Partnership Certificates.⁶ Although the couples who register are aware of the certificate's limited effect, "they are happy that the county now acknowledges their relationship," Dever said.⁷

The procedure for obtaining a Domestic Partnership Certificate is

similar to that of a marriage license. Both partners are required to appear at the Cook County Clerk's office, present valid photo identification, and pay a registration fee.⁸ The couples are also required to sign a legal affidavit that, among other things, states that both partners: are at least 18 years of age, share a common household, maintain and intend to maintain a committed relationship of mutual financial and emotional support, and live in Cook County or that at least one partner works in the county. A domestic partnership may be jointly or separately terminated upon the filing of an affidavit of termination, and this official termination is required before a person may obtain a new Domestic Partnership Certificate.

One practical effect of the Registry is that it makes it easier for same-sex couples to prove the existence of their relationship, which can help in securing benefits from private employers who have chosen to extend benefits to the partners of lesbian and gay employees. Before the Registry, employers often required same-sex partners to prove the commitment of their relationship by showing joint bank account statements, lease agreements, and a number of other such documents. As Commissioner Quigley noted, the Registry "provides employers with a uniform way of determining who is a domestic partner."⁹

While passing with relative ease, the Registry has engendered a number of critics. Commissioner Tony Peraica (R-16th District), who voted against the Registry, criticized

the move as pointless, and Commissioner Carl Hansen (R-15th District) accused supporters of pandering to special interests.¹⁰ A more vehement opposition was voiced by Mary Ann Hackett, President of the Catholic Citizens of Illinois, who views the Registry as "affirming a lifestyle that, according to the Catholic teachings, is immoral."¹¹ According to Hackett, efforts like the Registry "create a slippery slope that will ultimately lead to gay marriage."¹²

Recent developments in the Illinois General Assembly could threaten the continued existence of the Domestic Partnership Registry. In January, two state representatives proposed bills that would amend the Illinois Constitution so as to prohibit same-sex marriage. The proposal by Representative Bill Mitchell (R-87th District) would not only place a constitutional ban on same-sex marriage, but would also prohibit civil unions, such as those recognized by the state of Vermont, and domestic partnership registries, such as those in Cook County and Oak Park.¹³ The bill proposed by Representative William Grunloh (D-108th District) would similarly provide for a constitutional amendment against same-sex marriage, but is silent on the issues of civil unions and domestic partnership registries.¹⁴

The bills received immediate praise and criticism from each side of this political divide. Peter LaBarbera, Executive Director of the Illinois Family Institute, argues that "Illinoisans who want to preserve

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marriage have no alternative but to take this issue permanently out of the hands of activist judges and put it in the hands of the people."¹⁵ On the other side of the debate, Representative Larry McKeon (D-13th District) argues that the bills are not only homophobic, but also unnecessary in light of the Defense of Marriage Act, which passed the Illinois General Assembly in 1996 and defined marriage as a union between a man and woman.¹⁶ According to McKeon, the bills also serve as a disturbing display of election-year politicking, proposed simply as "an attempt to gain votes in districts where there is a contested election."¹⁷

An amendment to the Illinois Constitution first requires an affirmative vote by three-fifths of both houses within the legislature, and then must receive a majority of votes on a general election ballot.¹⁸

When asked about the proposed amendments, Commissioner Quigley responded, "The inability of same-sex couples to get married amounts to the government telling people who they can and cannot love . . . It's the ultimate form of governmental intrusion."¹⁹

1. Domestic Partnership Registry Ordinance, available at <http://www.cookctyclerk.com/agen-das/2003/070103/070103orddoc.htm>

2. Oak Park Village Clerk, Domestic Partnership, available at http://vil.oak.park.il.us/Village_Clerk/Domestic_Partnership.html

3. Steph Smith, Chicago Creates Domestic Partner Registry, 365Gay.com, July 2, 2003, <http://365gay.com/NewsContent/070103chicagoPartner.htm>.

4. Telephone interview with Mike Quigley, Cook County Commissioner, 10th District, (Jan. 24, 2003).

5. Telephone interview with Tim Dever, Director of Vital Statistics, Cook County (Jan. 21, 2003).

6. As of Jan. 21, 2004.

7. Telephone interview with Tim Dever, Director of Vital Statistics, Cook County (Jan. 21, 2003).

8. Cook County Clerk's Office, Domestic Partnership Registry, available at <http://www.cookctyclerk.com/dom-part.html>.

9. Telephone interview with Mike Quigley, Cook County Commissioner, 10th District, (Jan. 24, 2003).

10. Debbie Howlett, Same-Sex Couples Line Up for Recognition in Chicago, USA Today, Oct. 1, 2003, available at http://www.usatoday.com/news/nation/2003-10-01-reg-istry-usat_x.htm; and Steph Smith, Chicago Creates Domestic Partner Registry, 365Gay.com, July 2, 2003, available at <http://365gay.com/NewsContent/070103chicagoPartner.htm>.

11. Telephone interview with Mary Ann Hackett, President, Catholic Citizens of Illinois, (Jan. 21, 2003).

12. *Id.*

13. Leader-Springfield Bureau, Constitutional Amendments to Protect Marriage Proposed in General Assembly, The Illinois Leader, Jan. 23, 2004, available at <http://www.illinoisleader.com/news/newsview.asp?c=11589>.

14. *Id.*

15. Illinois Family Institute, IFI Announces Support for IL Constitutional Amendment to 'Protect Marriage from Being

Destroyed by Activist Judges,' (Jan. 19, 2004), available at <http://www.illinoisfamily.org/issuesposting.asp?docID=295>.

16. Press Release, Rep. Larry McKeon, McKeon Denounces Amendment to Illinois Constitution (Jan. 20, 2004), available at <http://www.larrymckeeon.com/html/pr/McKeon-Denounces->

Amendment-to-Illinois-Constitution-147.asp

17. *Id.*

18. Ill. Const., art. XIV, §2.

19. Telephone interview with Mike Quigley, Cook County Commissioner, 10th District, (Jan. 24, 2003).

Senate to Weigh Controversial Cybercrime Treaty

Gavin Mbley

Over the past several years, cybercrime has risen dramatically on a global scale.¹ As a way to combat crime on the Internet that occurs across borders, the Convention on Cybercrime was drafted by the 43-member Council of Europe in November 2001. In November 2003, President Bush asked the U.S. Senate to ratify the treaty.²

According to Treatywatch.org, the treaty does three main things. First, it includes a list of crimes that each member country must have on its books.³ The treaty requires criminalization of offenses such as hacking, the production, sale or distribution of hacking tools, and child pornography, and an expansion of criminal liability for intellectual property violations. Second, it requires each participating nation to grant new powers of search and seizure to its law enforcement authorities, including the power to force an Internet Service Provider (ISP) to preserve and relinquish a citizen's internet usage records or other data, and the power to monitor a citizen's online activities in real time. Finally, it requires law enforcement in every participating country to assist police from other participating countries by cooperating with "mutual assistance requests" from police in other participating nations.

In his letter to the Senate, Bush called the treaty "an effective tool in the global effort to combat computer-related crime" as well as "the only multilateral treaty to address the problems of computer-related crime and electronic evidence gathering."⁴ Bush said the treaty will "help deny 'safe havens' to criminals, including terrorists, who can cause damage to U.S. interests from abroad, using computer systems."⁵ According to the U.S. Department of Justice, the treaty will eliminate procedural and jurisdictional obstacles that can delay or endanger international investigations.⁶

Civil liberties groups, including the American Civil Liberties Union, have called on the Senate to reject the treaty. The ACLU argues that the surveillance powers granted by the treaty are not balanced out by privacy or civil liberties restraints. For example, the ACLU believes that because the treaty allows police to conduct searches and seizures of data from ISPs without reimbursing them for the costs, it encourages police to use that power indiscriminately with no checks or balances.⁷

The ACLU also says the treaty should have a "dual criminality" requirement, which would require an activity to be a crime in both countries before one nation could enlist