



## THE LEGAL IMPACT OF AMENDMENT ONE

### 1. AMENDMENT ONE DOES NOT CHANGE EXISTING DOMESTIC VIOLENCE LAWS:

- North Carolina law, especially Chapter 50B of the North Carolina General Statutes, provides extensive protections to the victims of domestic violence. These protections exist regardless of marital status.
- The passage of Amendment One did not change this. By its own terms, Amendment One says nothing about domestic violence. At most, Amendment One simply wrote the existing statutory ban on same-sex marriage into the state constitution; it does not impact long-standing protections for the victims of domestic violence.
- Thirty states currently have constitutional amendments banning same-sex marriage. Only two of them—Kansas and Ohio—have seen challenges to their domestic violence laws. In both states, the highest courts to consider the issue have upheld the domestic violence protections.<sup>1</sup>
- Even the most prominent supporters of Amendment One have argued that it does not affect domestic violence protections.<sup>2</sup>

### 2. AMENDMENT ONE DOES NOT PREVENT PUBLIC EMPLOYERS FROM OFFERING DOMESTIC PARTNERSHIP BENEFITS:

- Currently, nine towns, cities and counties in North Carolina offer domestic partnership benefits to public employees. In 2013, the City of Charlotte will become the tenth.
- The passage of Amendment One does not bar these employee benefits policies. By its own terms, Amendment One says nothing about employment benefits. At most, Amendment One simply wrote existing law, which has long allowed these policies, into the state constitution.
- Existing policies granting domestic partnership benefits to public employees have been challenged multiple times in North Carolina courts.<sup>3</sup> Every single challenge has failed.
- Thirty states currently have constitutional amendments banning same-sex marriage. Only one state—Michigan<sup>4</sup>—has held that its marriage amendment prevents these policies. However, Michigan's marriage amendment has language that is very different from Amendment One.

### 3. AMENDMENT ONE DOES NOT AFFECT PRIVATE CONTRACTS BETWEEN SAME-SEX COUPLES:

- Amendment One explicitly states that it does not affect any private contracts between cohabiting couples—for example, it does not affect finance or property agreements, trusts, wills, or end-of-life directives.

Please contact Christopher Brook, Legal Director of the ACLU-NC at 919-834-3466 with questions.

<sup>1</sup> See *State v. Curreri*, 42 Kan. App. 2d 460, 468-69 (2009); *State v. Carswell*, 114 Ohio St. 3d 210, 2007-Ohio-0151, 871 N.E.2d 547, at ¶¶ 36-37.

<sup>2</sup> E.g., Paul Stam, *Rep Paul Stam: Why Marriage Amendment is Needed*, SALISBURY POST (May 6, 2012, 12:00 AM), <http://www.salisburypost.com/Opinion/060612-insight-amendment----stam-qcd> ("The Marriage Amendment will have no effect on the enforcement of our domestic violence statutes.").

<sup>3</sup> See, e.g., *Godley v. Town of Carrboro*, No. 99 CVS 844 (N.C. Super. Ct. 2000) (granting summary judgment upholding Carrboro and Chapel Hill's domestic partnership benefits policies).

<sup>4</sup> See *Nat'l Pride at Work, Inc. v. Governor of Mich.*, 748 N.W.2d 524, 529 (Mich. 2008).