

**Michael Estok**  
**Street Law 2004**  
**Model Lesson Plan: MARRIAGE**  
Time: 50 minutes

**I. GOAL: To understand the who, what, where, when, why and how of marriage.**

**II. OBJECTIVES:**

A. Knowledge Objectives – As a result of this class, students will be better able to:

1. Get married;
2. Know the law about marriage and state/federal benefits;
3. Think critically about changing norms, including anti-miscegenation laws and gay marriage laws.

B. Skills Objectives – As a result of this class, students will be better able to:

1. Get married;
2. Formulate and articulate arguments about gay marriage and civil unions clearly

C. Attitude Objectives – Students will be better able to feel:

1. There is vast disagreement over what marriage is / should be;
2. Sometimes courts step in to protect the rights of minorities;
3. There is a weird and problematic relationship between religion/churches and even secular marriage.

**III. CLASSROOM METHODS:**

A. *Brainstorm: WHY do people get married* (use overhead)

- Commitment to another person
- Stable environment to raise family
- Religion (e.g., Catholic sacrament)
- For the hell of it (e.g., Britney Spears' 55-hour marriage)
- For the benefits

B. *WHAT benefits?*

- Washington state: for married people, at least 360 special rights and obligations
- Federal: at least 500 more benefits
- Examples:
  - (1) Right to bring a wrongful death action
  - (2) Spousal privilege (right and duty not to testify against spouse in most legal proceedings)
  - (3) Inheritance rights
  - (4) Right to state-supervised dissolution of relationship and distribution of assets
  - (5) Community property
  - (6) Insurance / pension benefits
  - (7) Right to control autopsies, hospital visitation, right to be buried next to spouse, etc.
  - (8) TAX benefits!
  - (9) Immigration rights (federal)

C. *HOW to get married?*

- Age: both must be 18 years of age. If 17, must get written consent of parents. If under 17, marriage is void unless parents consent and a judge gives approval order (only given if “necessity” (very rare circumstances))
- Relation: Can’t be closer than 2<sup>nd</sup> cousins
- STEP ONE: License:
  - \$60 cash fee;
  - No blood tests needed (unlike many other states);
  - Issued 3 days after received if requirements met
- STEP TWO: Ceremony:
  - Must be performed within 60 days of getting license;
  - 2 witnesses required

D. *SKIT*:

- Get volunteers to be groom, bride, justice of the peace, two witnesses, maid of honor, etc. Play music while the ceremony takes place. Give justice of the peace some secular vows to read. Fun!

E. *Sobering reality of statistics*:

- In year 2000, marriages = 2,355,005 / divorces = 957,200
- Proportion of marriages happening now that will end in divorce: estimates range between 43% and 50%
- United States has highest divorce rate in the world. Why?

F. *Marriage: WHO?*

- 2 quotes: read them aloud, and ask students to guess what they’re about:
  - (1) This “is repulsive and averse to every sentiment of pure American spirit. It is abhorrent and repugnant. It is subversive to social peace. It is destructive of moral supremacy, and ultimately...will bring this nation to a fatal conflict.”
  - (2) “After more than two centuries of American jurisprudence, and millenia of human experience, activist judges and local authorities are presuming to change the most fundamental institution of civil life. These actions have created confusion.... On a matter of such importance, the people must be heard”
- ANSWERS: (1) From 1911 speech by member of Congress to introduce Constitutional amendment to ban interracial marriages in all states, forever
- (2) From 2004 speech by President George W. Bush to support Constitutional amendment to ban gay marriage in all states, forever

G. *Review: Constitutional Amendment: How?*

- Bill must pass both halves of legislature, by 2/3rds majority in each. Then must be passed by 3/4ths of the states

H. *Interracial marriage (anti-miscegenation laws)*:

- At one time, 38 states prohibited Black-White; 14 prohibited Asian-White; 7 prohibited Native American-White
- Constitutional amendment (mentioned above) never went anywhere... fizzled out
- 1967: landmark case: Loving v. Virginia: white man & black woman married legally in DC, then moved to VA which has anti-miscegenation §. Charged for violating §. Case goes to Supreme Court.
  - Held: these laws violate the EP and DP clauses of the 14<sup>th</sup> Amendment: freedom to marry is a vital personal right; one of the “basic civil rights of man.”

- Aftermath: some states slow to remove bans off books (e.g., Alabama, in 2000, took it out of its state constitution).
- 2000 study: 20% of those aged 55-64 still believe Black-White marriage should be illegal.
- In last 20 years, Black-White marriages have doubled (now 2% of all marriages)

#### I. *Gay marriage:*

- Defense of Marriage Acts: in the 90's the Federal gov't and 33 states (including WA) passed DOMA laws, explicitly defining marriage as *only* between a man and a woman
  - Before DOMA, courts had always defined it as between a man and woman
- Changing tides:
  - 2001: Vermont Supreme Court says VT DOMA violates State Constitution. Result: civil union
  - 2003: Mass. Supreme Court says MA DOMA violates State Constitution. Result: marriage (legislature still has to enact new laws)
  - 2003: Supreme Court rules on Lawrence v. Texas, holding sodomy rules unconstitutional
  - 2004: New San Francisco mayor begins issuing marriage licenses to gays, which is explicitly not allowed under CA DOMA
  - 2004: Some county officials in non-DOMA states, such as Oregon and New York, begin issuing marriage licenses to gays
  - 2004: Federal constitutional amendment proposed that would disallow any state from permitting gay marriage
  - 2004: Case brought in Washington State alleging WA DOMA violates WA constitution (show copy of complaint; read some profiles of the gay couples bringing case) (show overhead (attached) showing the relevant Washington State Constitution clauses listed in the complaint)
- Internationally: 3 nations allow gay marriage: Netherlands, Belgium and Canada (2003)
  - What if a Washingtonian goes to Vancouver BC to get married? Is it effective?
- Civil union (contract) v. Marriage (status / full benefits) ("separate but equal")
- DISCUSSION: Should we allow gay marriage?
  - Arguments against:
    - 1) Marriage, as an institution, has traditionally been for one man & one woman;
    - 2) Marriage is for procreation / continuation of species
    - 3) Not a good environment to raise children
    - 4) Gay relationships are immoral
    - 5) Same-sex marriage threatens institution of marriage
    - 6) Slippery-slope: leads to legalized incest, bestiality, polygamy, etc.
  - Some arguments for:
    - 1) Notions of equality? ("Equal Protection Under The Laws")
    - 2) Civil rights issue?
    - 3) Stigmatization / Second-class citizens
    - 4) Separation of Church and State
  - WA Sup.Ct (2003): Meretricious relationships can apply to gay couples (Vasquez)
- TALKING POINT: Should we even have marriage *for anyone*?
- HANDOUT: *Are We Married?* For the students, if they wake up one morning unsure if they are married, they can consult this chart.

#### J. *Extra-credit Assignment!!*

- For Tuesday, make something artistic (poem, painting, drawing, song, short film, whatever) related to something you've learned in Street Law.

## **DOMA AND WA'S CONSTITUTION?**

- 1) "No person shall be deprived of life, liberty, or property, without due process of law." Article I § 3
  
- 2) "No person shall be disturbed in his private affairs... without authority of law." Article I § 7
  
- 3) "No law shall be passed granting to any citizen [or] class of citizens... privileges or immunities which upon the same terms shall not equally belong to all citizens." Article I § 12
  
- 4) "The equality of rights and responsibility under the law shall not be denied or abridged on account of sex." Article XXXI § 1

# **ARE WE MARRIED?**

(If answer is "no", move right; If answer is "yes", move down)

