



Written by [Dave Bohon](#) on June 23, 2012

Ill. Atty. Gen. and Cook County Atty. Refuse to Defend State Marriage Law

Two of Illinois' top government attorneys charged with the responsibility of defending the state's laws have balked at defending the state's marriage protection statute from a lawsuit filed by 25 homosexual couples. The Associated Press reported that Illinois Attorney General Lisa Madigan (upper left in photo montage) and Cook County State's Attorney Anita Alvarez (lower right) "have refused to defend the 16-year-old ban, which defines marriage as between a man and a woman, saying it violates the state constitution's equal protection clause."



As [The New American](#) reported in early June, the ACLU and the New York-based homosexual group Lambda Legal are representing the couples, who are suing Cook County Clerk David Orr for refusing to grant them marriage licenses. Orr, who was simply obeying the law, has actually said he hopes the lawsuit is successful so he can begin granting licenses to homosexual couples. "The time is long past due for the State of Illinois to allow County Clerks to issue marriage licenses to couples who want to make that commitment," he said in a statement.

John Knight, who runs the [ACLU's LGBT Project](#), said his clients would accept nothing less than full marriage equality. "What defines a marriage is love and commitment, our hopes and dreams for a life with the person we most love in all the world," he said. "Creating civil unions — a separate, novel, and poorly understood status for gay and lesbian couples — does not honor the devotion of our families, nor fully protect them, but instead sends a powerful message that our families are inadequate and undeserving."

Knight was referring to the state's civil unions law, passed last year and which homosexual groups initially applauded, but which they now say is insufficient. Camilla Taylor of [Lambda Legal](#) complained that by excluding homosexual partners from marriage, "and relegating them to civil unions, our government has marked them as different and worth less than other Illinois families — and that is exactly how others treat them. They have suffered disrespect in schools, workplaces, hospitals, and in their everyday interactions with government for long enough. They should have the freedom to marry...."

Pro-family groups argue that it is wrong for the state's top attorneys to shirk their duty to defend the law. But Alvarez insists that she is taking the ethical and legal high ground. "I took an oath when I was sworn in to defend the constitution of the state of Illinois and I believe that's what I'm doing," Alvarez told AP News. "I'm not going to defend something I believe is in violation of the constitution."

While experts say the decision not to defend the marriage protection law is unusual, it is certainly not without precedent. As reported by [The New American](#), in February 2011 President Obama ordered the Department of Justice to stop defending the constitutionality of the 1996 Defense of Marriage Act,



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which has become the target of a series of lawsuits orchestrated by homosexual activist groups pushing to overturn the law.

Currently six states — Connecticut, Iowa, Massachusetts, New Hampshire, New York, and Vermont — along with the District of Columbia have passed laws legalizing homosexual “marriage.” By contrast, 31 states have passed constitutional amendments defining marriage as only between a man and a woman, and homosexual activists have pulled out all the stops in an effort to turn the tide in their favor — often garnering the favor of helpful agents such as Madigan and Alvarez.

The AP reported that instead of defending the traditional marriage law, which she is paid to do, Madigan was actually preparing to present arguments in favor of the lawsuit filed by the homosexual couples.

Peter Breen, executive director of the Illinois-based [Thomas More Society](#), said the actions of Madigan and Alvarez mean that for the present, the people of Illinois are left without legal representation in the case. “You can’t just say you feel it’s unconstitutional,” said Breen of the marriage protection law, adding that the move “puts people of the state of Illinois in a difficult place because their elected representatives are not defending their interests. If there is no argument or disagreement, then you’d really have a hollow judgment.”

In addition to the Thomas More Society, the Alliance Defense Fund has stepped forward to fill in for the delinquent Illinois attorneys, partnering with the [Illinois Family Institute](#). ADF senior legal counsel Austin Nimocks said “it’s unfortunate” that Madigan and Alvarez had decided to switch sides. “So that means that it falls to the Illinois Family Institute to [defend the state’s marriage law], and they are obviously very proud to do so, and we’re happy to help with that.”

David Smith, executive director of the Illinois Family Institute, told the *Washington Times* that his group lobbied aggressively for passage of the Illinois Defense of Marriage Act in 1996. He said that the measure passed with overwhelming margins in both the state House and Senate, but now “we have really devolved,” he told the *Times*. “None of our elected officials, who are sworn to defend the laws of the state, are doing that.”

But Larry Jacobs of the Rockford, Illinois-based [Howard Center for Family, Religion and Society](#), told the *Times* that he felt the people of Illinois would step forward to demand that the state’s marriage law be properly defended. “The Chicago machine runs the political establishment,” Jacobs said, but “if you remove Chicago, the whole state is very conservative.”



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