# Table of Contents

I. **AMENDING THE STATE CONSTITUTION**  
WHAT YOU NEED TO KNOW

   Jeanette Doran – Raleigh

AMENDING THE STATE CONSTITUTION WHAT YOU NEED TO KNOW..................................................................................................I-1  
APPENDIX

II. **NORTH CAROLINA’S MARRIAGE AMENDMENT: PLAIN LANGUAGE MEANING, COMPARISON AND LITIGATION OVERVIEW**

   E. Gregory Wallace, Jr. – Raleigh  
   Austin R. Nimocks – Washington, DC

PLAIN LANGUAGE MEANING.............................................................................................................II-1  
INTRODUCTION ..................................................................................................................................II-3  
THE MEANING OF NORTH CAROLINA’S MARRIAGE AMENDMENT ...............................................II-3  
PLAIN LANGUAGE COMPARISON AND LITIGATION OVERVIEW ................................................II-11  
THE PLAIN MEANING OF THE MARRIAGE AMENDMENT ........................................................II-13  
CHAPTER STUFF ..........................................................................................................................II-13  
MARRIAGE AMENDMENT MEMORANDUM ..................................................................................II-15  
   What is a “Domestic Legal Union”?............................................................................................II-16  
   Constitutional Principles................................................................................................................II-19  
   Forbid Private Contracts? ..........................................................................................................II-20  
   Concerned with Benefits? ..........................................................................................................II-22  
   Judicial Enforcement? .............................................................................................................II-22  
   The Idaho Experience ................................................................................................................II-23  
LITIGATION OVERVIEW ..............................................................................................................II-25
III. THE MARRIAGE AMENDMENT’S EMERGING EFFECT ON FAMILY-LAW PRACTICE IN NORTH CAROLINA

Philip E. Berger, Jr. – Wentworth
Christopher Brook – Raleigh
Holning Lau – Chapel Hill
Sharon A. Thompson – Durham

THE NORTH CAROLINA MARRIAGE AMENDMENT’S IMPACT ON DOMESTIC VIOLENCE PROSECUTIONS ........................................ III-1

UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF NORTH CAROLINA CIVIL ACTION NO. 1:12-CV-00589 .................................. III-7

DOES NORTH CAROLINA HAVE AN OBLIGATION, OR THE ABILITY, TO RECOGNIZE SAME-SEX MARRIAGES FROM OTHER STATES? .......................................................................................................................... III-61

Scope and Overview .................................................................................. III-61
Federal DOMA and the Full Faith and Credit Clause ........................ III-62
North Carolina Law on Choice of Law and Same-Sex Marriage .......................................................... III-64

END OF SAME-SEX RELATIONSHIP ISSUES: DIVORCE, CUSTODY AND PROPERTY AND TOOL TO PROTECT

SAME-SEX FAMILIES ........................................................................... III-67
Divorce ................................................................................................ III-67
Custody ............................................................................................... III-69
Property Issues .................................................................................... III-69

TOOLS TO PROTECT SAME-SEX COUPLES AND THEIR FAMILIES ............................................................................. III-74

Insuring Children Have as Much Legal Protection as Possible from Both Parents .................................. III-74
Ownership of Property ....................................................................... III-76
Estate Planning .................................................................................... III-78

APPENDICES ....................................................................................... III-83

IV. HOW THE MARRIAGE AMENDMENT IMPACTS CITY COUNTY AND STATE BENEFIT PLANS

S. Chuck Kitchen – Raleigh
Austin R. Nimocks – Washington, DC
E. Gregory Wallace, Jr. – Raleigh

PREFACE ....................................................................................................... IV-1
COUNTIES ......................................................................................... IV-1
CITIES ...................................................................................................... IV-3
WATER AND SEWER AUTHORITIES ...................................................... IV-4
WILL THE NORTH CAROLINA MARRIAGE AMENDMENT BAR
PUBLIC EMPLOYERS FROM OFFERING INSURANCE BENEFITS
TO THEIR EMPLOYEES’ DOMESTIC PARTNERS? ............................... IV-6
APPENDICES .................................................................................. IV-9

V. PRINCIPLES OF CONSTITUTIONAL INTERPRETATION

Justice Robert F. Orr – Raleigh

VI. YOUR BROTHER AND SISTER’S KEEPER – DUTY TO OTHERS
IN OUR PROFESSION

Judge Robert N. Hunter, Jr. – Raleigh

YOUR BROTHER AND SISTER’S KEEPER – DUTY TO OTHERS
IN OUR PROFESSION .................................................................. VI-1
Lawyers Don’t Like What the Private Practice of Law Has Become.... VI-3
Lawyers are Twice as Likely to Have Substance Abuse Problem....... VI-3
Lawyer Suicides are a Leading Cause of Death in Our Profession ...... VI-4
Therapy can Successfully ameliorate Problems .............................. VI-4
We Have an Ethical Duty ............................................................. VI-4
Discussion Topics ...................................................................... VI-5