

'Ambiguous wording' of Issue 1 causes disputes

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Ohio's constitutional ban on gay marriage has been used in lawsuits around the state to try to declare the state's domestic violence law unconstitutional and prevent a woman from seeing her former partner's son.

When Darnell Forte, a Cleveland resident, was accused of slapping the woman he lived with, his lawyer claimed there was conflict between Ohio's new

constitutional amendment defining marriage and the state's domestic violence law.

Issue 1, which passed Nov. 2, 2004, denies legal status to all unmarried couples, straight or gay, and further defines marriage as a union between one man and one woman.

Robert Tobik, chief public defender of Cuyahoga County, said because of the new amendment, charging a person who is not married with domestic violence is unconstitutional. Domestic violence charges apply to

unmarried and married couples, but Forte is arguing that only married couples should be protected under domestic violence legislation due to the ambiguous wording of the amendment.

However, a person still could be charged with assault, Tobik said.

The case was dismissed from court because the witness did not show up to the court hearing, Tobik said.

Critics of Issue 1 predicted cases like these would happen because of the vague wording

used in the law, said Mickey Hart, coordinator of the Ohio University Lesbian, Gay, Bisexual, Transgender Programs Center.

Custody rights also are being challenged with Issue 1.

A Columbus resident, Denise Marie Fairchild, filed a lawsuit against her former partner, Therese Marie Leach, to take away Leach's visitation rights to Fairchild's 8-year-old son.

The boy was conceived through artificial insemination eight years after the women began dating. The couple split

three months after his birth.

Kat Tildes, a bisexual OU senior majoring in women, gender and minority studies, said being gay should have nothing to do with parenting rights.

"It needs to be about the child, not about sexuality — anyone can be a good parent," she said.

These cases are examples of how fearing others because of their differences can add to poor decision-making, Hart said.

Hart said he hopes Issue 1 eventually will be deemed unconstitutional.

"Not only is it hateful legislation, but it's poorly written," he said.

Hart said he also is upset by the fact that President George W. Bush is trying to add a similar amendment on the national level that would define marriage as being between only a man and a woman.

"It is a time in our nation where our president is restricting our liberty on a national level while spreading liberation around the world," Hart said.

"No one in the media has drawn out the contradiction," he said.