

Cato Institute: “Marriage against the State: Toward a new view of civil marriage”

Jason Kuznicki [writing at the Cato Institute](#): “As U.S. courts have repeatedly declared, marriage is fundamentally a private, individual right. One implication of this view, clear but not always consistently applied, is that the federal role in marriage should be to get out of the way. When it cannot, it should behave in predictable, orderly, and low-cost ways so that individuals may conduct their family and private lives as they think best. When the federal government must act in this area, it should do so only with a view toward preserving individual rights. This paper considers federal marriage policy in a new light by suggesting that some, though far from all, of the federal provisions governing marriage may be understood as protections of this kind, or as guarantees of individual responsibility, as in the case of children. When marriage acts in such a way, it merits federal recognition, but not otherwise.”