

September 15, 2009

Dear Member of Congress,

On behalf of the below-named civil rights organizations, we urge you to become a cosponsor of the Respect for Marriage Act of 2009. The Respect for Marriage Act repeals the Defense of Marriage Act (DOMA), which singles out lawfully married same-sex couples for discriminatory treatment under federal law, thereby denying them and them alone among married couples more than 1100 federal protections and responsibilities that would otherwise apply to them once legally married.

Until DOMA was enacted in 1996, federal law deferred to states in determining who could marry and be considered married, and the principle of comity and constitutional guarantee of full faith and credit governed states' obligations to honor marriages validly celebrated elsewhere. DOMA was an unprecedented departure from these long-established rules. Not only does DOMA purport to allow states to refuse to recognize valid civil marriages of same-sex couples (§2), it carves all same-sex couples, even those who have taken on the serious legal responsibilities of civil marriage and are recognized as married under state law, out of all federal statutes, regulations, and rulings applicable to all other married people (§3).

As a result, legally married same-sex spouses cannot:

- File their taxes jointly
- Receive spousal, mother's and father's, or surviving spouse benefits under Social Security even though they pay into Social Security throughout their careers
- Take unpaid leave to care for a sick or injured spouse
- Receive employer-provided family health benefits without paying an additional tax that different-sex spouses do not pay
- Receive the same family health and retirement/pension benefits as fellow married employees
- Be protected by the safe harbor provisions in bankruptcy law, Medicaid rules and other federal statutes that secure some resources and the family home when debts of one spouse threaten to leave both financially responsible spouses destitute.

Supporters of DOMA argued that it was necessary to promote family structures that are best for children, but since then, every credible medical, social science and child welfare organization has concluded that same-sex couples are equal parents.¹ In fact, the federal government recently stated, in a federal court brief, that "the United States does not believe that DOMA is rationally

¹ Major organizations publishing policy statements on the subject include: American Academy of Pediatrics, <http://aappolicy.aappublications.org/cgi/content/full/pediatrics;109/2/339> (February 2002 policy statement); American Psychological Association, <http://www.apa.org/pi/lgbcpolicy/parents.html> (July 2004 policy statement); American Academy of Child and Adolescent Psychiatry, http://www.aacap.org/cs/root/policy_statements/gay_lesbiantransgender_and_bisexual_parents_policy_statement (June 1999 policy statement); American Medical Association, <http://www.ama-assn.org/ama/pub/about-ama/our-people/member-groups-sections/glb-advocacycommittee/ama-policy-regarding-sexual-orientation.shtml> (AMA Policy Regarding Sexual Orientation); Child Welfare League of America, <http://www.cwla.org/programs/culture/glbtposition.htm> (Position Statement on Parenting of Children by Lesbian, Gay, and Bisexual Adults).

related to any legitimate government interests in procreation and child-rearing and is therefore not relying upon any such interests to defend DOMA's constitutionality.²

When DOMA was enacted, its harms were not yet fully appreciated because same-sex couples were not able to marry in any U.S. state. Since then, eight states and the District of Columbia have recognized equal marriage rights for same-sex couples, and thousands of couples have married.³ Because of DOMA, the federal government does not honor their legal commitment and the needs of their families, even though these couples have assumed the obligations of civil marriage under state law and contribute as citizens and taxpayers. DOMA undermines the very purposes of programs like Social Security and the Family and Medical Leave Act by making it more difficult for families to provide mutual support.

The Respect for Marriage Act repeals DOMA in its entirety, and ensures that valid marriages are respected under federal law, providing couples certainty that regardless of where they travel or move, they will not become strangers under federal law if a state refuses to recognize them as married for purposes of that state's law.

The Respect for Marriage Act does not obligate any person, religious organization, locality, or state to celebrate or license a marriage between two persons of the same sex. The First Amendment protects the right of churches and religious bodies to determine the qualifications for religious marriage, and the Respect for Marriage Act cannot and will not upset that centuries-old protection.

The time to repeal DOMA is long overdue. We urge you to join us in supporting this important legislation by becoming a cosponsor. To cosponsor the Respect for Marriage Act of 2009, please contact Andrew Ginsburg in the office of Congressman Jerrold Nadler (202) 225-5635.

Sincerely,

Advocates for Youth
American Civil Liberties Union
Americans for Democratic Action (ADA)
Center for Inquiry
CenterLink: The Community of LGBT Centers
Empire State Pride Agenda
Equality Federation
Family Equality Council
Freedom to Marry
Gay & Lesbian Advocates & Defenders

² Reply Memorandum in Support of Defendant United States of America's Motion to Dismiss at 6-7, Smelt v. United States, No. SACV09-00286 DOC (MLGx) (C.D. Cal. Aug. 24, 2009).

³ Same-sex couples may marry in Connecticut, Iowa, Massachusetts and Vermont. Legislatures in Maine (pending November 2009 ballot measure) and New Hampshire (effective 1/1/2010) have voted in favor of marriage for same sex couples. California recognizes marriages of same-sex couples performed in California before the passage of Proposition 8. New York and the District of Columbia recognize marriages of same-sex couples celebrated in other states, but do not presently grant civil marriage licenses to same-sex couples.

Gay, Lesbian and Straight Education Network
Human Rights Campaign
Lambda Legal
National Center for Lesbian Rights
National Gay and Lesbian Task Force Action Fund
Sexuality Information and Education Council of the U.S. (SIECUS)
Unitarian Universalist Association of Congregations
Women of Reform Judaism