

November 15, 2022

United States Senate
Washington, DC 20515

Re: The Respect for Marriage Act (H.R. 8404)

Dear Senators:

We are leaders of faith-based organizations representing tens of millions of Americans and hundreds of religious institutions. All our organizations hold to an understanding of marriage as between one man and one woman. Many of us privately expressed concerns about the House-passed version of the Respect for Marriage Act.

We are gratified by the substitute religious freedom language offered by Senators Collins, Baldwin, Sinema, Portman, Tillis, and Romney. It adequately protects the core religious freedom concerns raised by the bill, including tax exempt status, educational funding, government grants and contracts, and eligibility for licenses, certification, and accreditation. If passed, it would continue to build on the congressional wisdom represented by the Religious Freedom Restoration Act of 1993 (RFRA).

Attached are many statements from individual organizations.

Sincerely,

Elder Jack N. Gerard
The Quorum of the Seventy
The Church of Jesus Christ of Latter-day Saints

Melissa Reid
Director of Government Affairs
Seventh-day Adventist Church - North American Division

Nathan J. Diament
Executive Director for Public Policy
Union of Orthodox Jewish Congregations of America

Shirley Hoogstra
President
Council for Christian Colleges and Universities

Rev. Justin E. Giboney
President
AND Campaign

Stanley Carlson-Thies
Founder and Senior Director
Institutional Religious Freedom Alliance

Stephanie Summers
CEO
Center for Public Justice

Tim Schultz
President
1st Amendment Partnership

Statement from The Church of Jesus Christ of Latter-day Saints

The doctrine of The Church of Jesus Christ of Latter-day Saints related to marriage between a man and a woman is well known and will remain unchanged.

We are grateful for the continuing efforts of those who work to ensure the Respect for Marriage Act includes appropriate religious freedom protections while respecting the law and preserving the rights of our LGBTQ brothers and sisters.

We believe this approach is the way forward. As we work together to preserve the principles and practices of religious freedom together with the rights of LGBTQ individuals much can be accomplished to heal relationships and foster greater understanding.



Dear Senators Collins, Baldwin, and Portman:

The Seventh-day Adventist Church in North America would like to express our profound appreciation for your commitment to the protection of this nation's historical and treasured religious freedoms in the context of the codification of same-sex marriage recognition.

The Seventh-day Adventist Church holds a traditional understanding of marriage as divinely established in Eden and affirmed by Jesus to be a lifelong union between a man and a woman. We recognize, however, that societal trends have departed from our Church's understanding of marriage, sexuality and family.

We are grateful for the members of Congress and their staff who have constructively engaged with us and with other faith institutions to ensure that the Respect for Marriage Act acknowledges that "reasonable and sincere people" can have "decent and honorable religious or philosophical" reasons to maintain traditional convictions about marriage.

The Adventist Church applauds you and your fellow Senators for the significant religious freedom protections included in the Respect for Marriage Act, including the protection of churches from being required to facilitate same sex marriages and the prevention of retaliation against religious organizations for their views on marriage.

Thank you for partnering together on legislation that reflects bipartisan commitment to religious freedom and diversity.

Melissa Reid
Director of Government Affairs
Seventh-day Adventist Church – North American Division

Mark (Moishe) Bane
President

Rabbi Moshe Hauer
Executive Vice President

Rabbi Josh Joseph, Ed.D.
Executive Vice President &
Chief Operating Officer

Jerry Wolasky
Chairman, Advocacy

Nathan J. Diamant
Executive Director

Mitch Aeder
Chairman, Board of Directors

November 15, 2022

Senator Susan Collins
Senator Kyrsten Sinema
Senator Rob Portman
Senator Tammy Baldwin
United States Senate
by electronic mail

Dear Senators,

In anticipation of the U.S. Senate's consideration of H.R.8404 (the "Respect for Marriage Act"), as modified by an amendment you have offered, we write to you on behalf of the leadership of the Union of Orthodox Jewish Congregations of America ("Orthodox Union"), the nation's largest Orthodox Jewish umbrella organization.

In 2015, when the U.S. Supreme Court issued its ruling in *Obergefell v. Hodges*, the leadership of the Orthodox Union "reiterated(ed) the historical position of the Jewish faith... Our religion is emphatic in defining marriage as a relationship between a man and a woman. Our beliefs in this regard are unalterable." At the same time, we noted "that Judaism teaches respect for others and we condemn discrimination against individuals."

At the time, our leadership said that "in the wake of today's ruling, we turn to the next critical question for our community, and other traditional faith communities – will American law continue to uphold and embody principles of religious liberty and diversity, and will the laws implementing today's ruling and other expansions of civil rights for LGBT Americans contain appropriate accommodations and exemptions for institutions and individuals who abide by religious teachings that limit their ability to support same-sex relationships?"

As the U.S. Senate prepares to consider H.R.8404 the leadership of the Orthodox Union, in light of the religious principles reiterated above, cannot endorse the main purpose of H.R.8404. However, we welcome the provisions added to this bill by your amendment in the nature of a substitute in the Senate that appropriately address religious liberty concerns (provisions that were absent in the version of the bill passed by the House of Representatives).

As amended, Section 2 of H.R.8404 recognizes that "diverse beliefs about the role of gender in marriage are held by reasonable and sincere people based on decent and honorable religious or philosophical premises." Section 6 of H.R.8404 provides that "nothing in this act shall be construed to...abrogate a religious liberty... protection...available under the Constitution or Federal law" and further provides that no religious nonprofit entity whose principal purpose is the advancement of religion shall be required to provide services or goods associated with solemnizing or

celebrating a same sex marriage. Section 7 of H.R.8404 provides that no government official or agency can deny a wide array of benefits - including tax exempt status, grants, contracts, accreditation or others - to an otherwise eligible entity or person on the basis of that entity or person not recognizing same-sex marriage. These provisions appropriately address the array of religious liberty concerns raised in the context of H.R.8404 and its operative provisions.

Moreover, we note that your recognition that religious liberty interests must be explicitly and substantively addressed in the context of this kind of legislation is itself an essential act in a nation devoted to the principles of diversity, tolerance and religious freedom.

We thank you for your work with us and other faith partners to craft these important legislative provisions.

Sincerely,

Mark (Moishe) Bane
President

Rabbi Moshe Hauer
Executive Vice President

Nathan J. Diament
Executive Director - Advocacy



COUNCIL FOR CHRISTIAN COLLEGES & UNIVERSITIES

The Honorable Senator Susan Collins
United States Senate
413 Dirksen Senate Office Building
Washington, DC 20510-1904

The Honorable Senator Tammy Baldwin
United States Senate
709 Hart Senate Office Building
Washington, DC 20510

Dear Senators,

The CCCU strongly recommends that the Senate include the attached religious freedom amendment within the Respect for Marriage Act (S.4556). The CCCU represents over 140 Christ-centered institutions of higher education in the United States encompassing over 500,000 students. The CCCU's mission is to advance the cause of Christ-centered higher education and help our institutions transform lives by faithfully relating scholarship and service to biblical truth. CCCU institutions adhere to Biblical values and traditions, including teaching the Biblical understanding of marriage as between one man and one woman as an essential foundation for a thriving society.

Since the *Obergefell v. Hodges* decision, the CCCU and other religious and First Amendment groups have sought to both uphold their sincere convictions regarding marriage and, in the spirit of *Obergefell*, advocate for a balanced legislative approach that preserves religious freedom and addresses LGBTQ civil rights. This carefully crafted amendment includes both strong religious liberty language recognized in the *Obergefell* decision and non-retaliation language that ensures this legislation cannot be used by state and federal agencies to punish religious organizations for their sincerely held beliefs.

This amendment provides explicit Congressional support for the truth that traditional marriage supporters and their beliefs are decent and honorable as was stated by the Supreme Court in *Obergefell*.¹ It also sends a strong bipartisan message to Congress, the Administration, and the public that LGBTQ rights can co-exist with religious freedom protections, and that the rights of both groups can be advanced in a way that is prudent and practical.

Sincerely,

A handwritten signature in blue ink that reads "Shirley Hoogstra". The signature is fluid and cursive, with the first name "Shirley" and last name "Hoogstra" clearly legible.

Shirley V. Hoogstra, J.D.
President

¹ *Obergefell v. Hodges* 576 U.S. 14-556 (2015)



November 15, 2022

United States Senate
Washington, DC 20515

Re: The Respect for Marriage Act

Dear Senators:

On behalf of the AND Campaign and our coalition of pastors nationwide, I would like to thank you for your significant efforts to protect religious freedom in the amended Respect for Marriage Act (the “Act”). Your commitment to civic pluralism and the hard work of democracy provides a model for American politics to move forward in a healthier manner. We’re thankful that you chose the path of good faith and dignity in a time of immense division.

The AND Campaign upholds the historic Christian sexual and family ethic, which defines marriage as a union between one man and one woman. Accordingly, we were encouraged to see the amended legislation acknowledge that “diverse beliefs about the role of gender in marriage are held by reasonable and sincere people based on decent and honorable religious or philosophical premises”. That acknowledgement coupled with strong anti-retaliation language is vital to protecting the free exercise of religion for millions of Americans who share our worldview.

Rather than engaging in zero-sum politics, your work demonstrates that thoughtful leaders can work through disagreements with respect and charity. We applaud the amended language and support the motion to proceed as necessary for a thorough debate on the Act.

Sincerely,

Rev. Justin E. Giboney, J.D.
President, AND Campaign



November 15, 2022

United States Senate
Washington, DC 20515

Re: The Respect for Marriage Act (H.R. 8404)

Dear Senators Collins and Baldwin,

The Center for Public Justice, and our Institutional Religious Freedom Alliance, thank you for your dedication to safeguarding religious freedom in the context of the statutory protection of same-sex marriage. We applaud Senators committed to bring forward for discussion the Respect for Marriage Act so the full chamber may discuss the proposed amendment that we believe strongly protects religious freedom.

The proposed amended Respect for Marriage Act establishes that Congress agrees with the U. S. Supreme Court's decision authorizing same-sex marriage that reasonable and sincere people can hold other convictions about marriage due to their religious or philosophical convictions. Among other strong religious freedom protections we commend, we stress our thanks for the bill's language specifically protecting the tax-exemption of faith-based nonprofits and houses of worship.

As a Christian organization, we believe in the historic biblical understandings of marriage and human sexuality. Many in our society hold a different view, and in *Obergefell*, the Supreme Court mandated that same-sex unions be legally recognized as marriages. Significantly, in that same opinion, the Court acknowledged that reasonable and sincere people can have decent and honorable religious or philosophical reasons to maintain their traditional convictions about marriage. We believe that it will be of great legal and cultural significance if Congress enacts an amended Respect for Marriage Act that adds to the U.S. Code a statement of congressional agreement with the Court's positive view about the supporters of traditional marriage.

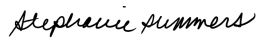
The amended Respect for Marriage Act contains other significant language embodying a congressional commitment to protecting religious freedom in the context of affirming LGBTQ rights. We regard adoption of the Act as the best opportunity since the passage of the Religious Freedom Restoration Act (1993) and the Religious Land Use and Institutionalized Persons Act (2000) for Congress to safeguard religious freedom with Democratic support. The amended Respect for Marriage Act codifies what is already the law of the land because of *Obergefell* while adding to the U.S. Code new protections for religious freedom in the context of marriage equality.

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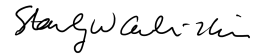
1305 Leslie Avenue • Alexandria, VA 22301 • 202-695-2667 • www.CPJustice.org

As a Christian public policy organization we are committed to policies that respect the dignity of all people. In our society with its many diverse communities of belief, justice requires creative pluralist policies. The religious freedom protections designed into the amended Respect for Marriage Act embody this pluralist approach. We commend you and your colleagues for your commitment to protecting religious freedom in our changing culture.

Sincerely,

Handwritten signature of Stephanie Summers in cursive script.

Stephanie Summers, CEO, Center for Public Justice

Handwritten signature of Stanley Carlson-Thies in cursive script.

Stanley Carlson-Thies, Founder, Institutional Religious Freedom Alliance



What Do Religious Freedom Supporters Get in the Amended Senate Version of the Respect for Marriage Act (RMA)?

- 1) Explicit Congressional support for the truth that traditional marriage supporters *and their beliefs* are decent and honorable. This was stated by the Supreme Court in *Obergefell*, but many progressives refuse to acknowledge it. Congress endorsing this truth in a bipartisan law is a big deal. This can be cited in all future cases where progressives equate traditional beliefs about marriage with racism.
- 2) Demonstration that gay rights legislation will not pass without addressing religious liberty concerns. This has been denied by many progressive activists, who falsely use words like “license to discriminate”.
- 3) Explicit protections under federal law against non-profit religious organizations that support traditional marriage having to facilitate marriages that violate their religious convictions.
- 4) A non-retaliation clause: the Act cannot be used by federal agencies to punish religious organizations in any way related to their views on marriage. Even if this clause will be rarely used in practice, it sets a very firm floor of religious protections that it will be difficult for future Congresses to reverse.

Why Should Conservatives Who Opposed the *Obergefell* Decision Support the Respect for Marriage Act?

Obergefell isn't going to be overturned. After all, Justice Thomas's concurrence in *Dobbs* was not signed by any other justice. Most conservatives wouldn't want to nullify the marriages made legal by *Obergefell* anyhow. Now, with *Obergefell* as the legal basis for same-sex marriage, there are no explicit corresponding religious freedom protections. Enacting RMA will put into law real religious protections that can't be won alone. And enactment of the amended RMA sends a strong bipartisan message to Congress, the Administration, and the public that gay rights can't trample religious freedom.

Is This a Good Deal for Religious Freedom?

Yes. Religious freedom advocates get protections that they have sought on a stand-alone basis but been unable to enact. Courts might grant some of these protections eventually, but litigation is costly and takes years to see results. In return, gay marriage advocates get something they already have: recognition of legal gay marriages, albeit now on statutory grounds.



Why Shouldn't Conservatives Demand Stronger Religious Freedom Protections In the RMA?

Senator Lee and others rightly desire to enact even broader religious protections. But our wish list is not going to be enacted into law all at once without major compromise. The similar "First Amendment Defense Act" never moved, even when Republicans had majorities. Any amendment demanding broader protections is therefore a messaging device that conservatives can vote for, even though it will not have the 60 votes needed to pass the Senate.

Conservatives should rest well still voting for the achievable protections in the RMA, knowing that they are still much more than conservatives have been able to pass in the eight years since *Obergefell*.

Does the RMA Create New Risks for For-Profit Entities Like Wedding Vendors?

No. The RMA doesn't contain non-discrimination requirements that would put bakers and other for-profit entities providing wedding services in jeopardy. The Equality Act would create those risks, not the RMA. Note that there is no politically viable way to protect these for-profit religious entities in statute without at the same time advancing LGBT non-discrimination (like the Equality Act). Congress can, however, sketch out a vision of balanced fair play that this Supreme Court will find attractive. That's exactly what the RMA does.

Won't the RMA be used by Progressive Activists to Sue Faith-Based Non-Profits, Including Adoption Agencies?

No. We share your mistrust of progressive activists. But the RMA doesn't hand them any new litigation tools. Gay marriage is already legal—see *Obergefell*. Private rights of action to enforce legal gay marriage are *already* available under Section 1983.

Crucially, the RMA allows lawsuits only against those "acting under color of state law." Neither current law nor the RMA defines non-profits that receive government money as "acting under color of state law." Left-wing gadflies have long sought to redefine all civil society organizations (faith based and otherwise) as "state actors," subject to the full equal treatment requirements of the Constitution. But they haven't gained any legal victories with this extreme theory, and their "case" has at most one vote on this Supreme Court.

Don't the Religious Protections in the RMA Lack an Enforcement Mechanism?

It doesn't need one. Religious liberty amendments have limited the RMA to avoid impacts on religion. The RMA states, "nothing in this act shall be construed to..." and then lists things the RMA can't do to harm religion. We understand that progressive activists abuse the courts all the time, but the RMA doesn't hand them any new tools and this Supreme Court would never entertain the idea that it does.