

116TH CONGRESS  
2D SESSION

# H. RES. 1209

Expressing support for Supreme Court decisions affirming the constitutionally protected right of same-sex couples to marry.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 30, 2020

Mr. PAPPAS (for himself, Ms. CRAIG, Mr. TAKANO, Mr. SEAN PATRICK MALONEY of New York, Mr. CICILLINE, Mr. CARSON of Indiana, Mr. HIGGINS of New York, Ms. TITUS, Mr. LYNCH, Mr. COOPER, Ms. GARCIA of Texas, Mrs. NAPOLITANO, Ms. DAVIDS of Kansas, Mr. PAYNE, Ms. NORTON, Mr. MEEKS, Mrs. MURPHY of Florida, Ms. WASSERMAN SCHULTZ, Ms. KELLY of Illinois, Mr. DEUTCH, Mr. BEYER, Mr. COX of California, Ms. LEE of California, Mr. POCAN, Ms. MCCOLLUM, Ms. SCHAKOWSKY, Mr. NADLER, Mr. ROSE of New York, Mr. CUELLAR, Mr. KILMER, Mr. RASKIN, Mr. TRONE, Ms. CLARK of Massachusetts, Ms. MENG, Mr. PANNETTA, Mrs. TRAHAN, Mr. LARSEN of Washington, Mr. CASTEN of Illinois, Mr. KENNEDY, Mr. HASTINGS, Mr. LARSON of Connecticut, Mr. SCHIFF, Mr. GRIJALVA, Ms. ROYBAL-ALLARD, Mr. CISNEROS, Ms. CLARKE of New York, Mr. SMITH of Washington, Mr. ROUDA, Mr. DESAULNIER, Ms. KAPTUR, Mr. DANNY K. DAVIS of Illinois, Mrs. LAWRENCE, Ms. SHALALA, Mr. WELCH, Mr. ESPAILLAT, Mr. LEVIN of Michigan, Mrs. WATSON COLEMAN, Ms. KUSTER of New Hampshire, Mr. QUIGLEY, Mr. BROWN of Maryland, Mr. CÁRDENAS, Mrs. DAVIS of California, Ms. DELBENE, Ms. PRESSLEY, Mr. KHANNA, Ms. JUDY CHU of California, Mr. KIM, Mr. MCEACHIN, Mrs. DEMINGS, Mr. SIRES, Ms. WEXTON, Mr. SOTO, Ms. WILD, Ms. DEAN, Mrs. LEE of Nevada, Ms. JOHNSON of Texas, Ms. JAYAPAL, Mr. HORSFORD, Mr. EVANS, Mr. KILDEE, Mr. MCGOVERN, Mr. PALLONE, Ms. ESHOO, Mr. NEGUSE, Ms. SÁNCHEZ, Mr. CASTRO of Texas, Mr. CARBAJAL, Mr. LAWSON of Florida, Mr. DEFAZIO, Ms. ADAMS, Mr. SARBANES, Mr. PETERS, Ms. PINGREE, Ms. MUCARSEL-POWELL, Mr. LOWENTHAL, Mr. FOSTER, Mrs. HAYES, Ms. HAALAND, Mr. CORREA, Mr. YARMUTH, Mr. LANGEVIN, Mr. DAVID SCOTT of Georgia, Ms. HOULAHAN, Mr. GOTTHEIMER, Ms. UNDERWOOD, Mr. BLUMENAUER, Ms. BONAMICI, Mr. BERA, Mr. DOGGETT, Mr. STANTON, Mr. CASE, Mrs. CAROLYN B. MALONEY of New York, Ms. DEGETTE, Ms. ESCOBAR, Mr. SUOZZI, Mr. MOULTON, and Mr. TED LIEU of California) submitted the following resolution; which was referred to the Committee on the Judiciary

# RESOLUTION

Expressing support for Supreme Court decisions affirming the constitutionally protected right of same-sex couples to marry.

Whereas, on June 26, 2013, the Supreme Court held in *Windsor v. United States* that the so-called Defense of Marriage Act unconstitutionally deprived same-sex couples of the liberty protected by the Fifth Amendment;

Whereas pursuant to the *Windsor* ruling, same-sex couples cannot be deprived of Federal benefits and protections provided by the Government to married couples in a wide array of areas;

Whereas Supreme Court Justice Ginsburg recognized that Federal marital benefits affect every area of life, and that denying them to married same-sex couples created, in effect, a “sort of skim milk marriage”;

Whereas married same-sex couples have accessed and relied upon these equal benefits, including some funded generally by all program participants, such as Social Security survivor benefits, and many that can provide an essential economic lifeline, such as retirement benefits and veteran and military benefits, as well as inheritance benefits and other Federal tax benefits;

Whereas, on June 26, 2015, the Supreme Court held in *Obergefell v. Hodges* that States may not deprive same-sex couples of the constitutionally protected freedom to marry;

Whereas the Supreme Court confirmed in *Obergefell v. Hodges* that “the Constitution promises liberty to all

within its reach, a liberty that allows persons, within a lawful realm, to define and express their identity”;

Whereas, on June 27, 2017, the Supreme Court confirmed in *Pavan v. Smith* that it is unconstitutional to deny same-sex couples the benefits and responsibilities of marriage that are provided to different-sex couples;

Whereas the Census Bureau has estimated there are approximately 543,000 same-sex married-couple households in the United States and almost 500,000 households with same-sex unmarried partners living together;

Whereas there are an estimated 114,000 same-sex couples raising children in the United States;

Whereas same-sex couples are seven times more likely than different-sex couples to be raising an adopted or foster child;

Whereas same-sex couples may not be deprived of the right to marry and the protections and responsibilities of marriages in 29 other countries;

Whereas the European Court of Justice requires that all European Union countries recognize same-sex couples’ marriages for immigration purposes;

Whereas, on October 5, 2020, Supreme Court Justice Thomas issued a Statement, with which Justice Alito joined, concerning the Court’s denial of a petition for a writ of certiorari in *Kim Davis v. David Ermold*;

Whereas the Statement improperly invites legal challenges to the Supreme Court’s important *Obergefell* precedent by announcing the Justices are seeking to grant review of a case that “cleanly” challenges that precedent in order to address what they characterize as a “problem that only it can fix”;

Whereas the Statement incorrectly asserts the Obergefell v. Hodges decision brands religious adherents as “bigots”;

Whereas the Statement wrongfully frames marriage equality for same-sex couples and religious liberty interests as mutually exclusive;

Whereas marriage equality for same-sex couples does not impinge upon the rights of clergy or religious institutions by forcing them to solemnize the marriages of same-sex couples, just as they are free not to solemnize the marriages of couples of different faith traditions;

Whereas although the rulings in Windsor v. United States, Obergefell v. Hodges, and Pavan v. Smith are Supreme Court precedents preventing the Federal and all State governments from marriage-related discrimination against same-sex couples, Federal legislation is needed to prevent discrimination against same-sex couples and LGBTQ individuals in the private sector;

Whereas, on May 17, 2019, the House of Representatives passed the Equality Act in a bipartisan vote; and

Whereas, on May 20, 2019, the Senate received the Equality Act for consideration and has not acted on the bill: Now, therefore, be it

1       *Resolved*, That the House of Representatives—

2               (1) strongly opposes Justice Thomas and Justice Alito’s Statement in Davis v. Ermold;

3               (2) acknowledges that same-sex couples have relied and are relying upon the Supreme Court precedent in United States v. Windsor, Obergefell v.

1 Hodges, and Pavan v. Smith, and other cases up-  
2 holding the protections of same-sex couples;

3 (3) recognizes that all Americans should be  
4 treated fairly and equally regardless of sexual ori-  
5 entation or gender identity; and

6 (4) acknowledges the need for express legisla-  
7 tion prohibiting discrimination against LGBTQ peo-  
8 ple.

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