



The Religious Freedom Institute’s Statement on the “Respect for Marriage Act”

The “Respect for Marriage Act” (RMA) would deal a devastating blow to religious freedom in America, even if it included proposed *amendments that purport to protect religious freedom, but in fact do not*. It represents a dangerous authoritarian turn by Congress and the administration that would extend the power of government well beyond its constitutional role and harm the fundamental freedoms of all Americans.

Even with the protections outlined by RFI at the end of this statement, the RMA would still teach America’s young that those who understand marriage as the union of one man and one woman are bigots who may be tolerated, but never again accepted as equal citizens of the United States.

The RMA would cripple religious freedom for two decisive reasons:

- (1) Passing the RMA would mean that the U.S. government has arrogated to itself an authority it does not possess.**

The RMA is attempting to (1) dismantle and remake an institution that existed long before the state, that is, marriage and the family produced by marriage; and (2) coerce Americans to affirm a radical new state-constructed definition of marriage by subjecting them to ruinous civil actions in federal court should they refuse to do so.

In the American system the institution of marriage and the family is, like religion itself, pre-political. Neither are created or defined by government. They are not the product of legislative action. The role of government is to recognize and defend them.

Marriage is a venerable religious and social institution that has existed for millennia. It has been embraced in this country, and worldwide, as the union of one man and one woman, ordained by God, for the consummation of marital love and *the generation, formation, and protection of children*.

Marriage does not “discriminate,” any more than gravity discriminates. It simply is. This is why the state has no authority to deny the legitimacy of marriages between a husband and wife of different races.

If government officials take upon themselves the power to alter this institution, rather than recognize and protect it, they are not only undermining the religious free exercise rights of millions of Americans. They are also engaging in dangerous, authoritarian overreach, expanding the authority of the state far beyond its democratic boundaries.

(2) Passing the RMA would employ the force of law to drive millions of American citizens who understand marriage as the union of one man and one woman, and their institutions, from public life. It would also teach America’s young that citizens and institutions who cherish marriage are in reality haters, bigots, and racists.

The RMA creates a cause of action by the Attorney General of the United States, or by any private citizen, to sue individuals and organizations—whether Christian, Jewish, Muslim, or of another faith—that publicly resist same-sex “marriage,” thereby subjecting them to ruinous financial damages and reputational harms.

In short, the RMA is discriminatory to its core.

Even with amendments under consideration that purport to protect the religious liberty of dissenters, the premise of the RMA would remain, namely that opposition to same-sex “marriage” is akin to racism. That claim is not only false but profoundly disingenuous. The vast majority of Americans, including those who are religious, do not oppose interracial marriage. There is no real or perceived threat to marriage based on race in any state in America.

The RMA, therefore, uses race as a pretext. Its inclusion of race as a new “category” of marriage that needs protection is a veiled attempt, yet again, to advance the aims of the “Equality Act,” that is, to embed in federal statute recognition and protections for sexual orientation and gender identity that parallel those made for race. By juxtaposing same-sex marriage and race in the RMA, as though both are *by their nature* comparable, supporters of the Equality Act are one step closer to their goal of amending the Civil Rights Act of 1964 and establishing sexual orientation and gender identity as new “protected classes” in federal law.

Whatever assurances the RMA’s drafters might offer to the contrary, the law would communicate to the nation that the millennia-old view of marriage held by Christian, Jewish, Muslim, and other religious citizens is despicable and that those who continue to embrace it are, like racists, despicable people. Like racists, they may hold their views in private, but if they manifest them publicly, they will be punished by their subjection to ruinous lawsuits in federal court.

The premise of bigotry is deeply offensive and unworthy of any American government purporting to represent all its citizens. Those who defend marriage are motivated by an ancient understanding of God and the nature of reality, human dignity, and human love. These motives are those of lovers, not haters.

In holding and promoting these views they are also exercising their religion as intended by the First Amendment. The Founders guaranteed the right of free exercise to ensure the contribution of all American religions, on an equal basis, to the common good.

Enshrining *Obergefell* or even more radical conceptions of marriage in federal law would inevitably result in invidious discrimination against countless Jewish, Christian, Muslim, and other Americans. It would unleash the authoritarian power of government to pressure and coerce them to affirm and uphold these new conceptions of “marriage.”

Though the “Respect for Marriage Act” should be rejected in full, inserting into its text the following religious liberty protections would mitigate some of its worst consequences. However, even with these protections, the lesson for America’s youth that proponents of marriage as the union of one man and one woman are haters, bigots, and racists would remain.

1. No American citizen or organization may be compelled under “color of State law” to perform, engage in, or support in any manner same-sex or transgender forms of “marriage.”

2. No American citizen, religious community, or religious organization shall be subject to penalties of law under the RMA for refusing to recognize and affirm same-sex or transgender forms of “marriage.”

3. The RMA shall not restrict or preclude any First Amendment protections for religious free exercise afforded to every American and every American religious institution, or the protections afforded under the Religious Freedom Restoration Act.

4. No American citizen or organization, including religious citizens and religious organizations, may be subject to a private right of action under the RMA for refusing to perform, engage in, or support in any manner same-sex or transgender forms of “marriage.”

5. Nonprofit religious organizations, nonprofit organizations that exist to advance religion in society, faith-based businesses, and any owner or employee of such an organization or business, shall not be required to provide services, accommodations, advantages, facilities, goods, or privileges in support of same-sex or transgender forms of “marriage” if such actions would constitute a violation of conscience or a sincerely held religious belief and abrogate the core principles or beliefs upon which the business or organization is established.

(This provision addresses Sec. 6(b) and the issues of employment practices, to include hiring, firing, and employee conduct codes, and faith-based businesses providing goods or services – e.g., cases such as Arlene’s Flowers, Masterpiece Cakeshop, etc.)

6. No therapeutic or religious counselor, including medical counselors, clergy, military chaplains, or spiritual counselors, *whose assistance is sought by an individual or couple* contemplating a same-sex or transgender form of “marriage,” shall be subject to legal action under the RMA for expressing their best judgment as professional counselors.

(While no protections related to counselors are currently included in the text or amended text, they should be since counseling is a standard professional service often sought out by couples planning to marry or who are already married.)