Marriage and Religious Freedom Act

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The Ethics and Religious Liberty Commission is proud to support H.R. 3133, known as the “Marriage and Religious Freedom Act” that provides broad protections for citizens and organizations that support the definition of marriage as the union of one man and one woman. With 60 co-sponsors drawn from a wide coalition, the diverse support for the bill echoes the importance of religious liberty as a bipartisan issue. Moreover, respect for the diversity of viewpoints helps form a civic fraternity amongst citizens that fosters a safer, more welcoming society. Bills such as the Marriage and Religious Liberty Act are important measures helping America live up to its truest foundations of religious freedom.

The Marriage and Religious Freedom Act prohibits the federal government from discriminating against individuals and organizations that exercise a sincerely held religious belief that marriage is the union of one man and one woman. According to legal scholar Jonathan Turley “over the last few decades, we have seen an unholy union between government programs and groups with majoritarian views that endangers the very basis of religious freedom and the rights of free speech and association.”

To that end, the legislation mandates that the federal government will not:

- Deny or revoke an exemption from taxation under Sec. 501 of the IRS Tax Code
- Disallow a deduction for Federal tax purposes of any charitable contribution made to or by a person
- Deny or withhold any federal benefit
- Deny or exclude a person from receiving any federal grant, contract, loan, license, certification, accreditation, employment, or other similar position or status


The bill comes at a time when the advance of same-sex marriage is clashing with religious liberty and, sadly, it has been religious liberty that has taken a backseat. Again, Turley argues “same-sex marriage brings us once again to this inherent conflict between the exercise of First Amendment rights and the government's enforcement of a non-discrimination policy penalizing discriminatory views.”

The success of same-sex marriage proponents in passing non-discrimination ordinances is part of a larger movement consisting of political and legal efforts that seek to change public and cultural opinion, often by acts of intimidation and coercion. According to The Heritage Foundation’s Thomas Messner,

Arguments for same-sex marriage, although often couched in terms of tolerance and inclusion, are based fundamentally on the idea that preserving marriage as unions of husband and wife is a form of bigotry, irrational prejudice, and even hatred against homosexual persons who want the state to license their relationships. As increasing numbers of individuals and institutions, including public officials and governmental bodies, embrace this ideology, belief in marriage as a relationship between a man and a woman likely will come to be viewed as an unacceptable form of discrimination that should be purged from public life through legal, cultural, and economic pressure.

Messner’s comments from 2009 are prescient. As same-sex marriage has become more deeply ingrained throughout American culture, gay activists have used legal mechanisms in the form of non-discrimination ordinances to intimidate and coerce people into silencing their convictions.

While the Marriage and Religious Freedom Act pertains only to issues of Federal jurisdiction, the following events reveal that believing in the historic and biblical definition of marriage can result in paying a price for such a belief. Consider these examples:

- A discrimination complaint was filed against baker Jack Phillips in Denver, CO in the summer of 2012 by a homosexual couple when Phillips refused to bake a cake for the celebration of the couple’s marriage, which took place in Massachusetts. Phillips could potentially receive a maximum of a year in jail as well as a fine of $500 per case if he both loses the case and refuses to comply with the order. He refused the job based on his Christian convictions of marriage.

- John C. Eastman, chairman of the National Organization for Marriage based out of New Jersey, has claimed that the Internal Revenue Service disclosed a list of its donors to an opposing group. Eastman aired his complaint to the House Committee on Ways and Means in early summer 2013.

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• Elane Photography, based in New Mexico, recently (August 2013) lost a case in the New Mexico Supreme Court for its refusal to photograph a homosexual commitment ceremony in 2006. The owners of the company, refused to photograph the same-sex ceremony because it would present a view of marriage with which they do not agree.\(^7\)

• Washington State’s Attorney General sued Arlene’s Flowers & Gifts on the basis of consumer protection. Barronelle Stutzman refused to sell flowers to a long time customer when the arrangements were to be used with respect to a same-sex marriage. She argued that her religious convictions in Jesus Christ would not allow her to participate in such a ceremony.\(^8\)

• California State Senator Ricardo Lara introduced a bill naming the Boy Scouts, Little League, Future Farmers of America and 19 other similar organizations as entities that should lose their tax-exempt status if they are found guilty of various forms of discrimination, one of which is sexual orientation. The bill was placed in the inactive file at the end of August 2013, but could be activated again at the beginning of 2014.\(^9\)

The recent events above indicate that state action will likely be necessary, in addition to federal law, to protect the conscience of those that support the definition of marriage as one man and one woman. But the need remains real and critical to put into law provisions that protect the free exercise of conscience, particularly relating to marriage. The bill as written protects the constitutional provision known as Federalism. By limiting the bill to federal jurisdiction, Congress reserves to the states the power to pass or not pass similar legislation.

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