



City Council

Darryl Moore
Councilmember District 2

CONSENT CALENDAR
June 23, 2009

To: Honorable Mayor and Members of the City Council

From: Councilmember Darryl Moore
Councilmember Max Anderson
Councilmember Jesse Arreguin
Councilmember Kriss Worthington

Subject: Support AJR 19, Urging Congress To Repeal the Defense of Marriage Act

RECOMMENDATION

Support AJR 19 and that the City Clerk send a letter of support to our local legislators.

BACKGROUND

In 2004, the U.S. Government Accountability Office updated its list of the myriad ways the federal government now discriminates against married same-sex couples. Included in that list are the nation's failures to recognize the right to sponsor a spouse for immigration benefits, the right to access Social Security survivor benefits, the right to receive health insurance from a federal employee spouse, the right to jointly file federal income taxes, and hundreds of other protections denied same-sex couples on the basis of who they love. As a result, even though same-sex marriages are now recognized by the laws of seven states from California to Maine and are on the brink of recognition in New Hampshire, New York and New Jersey, the federal government still does not consider married same-sex couples to be family. Thus, they cannot enjoy the vibrant and vital protections federal law confers on families. Because of this inequity, tens of thousands of lesbian and gay couples are forced to live as second-class citizens without access to equal treatment under federal law.

On May 28, 2009, the California Supreme Court reaffirmed the validity of over 18,000 same-sex marriages performed in California between June 16 and November 5, 2008, prior to the passage of Proposition 8, which amended the state constitution to eliminate marriage for same-sex couples. California now has a significant stake in ensuring that these married couples are treated with total dignity and fairness under all the laws of this nation. At least seven other countries have already removed discrimination from their marriage laws granting equal access and equal rights: Belgium, Canada, the Netherlands, Norway, South Africa, Spain and Sweden. As we do in so many areas of human rights, the United States should be leading on this basic issue of equality, and it is time for California to officially go on record supporting the repeal of DOMA.

AJR 19 would urge the Congress of the United States to pass, and President Obama to sign, legislation repealing DOMA and to support the removal of legal barriers to equal protection under the law for married same-sex partners.

To demonstrate the City's support of AJR 19, the City Clerk should send letters of support to Assemblymembers Julia Brownley, Nancy Skinner and Sandre Swanson, Senator Loni Hancock and Governor Arnold Schwarzenegger.

FISCAL IMPACTS OF RECOMMENDATION

None at this time

CONTACT PERSON

Councilmember Darryl Moore	District 2	510-981-7120
Councilmember Max Anderson	District 3	510-981-7130
Councilmember Jesse Arreguin	District 4	510-981-7140
Councilmember Kriss Worthington	District 7	510-981-7170

Attachments

- 1: Letter Supporting AJR 19
- 2: Copy of AJR 19

[Please Place on Organizational Letterhead]

[Insert Date]

The Honorable Julia Brownley
Assembly Member, 41st District
State Capitol, P.O. Box 942849
Sacramento, CA 94249

RE: AJR 19 (Brownley) – SUPPORT

Dear Assembly Member Brownley,

[Insert Organization Name] is pleased to support your AJR 19, which would put California on record in support of repealing the federal Defense of Marriage Act (DOMA), removing legal barriers to federal recognition of same-sex marriages and equal access to the 1,138 federal rights and responsibilities that attend such basic recognition. [Insert your organization's mission statement.]

In 2004, the U.S. Government Accountability Office updated its list of the myriad ways the federal government now discriminates against married same-sex couples. Included in that list are the nation's failures to recognize the right to sponsor a spouse for immigration benefits, the right to access Social Security survivor benefits, the right to receive health insurance from a federal employee spouse, the right to jointly file federal income taxes, and hundreds of other protections denied same-sex couples on the basis of who they love. As a result, even though same-sex marriages are now recognized by the laws of seven states from California to Maine and are on the brink of recognition in New Hampshire, New York and New Jersey, the federal government still does not consider married same-sex couples to be family. Thus, they cannot enjoy the vibrant and vital protections federal law confers on families. Because of this inequity, tens of thousands of lesbian and gay couples are forced to live as second-class citizens without access to equal treatment under federal law.

On May 28, 2009, the California Supreme Court reaffirmed the validity of over 18,000 same-sex marriages performed in California between June 16 and November 5, 2008, prior to the passage of Proposition 8, which amended the state constitution to eliminate marriage for same-sex couples. California now has a significant stake in ensuring that these married couples are treated with total dignity and fairness under all the laws of this nation. At least seven other countries have already removed discrimination from their marriage laws granting equal access and equal rights: Belgium, Canada, the Netherlands, Norway, South Africa, Spain and Sweden. As we do in so many areas of human rights, the United States

should be leading on this basic issue of equality, and it is time for California to officially go on record supporting the repeal of DOMA.

AJR 19 would urge the Congress of the United States to pass, and President Obama to sign, legislation repealing DOMA and to support the removal of legal barriers to equal protection under the law for married same-sex partners. Thank you for carrying this important resolution.

Sincerely,

[Insert Name]

[Insert Title]

[Insert Organization's Name]

BILL NUMBER: AJR 19 INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Members Brownley and Feuer
(Principal coauthor: Senator Leno)
(Coauthors: Assembly Members Ammiano, Ma, and John A. Perez)
(Coauthor: Senator Kehoe)

MAY 18, 2009

Relative to marriage.

LEGISLATIVE COUNSEL'S DIGEST

AJR 19, as introduced, Brownley. Marriage.

This measure would call upon the Congress and the President of the United States to repeal the discriminatory Defense of Marriage Act.

Fiscal committee: no.

WHEREAS, Thousands of same-sex couples in California were legally married following the California Supreme Court's May 2008 decision in *In re Marriage Cases*, prior to the passage of the discriminatory Proposition 8, which purported to prospectively eliminate the right of same-sex couples to marry in this state; and

WHEREAS, The Defense of Marriage Act is a federal law passed on September 21, 1996, and codified at Section 7 of Title 1 and Section 1738C of Title 28 of the United States Code; and

WHEREAS, The Defense of Marriage Act provides that the United States government will not recognize or give effect to marriages between persons of the same sex for purposes of federal law; and

WHEREAS, The Defense of Marriage Act excludes same-sex couples who are legally married in California from accessing the more than 1,000 federal rights and benefits that are afforded to opposite-sex spouses; and

WHEREAS, Among the critical rights and benefits that federal law provides to protect couples and families are the right to sponsor a spouse for immigration benefits, the right to

access Social Security survivors benefits, the right to receive health insurance from a federal employee spouse, the right to file federal income taxes jointly, and hundreds of other crucial protections; and

WHEREAS, Among other discriminatory harms, because of the Defense of Marriage Act, workers in California must pay federal income taxes on the value of health benefits provided by an employer to the same-sex spouse of an employee, while health benefits provided to different-sex spouses are not taxed, and this discrimination results in serious financial detriment to many same-sex couples and their families in California; and

WHEREAS, The Defense of Marriage Act provides that no state is required to give effect to any public act, record, or judicial proceeding of any other state respecting a relationship between persons of the same sex that is treated as a marriage under the laws of the other state or a right or claim arising from that relationship; and

WHEREAS, The Defense of Marriage Act, therefore, authorizes other states to discriminate against same-sex couples who are legally married in California by refusing to recognize or protect their relationships when they travel outside of California; and

WHEREAS, The Defense of Marriage Act causes significant harm and unfairly discriminates against committed same-sex couples and their families; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature calls upon the Congress and the President of the United States to repeal the discriminatory Defense of Marriage Act; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, to each Senator and Representative in the Congress of the United States, and to the presiding officer of each house of each state legislature of the several states.