

## Will Law Demand We Support Gay Marriage?

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Is same-sex marriage a way to provide benefits to same-sex couples? Or will same-sex marriage be misused as a hammer to punish traditional religious communities who do not have progressive views on marriage? The nation will be watching Connecticut for an answer.

Today, the General Assembly's Judiciary Committee has scheduled a hearing on Senate Bill 899, which "implements the guarantees of equal protection under the Connecticut Constitution for same-sex couples."

This bill offers an opportunity to allay growing fears about the ultimate consequences of same-sex marriage for traditional faith communities and also take away from opponents of same-sex marriage one of their most powerful arguments. Inexcusably, the bill's drafters are blowing this opportunity and instead offering only a pretense of religious protection.

The bill specifically exempts clergy from solemnizing same-sex marriages. But the First Amendment already provides that protection.

What happens to other religious dissenters? When the government recognizes same-sex marriage, will every public or private citizen (other than the clergy) also have to recognize or facilitate these marriages?

Must clerks who issue marriage licenses provide licenses to same-sex couples notwithstanding their own religious beliefs? Must a restaurant or church group opposed to same-sex marriage open its doors for a reception dinner or ceremony? Can a Christian marriage counselor refuse to help same-sex couples stay together or must she choose between her job and her moral beliefs?

The legislature should address these questions because flash points over same-sex relationships are occurring in Massachusetts and New Jersey (which recognizes same-sex civil unions). In Massachusetts, the governor's chief legal counsel told the state's justices of the peace that they must "follow the law, whether you agree with it or not," and that any justice who refuses to marry same-sex couples could be fined up to \$50,000.

In New Jersey, a Methodist-affiliated church group, the Ocean Grove Camp Meeting Association, denied the requests of two lesbian couples to use the group's boardwalk pavilion for the couples' commitment ceremonies. The couples sued. Tax authorities yanked the group's property tax exemption and levied \$20,000 in back taxes. All across the country, legitimate fears about what same-sex marriage will mean for religious dissenters is fueling opposition to same-sex marriage.

Connecticut has an opportunity to change the national debate about gay marriage.

If Connecticut's bill goes forward with no discussion of religious liberty protections for ordinary people, the legislature will have effectively decided the question. Connecticut's existing statute banning discrimination on the basis of sexual orientation in public accommodations subjects violators to fines up to \$100 and 30 days in jail or both. That statute leaves little wiggle room for religious dissenters who are in the stream of commerce.

However, the litigation that will surely follow the legislature's silence on Bill 899 is likely to be extremely expensive — and therefore coercive to small faith-based organizations.

It doesn't have to be this way. Connecticut can change the future of the same-sex marriage debate across the country — by taking a page from the Netherlands. There, the country's Equal Treatment Commission reinstated a marriage registrar who personally objected to performing same-sex unions because another registrar was prepared to assist the couple. The question arose precisely because the country's same-sex marriage legislation did not address the question of religious exemptions.

Rejecting religious objections outside the clergy may be what the legislature intends, but if so, it should have the guts to say so. The failure to address a question of burning importance is simply unconscionable. It deprives the citizens of Connecticut of an honest conversation about whether we are a plural enough society to allow religious dissenters to live alongside same-sex couples, without depriving those couples of their civil rights. The legislature would do well to lead this national conversation rather than burying its head in the sand.

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