

# A marriage equality bill that respects religious objectors

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Lexington, Va.  
Sunday, November 1, 2009

Hearings are continuing on a bill to legalize same-sex marriage in the District, and the D.C. Council is on track to vote on a final bill by December. Will it take the steps necessary to protect religious people and groups from any unintended consequences from this act?

As it stands, the [same-sex marriage bill](#) before the council contains three clauses purporting to protect religious liberty. But a careful analysis makes clear that these clauses are woefully inadequate and provide protection that is more illusory than real.

Under the bill, clergy who refuse to perform same-sex marriages receive ersatz protection because they are already protected by the U.S. Constitution. Religious organizations retain "exclusive control over [their] own religious doctrine," as "guaranteed by the First Amendment."

What new protection the bill gives with one hand (exemption for "religious" and "nonprofit organizations" from antidiscrimination laws relating to the provision of "services, accommodations, facilities or goods"), it takes away with the other (by withdrawing this exemption for services, accommodations, facilities or goods made available to "the general public").

Here's what the bill leaves out:

- It provides no meaningful protection against a loss of government benefits for refusing to recognize same-sex marriages.
- It provides no meaningful protection for individual dissenters (other than authorized celebrants) who have a religious objection to facilitating same-sex marriage ceremonies, such as caterers, musicians and photographers.
- It provides no meaningful protection to religious organizations from private lawsuits under the city's anti-discrimination laws.

A good deal of misunderstanding surrounds such religious-liberty exemptions. Exemptions serve the important function of protecting religious objectors from both private lawsuits and penalties at the hands of the government. Without the inclusion of more robust protections in this bill, what unintended consequences for religious people and groups may result?

A religious ministry such as Catholic Charities could lose access to government grant programs or other benefits. The Salvation Army lost \$3.5 million in social service contracts with the city of San Francisco because it refused, on religious grounds, to provide benefits to its employees' same-sex partners. The Boy Scouts of America has litigated, and lost, numerous suits over a government's authority to deny it access to benefits others enjoy because it doesn't allow gay people to serve in leadership positions.

Does the District really want to drive such religious organizations out of the business of providing important social benefits to needy people? Do we want these religious organizations to shut their doors to the public -- a fallout that would be felt most acutely by thousands of homeless people, foster children and others in need of services in the District?

In addition, nonprofit church-affiliated organizations have lost their exemption from taxes as well. In New Jersey, the Ocean Grove Camp Meeting Association, a Methodist-affiliated nonprofit group, refused on religious grounds to host two same-sex civil-union ceremonies at its beachside pavilion. Local authorities stripped the group of its nonprofit exemption from local property taxes on the boardwalk pavilion, billing it for \$20,000, although ultimately it paid less.

These impacts on church-affiliated organizations occurred because state law offered no explicit protection providing otherwise. These experiences drive home the need for specific accommodations for religious charities, schools and individuals.

Some charge that religious accommodations are nothing more than government-authorized gay animus. In this view, any objection to assisting with same-sex marriages must reflect anti-gay sentiment. Yet many people have no objection generally to providing services to gays but would object to directly facilitating same-sex marriages. For them, marriage ceremonies have religious significance because marriage is a religious institution, and weddings are sacraments. Without explicit protection, these individuals and groups will face a cruel choice: their consciences or their livelihoods.

Same-sex marriage and religious liberty do not have to conflict. The council need only clarify that people and organizations can step aside from facilitating same-sex marriages if participating would violate deeply held religious beliefs, provided this creates no hardship for same-sex couples.

There is nothing radical about attaching meaningful religious-liberty protections to same-sex marriage bills. Legislators in New Hampshire, Connecticut and Vermont have done so. D.C. Council members have a golden opportunity to go even further and offer the first truly robust protection for religious believers and thereby prove: We can help same-sex families without hurting people and faith communities that believe in traditional marriage.

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