



**Statement of Senator Susan M. Collins
Respect for Marriage Act
November 29, 2022**

I rise today in support of the *Respect for Marriage Act*, which would ensure that all married couples—including same-sex and interracial couples—are entitled to the rights and responsibilities of marriage, regardless of the state in which they live.

Let us remember that we are talking about our family members, our neighbors, our co-workers, our friends. I am proud to have stood—and I will continue to stand—with them in the efforts to secure their rights, while also steadfastly protecting and respecting religious liberty.

With regard to marriage equality, the *Respect for Marriage Act* accomplishes two primary goals: First, it would guarantee that a valid marriage between two individuals in one state is recognized by other states, regardless of the couple's sex, race, ethnicity, or national origin.

Second, it would require the federal government to recognize valid marriages between two individuals.

Our bill is also noteworthy, however, for the way that it advances the cause of religious liberty. Indeed, the substitute amendment that Senator Baldwin and I introduced with Senators Portman, Sinema, and Tillis unambiguously adds significant religious liberty and conscience protections to the legislation.

These protections were developed in consultation with—and have been endorsed by—a wide array of faith-based groups. These include the Church of Jesus Christ of Latter-Day Saints, the Seventh-Day Adventist Church, the National Association of Evangelicals, the Union of Orthodox Jewish Congregations, the Council for Christian Colleges and Universities, the AND Campaign, the Institutional Religious Freedom Alliance, the Center for Public Justice, and the 1st Amendment Partnership.

Every single one of these entities believes that a marriage is between a man and a woman. Every single one of them. But they support the religious liberty provisions in the substitute because these provisions provide important safeguards against government retaliation as well as meaningful recognition of their beliefs embodied in public policy.

Prominent constitutional scholars agree. In a letter led by Professor Douglas Laycock of the University of Virginia School of Law, four constitutional scholars who have long advocated for religious liberty concluded that the substitute amendment is “an advance for religious

liberty.” They call it “a good and important step for the liberty of believers to follow their traditional views of marriage.”

Let me address some of the unfounded criticisms of our amendment. It has been suggested by some that the amended *Respect for Marriage Act* would somehow demean individuals who have traditional views on marriage. To the contrary, this legislation would explicitly recognize in federal law for the first time that such views, and the people who hold them, are “due proper respect.” It reads:

Diverse beliefs about the role of gender in marriage are held by reasonable and sincere people based on decent and honorable religious or philosophical premises. Therefore, Congress affirms that such people and their diverse beliefs are due proper respect.

This finding directly rebuts the claim that the bill could be construed to establish a public policy against people of faith. It does precisely the opposite.

Opponents point to the example of an institution that lost its tax-exempt status on the basis of racially discriminatory policies that were contrary to public policy. That analogy ignores the important finding in our bill. As Professor Laycock and his colleagues explained, “Explicit congressional affirmation that the traditional male-female definition of marriage is ‘reasonable’ and ‘honorable’ would counter the analogy to racism and weaken the ground for relying on [the] *Bob Jones* [Supreme Court case] to justify rejecting traditionalist believers’ religious-freedom claims.”

Despite this strong policy statement, some have continued to argue that the *Respect for Marriage Act*, with the substitute amendment, could still be used to strip religious organizations of their tax-exempt status. We heard that on the floor today. This is simply false. To avoid any ambiguity, the amendment states in Section 7(a) that this bill cannot be used to deny or alter such status, as well as the “tax treatment, educational funding, or a grant, contract, agreement, guarantee, loan, scholarship, license, certification, accreditation, claim, or defense.” In light of these provisions, the constitutional scholars concluded that “[t]hose who claim that the bill would be used as a ground for denying tax-exempt status to organizations adhering to male-female marriage . . . are disregarding the statutory text.” The very text of our bill would prohibit that.

Opponents of this legislation are also mistaken in asserting that it would provide new grounds on which to sue churches, non-profit religious organizations, and people of faith based on their religious beliefs. This too is inaccurate.

The bill simply requires government actors to recognize valid marriages and provide marriage-based rights to which married couples are entitled, and it provides a way to pursue claims against those government actors only in instances where that recognition is denied. Government actors are already required to recognize same-sex marriages under the Supreme Court’s decision in *Obergefell*, and the enforcement provisions in our amendment do not apply to individuals or religious organizations who are not government actors.

As the 1st Amendment Partnership—an organization dedicated to protecting religious freedom for Americans of all faiths—wrote in its analysis, “[I]f you can’t be sued now under *Obergefell*, then you still can’t be sued under the [*Respect for Marriage Act*].”

Of course, providing a way to pursue rights in court when those rights are unlawfully denied is not unusual. Indeed, other amendments filed to this legislation contain private causes of action. The amendment offered by our colleague from Utah, Senator Lee, ironically, would empower individuals to bring lawsuits even on the basis of “threatened violation[s].”

Notably, not only would the amended *Respect for Marriage Act* not diminish or abrogate any religious liberty or conscience protections, it also would provide affirmative protections and litigation defenses for people and organizations of faith that do not exist under current law. For instance, the amendment contains an affirmative protection that prohibits any religious non-profit organization—including churches, synagogues, temples, mosques, religious schools, and faith-based social agencies—from being forced to provide goods, services, or accommodations in connection with the solemnization or celebration of a marriage against their beliefs. Moreover, the legislation flatly prohibits any litigation for such a denial.

The leader of one religious group recently wrote that our legislation as amended “sends a strong bipartisan message to Congress, the Administration, and the public that LGBTQ rights can co-exist with religious freedom protections, and that the rights of both groups can be advanced in a way that is prudent and practical.” I agree. And that is what our bill does. It advances the rights of couples—same-sex and interracial couples who are married to one another—and it advances religious liberty.

I ask my colleagues to join me in supporting this important and historic step forward for religious liberty, and for ensuring the dignity and respect for all Americans.