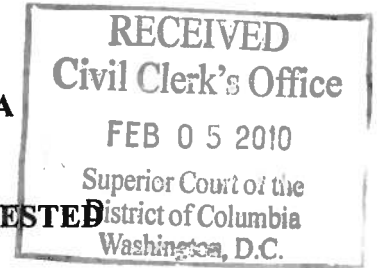


**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division**



HARRY R. JACKSON, JR., <i>et al.</i>)	ORAL HEARING REQUESTED
)	
Petitioners,)	Civil Action No. _____
)	
v.)	Judge _____
)	
DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS,)	Calendar _____
)	
Respondent.)	[Next Court Event: None Scheduled]
)	
_____)	

PETITIONERS' MOTION FOR PRELIMINARY INJUNCTION

Petitioners Harry R. Jackson, Jr., Robert King, Walter E. Fauntroy, James Silver, Anthony Evans, Dale E. Wafer, Melvin Dupree, and Howard Butler move this Court, pursuant to SCR-Civil 65 and D.C. Code § 1-1001.16(b)(3), for a preliminary injunction staying the projected March 2, 2010, effective date of the Religious Freedom and Civil Marriage Equality Amendment Act of 2009, until the citizens have had an opportunity to vote on the Referendum or until otherwise appropriate under District law.

Petitioners specifically request that the Court dispense with the requirement in SCR-Civil 65(c) for security, since there is no risk that the Board will suffer monetary loss by the issuance of a preliminary injunction.

Petitioners show: (1) there is a substantial likelihood that they will prevail on the merits; (2) they are in danger of suffering irreparable harm if an injunction is not issued; (3) more harm will result to them from the denial of the injunction than will result to the respondents if an injunction is issued; and (4) the issuance of an injunction is in the public interest. In support of their motion, Petitioners rely on the following:

1. Petitioners have consulted Counsel for the Board of Elections and Ethics and the Board does not consent to this motion.

2. The factual predicate and legal authority for this Motion are set out in the accompanying Memorandum of Points and Authorities

3. All other pleadings, exhibits, and other documents and materials in the record, including the copy of the Religious Freedom and Civil Marriage Equality Amendment Act of 2009, attached hereto as Exhibit A.

WHEREFORE, the Petitioners respectfully request that the Court grant their motion for preliminary injunction and enter the proposed order staying the projected March 2, 2010, effective date of the Act, and excusing Petitioners from the obligation to give security. Petitioners further request such additional and other relief as the Court deems just and proper under the circumstances.

Respectfully submitted this 5th day of February, 2010.

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CERTIFICATE OF SERVICE

I certify that the foregoing Motion for Preliminary Injunction was served by hand delivery on the following parties and their attorneys:

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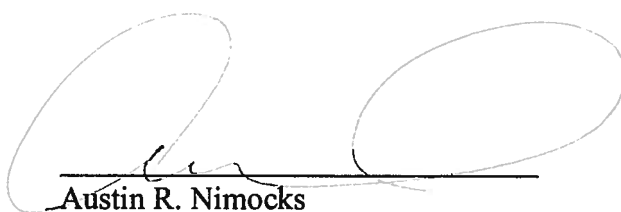
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This 5th day of February, 2010.



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Exhibit A

ENROLLED ORIGINAL

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

*Codification
District of
Columbia
Official Code*

2001 Edition

2010 Winter
Supp.

West Group
Publisher

To amend An Act To establish a code of law for the District of Columbia to clarify that marriage between 2 people in the District of Columbia shall not be denied or limited on the basis of gender, to ensure that no minister of any religious society who is authorized to solemnize or celebrate marriages shall be required to solemnize or celebrate any marriage, and to ensure the protection of religious freedom with regard to the provision of services, accommodations, facilities, or goods related to the celebration or solemnization of a marriage; to amend the Health Care Benefits Expansion Act of 1992 to allow domestic partners to convert their domestic partnership into a marriage without paying an additional fee; and to amend section 16-903 of the District of Columbia Official Code to make a conforming amendment.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Religious Freedom and Civil Marriage Equality Amendment Act of 2009".

Sec. 2. Chapter Forty-Three of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1391; D.C. Official Code § 46-401 *passim*), is amended as follows:

(a) Section 1283 (D.C. Official Code § 46-401) is redesignated as section 1283a.

(b) A new section 1283 is added to read as follows:

"Sec. 1283. EQUAL ACCESS TO MARRIAGE. –

"(a) Marriage is the legally recognized union of 2 persons. Any person may enter into a marriage in the District of Columbia with another person, regardless of gender, unless the marriage is expressly prohibited by section 1283a or section 1285.

"(b) Where necessary to implement the rights and responsibilities relating to the marital relationship or familial relationships, gender-specific terms shall be construed to be gender neutral for all purposes throughout the law, whether in the context of statute, administrative or court rule, policy, common law, or any other source of civil law."

Redesignate
§ 46-401.01
New
§ 46-401

ENROLLED ORIGINAL

(c) Section 1287a (D.C. Official Code § 46-405.01) is amended by striking the phrase “sections 1283” and inserting the phrase “sections 1283a” in its place.

Amend
§ 46-405.01

(d) Section 1288 (D.C. Official Code § 46-406) is amended by adding new subsections (c), (d), and (e) to read as follows:

Amend
§ 46-406

“(c) No priest, imam, rabbi, minister, or other official of any religious society who is authorized to solemnize or celebrate marriages shall be required to solemnize or celebrate any marriage.

“(d) Each religious society has exclusive control over its own theological doctrine, teachings, and beliefs regarding who may marry within that particular religious society’s faith.

“(e)(1) Notwithstanding any other provision of law, a religious society, or a nonprofit organization that is operated, supervised, or controlled by or in conjunction with a religious society, shall not be required to provide services, accommodations, facilities, or goods for a purpose related to the solemnization or celebration of a marriage, or the promotion of marriage through religious programs, counseling, courses, or retreats, that is in violation of the religious society’s beliefs.

“(2) A refusal to provide services, accommodations, facilities, or goods in accordance with this subsection shall not create any civil claim or cause of action, or result in a District action to penalize or withhold benefits from the religious society or nonprofit organization that is operated, supervised, or controlled by or in conjunction with a religious society.”.

Sec. 3. Section 3 of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-702), is amended as follows:

Amend
§ 32-702

(a) Subsection (d)(3) is amended to read as follows:

“(3) A domestic partnership shall terminate by operation of law if the domestic partners marry each other.”.

(b) Subsection (e)(3) is amended by striking the word “marriage” and inserting the phrase “certification of marriage” in its place.

(c) A new subsection (j) is added to read as follows:

“(j)(1) Two persons in a valid domestic partnership pursuant to this act may apply for and receive a marriage license in accordance with Chapter Forty-Three of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1391; D.C. Official Code § 46-401 *passim*).

“(2) Two persons who are in a domestic partnership and have registered their domestic partnership pursuant to this section shall not be charged a marriage license fee.”.

Sec. 4. Section 16-903 of the District of Columbia Official Code is amended by striking the phrase “46-401” and inserting the phrase “46-401.01” in its place.

Amend
§ 16-903

ENROLLED ORIGINAL

Sec. 5. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 6. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia