


**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON PUBLIC SAFETY AND THE JUDICIARY
COMMITTEE REPORT**

1350 Pennsylvania Avenue, NW 20004

TO: All Councilmembers
FROM: Councilmember Phil Mendelson, 
Chairman, Committee on Public Safety and the Judiciary
DATE: November 10, 2009
SUBJECT: Report on Bill 18-482, "Religious Freedom and Civil Marriage Equality Amendment Act of 2009"

The Committee on Public Safety and the Judiciary, to which Bill 18-482, "Religious Freedom and Civil Marriage Equality Amendment Act of 2009" was referred, reports favorably thereon with amendments, and recommends approval by the Council.

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I. BACKGROUND AND NEED

Bill 18-482, the Religious Freedom and Civil Marriage Equality Amendment Act of 2009, is the culmination of the District of Columbia's long pursuit of equality for same-sex couples in the law. The District, resolute in its conviction to provide equal rights and equal dignity to all residents, has, through domestic partnership laws, made parallel the rights and responsibilities of same-sex couples to those of opposite-sex spouses. True equality, however, is not obtained until same-sex couples are afforded the same rights, the same responsibilities, and are included in the same, single system of law for all. Bill 18-482, by affirmatively stating in the law that same-sex couples can legally refer to one another as "married," realizes this ideal of true equality sought after in the District.

The Committee believes that it is impermissible to continue requiring gay and lesbian individuals to operate as a separate, purportedly equal, class of citizens in the District. This legislation will remedy that inequity. In recognizing same-sex marriage in the District, Bill 18-

482 does not redefine any concept in the law (indeed, the Committee maintains same-sex marriage is already permitted under District law), as nowhere in our Code is the institution of marriage reserved to opposite-sex couples. Rather, Bill 18-482 removes the custom, or practice, that marriage is only between a man and a woman. This simple legislative act puts in the law what is already in the law: that the right of marriage applies fully to all in the District.

At the same time, Bill 18-482 preserves religious freedom. While the Committee believes without doubt or reservation that the civil right of marriage should be enjoyed by same-sex couples, it acknowledges that this view is not universally held. In particular, certain religious institutions may have different beliefs on the concept of marriage. Bill 18-482 accommodates the sincerely held objections of such religious leaders and organizations with regard to the solemnization or celebration of same-sex marriages. Provisions in this legislation ensure religious freedom by clearly stating that no religious organization will be required to celebrate marriage for a same-sex couple where doing so violates the tenets of their religious faith.

Bill 18-482 also enhances religious freedom by giving religious organizations the *right* to solemnize same-sex marriages. The Committee received extensive testimony from religious leaders who argued that their inability to marry same-sex couples hampered their ability to fully practice their faith. For instance, Dean Snyder, Senior Pastor of Foundry United Methodist Church in DC, in arguing for the right to allow his church to marry same sex couples, stated that:

[i]f there are religions that choose to discriminate against gay and lesbian people, that may be their right. But we should not use the law to *force* those clergy who believe that God blesses same-sex marriage to discriminate.¹

In the same way, the freedom to marry, or not to marry, is an individual choice reflecting one person's commitment to another. By excluding certain individuals from this institution, it not only makes this choice for them but also brands their relationship as somehow inferior. This basic civil right is truly the choice of each individual, not the choice of the state. Bill 18-482 remedies the exclusion of same-sex couples from the institution of marriage, allowing them to rightfully claim access to this fundamental human right.

Marriage as a Basic Civil Right

If we are all created equal, then gays and lesbians are entitled to the same rights and privileges, the same fundamental freedoms, mandated for all individuals. Access to equal treatment under the law inevitably includes the freedom to marry. U.S. Supreme Court Chief Justice Earl Warren, in a unanimous 1967 decision striking down Virginia's anti-miscegenation law, wrote: "[t]he freedom to marry has long been one of the vital personal rights essential to the

¹ *Bill 18-482, Religious Freedom and Civil Marriage Equality Amendment Act of 2009: Hearing Before the DC Council Committee on Public Safety and the Judiciary*, Oct. 26, 2009, at 2 (written testimony of Rev. Dean J. Snyder, Senior Pastor, Foundry United Methodist Church).

