

Same-sex Marriage and the Church—*Respect for Marriage Act*

Focusing Question—

What is the Respect for Marriage Act and how should Christians respond?

🎧 How We Got Here ...

1. Defense of Marriage Act
 - passed into law in 1996 by the 104th Congress and signed into law by President Clinton
 - passed by a margin of 85-14
 - intended to define and protect marriage
 - limited marriage to one man and one woman
 - defined “spouse” as “person of the opposite sex who is a husband or wife”
 - protected states that refused to grant same-sex unions from states that recognized these unions
 - denied benefits to sex-sex couples that legally could be granted to marriage couples.

2. Some states “granted” same-sex marriage by court action



Photo credits: Elvert Barnes on Flickr, CreativeCommons 2.0.

- Iowa Supreme Court legalized same-sex marriage in April 2009 in 9-0 opinion
 - based ruling on previous bans against inter-racial marriage
3. “Let Us Vote!” Movement (2010-2012)
 - assumed a critical mass of citizens still supported traditional marriage
 - assumed traditional marriage could be preserved through voter amendments
 4. Obergefell v. Hodges (June, 2015)
 - further linked marriage to the civil rights movement
 - regarded marriage as a fundamental right
 - regarded marriage as an “evolving” institution

Justice Kennedy—

Indeed, in interpreting the Equal Protection Clause, the Court has recognized that new insights and understandings can reveal unjustified inequality within our most fundamental institutions that once passed unnoticed and unchallenged.

—redefined marriage, basing the institution on “dignity”

Justice Kennedy—

The nature of marriage is that, through its enduring bond, two persons together can find other freedoms, such as expression, intimacy, and spirituality. This is true for all persons, whatever their sexual orientation. There is dignity in the bond between two men or two women who seek to marry and in their autonomy to make such profound choices ...

Marriage responds to the universal fear that a lonely person might call out only to find no one there ...

Without the recognition, stability, and predictability marriage offers, their [same-sex couples] children suffer the stigma of knowing their families are somehow lesser

5. Equality Act (passed the U.S. House, Feb 2021)
- prohibits discrimination based on sex, sexual orientation, and gender identity in areas including public accommodations and facilities, education, federal funding, employment, housing, credit, and the jury system
 - defines and includes sex, sexual orientation, and gender identity among the prohibited categories of discrimination or segregation
 - provides no conscience clauses or protections for religious liberty
 - didn't pass the Senate which proposed its own version

 **Respect for Marriage Act, H.R. 8404 (Dec 13, 2022)**

- passed the Senate 61-36
- repeals the Defense of Marriage Act
- turns on the legal phrase “color of State”:

No person acting under color of State law may deny full faith and credit to any public act, record, or judicial proceeding of any other State pertaining to a marriage between 2 individuals, on the basis of the sex, race, ethnicity, or national origin of those individuals; or a right or claim arising from such a marriage on the basis that such marriage would not be recognized under the law of that State on the basis of the sex, race, ethnicity, or national origin of those individuals ...

The Attorney General may bring a civil action in the appropriate United States district court against any such person who violates subsection (a) ...

- provides protections for personal liberty and conscience

Nothing in this Act, or any amendment made by this Act, shall be construed to diminish or abrogate a religious liberty or conscience protection otherwise available to an individual or organization under the Constitution of the United States or Federal law.

Consistent with the First Amendment to the Constitution, nonprofit religious organizations, including churches ... shall not be required to provide services ... for the solemnization or celebration of a marriage ...

Evangelical Responses to RMA

1. Good enough ... This is all we will get!
 - regards RMA as an acceptable compromise
 - suggests we ought to separate religious marriage from civil marriage
 - finds satisfaction in religious liberty clauses

David French advocates for this view in “An Open Letter to Those Who Think I’ve Lost My Christian Faith”:

<https://thedispatch.com/newsletter/frenchpress/an-open-letter-to-those-who-think-ive-lost-my-christian-faith/>

2. Completely unacceptable!
 - regards redefinition of marriage as the unhinging of marriage from objective reality and every previous standard in Western civilization
 - not impressed with religious liberty protections
 - RMA really only protects religious “belief” (which is always protected, anyway)
 - RMA doesn’t define what “color of State” really means

Al Mohler takes this position in “The Senate Subverts Marriage”:

<https://albertmohler.com/2022/11/30/briefing-11-30-22>

Kristen Waggoner takes issue with David French in “A Friend’s Response to David French ...”:

[https://wng.org/opinions/a-friends-response-to-david-french-on-the-respect-for-marriage-act-1669898899?](https://wng.org/opinions/a-friends-response-to-david-french-on-the-respect-for-marriage-act-1669898899?mkt_tok=NzEwLVFSUi0yMDkAAAGIbjHQA8GYlvEukskqmEU-0H4US_WGoT4CjVFOPIO_vqN-Xm2myKjyUmPst3rs94MKjq9EnYLP0u7aciYUzJtH3jHIEeezBORnGx1WDSzl cMk)

[mkt_tok=NzEwLVFSUi0yMDkAAAGIbjHQA8GYlvEukskqmEU-0H4US_WGoT4CjVFOPIO_vqN-Xm2myKjyUmPst3rs94MKjq9EnYLP0u7aciYUzJtH3jHIEeezBORnGx1WDSzl cMk](https://wng.org/opinions/a-friends-response-to-david-french-on-the-respect-for-marriage-act-1669898899?mkt_tok=NzEwLVFSUi0yMDkAAAGIbjHQA8GYlvEukskqmEU-0H4US_WGoT4CjVFOPIO_vqN-Xm2myKjyUmPst3rs94MKjq9EnYLP0u7aciYUzJtH3jHIEeezBORnGx1WDSzl cMk)

J.R.R. Tolkien (this is history now!) actually weighed in on the same issues:

<https://mereorthodoxy.com/tolkien-was-right-notes-on-the-respect-for-marriage-act-and-the-post-boomer-church/>

3. How about non-sexual civil unions?
 - argues for non-sexual civil unions (think of the biblical Ruth and Naomi) that satisfy many of the legal demands of same-sex marriage advocates
 - won't satisfy same-sex marriage advocates who want full inclusion
 - thoughtful and intriguing

Joe Carter argues for this in “Simple Solution to Same-Sex Marriage”:
<https://www.thegospelcoalition.org/article/solution-same-sex-civil-marriage/>

Potential implications of RMA

1. Nothing will change with regards to whom pastors are obligated to marry. Presently, I (Bryan) can refuse to marry a couple for any reason whatever, including the immaturity of the couple.
2. There will be challenges to churches that deny membership to same-sex partners. “It’s going to be an issue.” (U.S. Solicitor General, Obergefell oral arguments.)
3. Attempts will be made to exclude religious organizations from the public square as the phrase “color of State” is expanded to include anything in the public square. Expect to see challenges to ministerial housing allowances such as that in Wisconsin, Illinois and Indiana in 2014 (<http://www.christianitytoday.com/gleanings/2014/november/good-news-pastors-court-overturms-atheist-housing-allowance.html>).
4. Attempts will be made to tax churches for their property and to rescind the ability of parishioners to write off giving . (<http://time.com/3939143/news-the-time-to-end-tax-exemptions-for-religious-institutions/>).
5. Pastors will need to think carefully about their relationship to civil (as opposed to ceremonial) marriage. Should the church get out of the marriage business?

Reasons Not to Be Discouraged!

1. Same-sex “marriage” won’t work and won’t produce human flourishing

Andrew Walker argues for this in “Never Surrender, Never Abandon the Field of Battle”: <https://wng.org/opinions/never-surrender-never-abandon-the-field-of-battle-1669122152?>

2. Same-sex “marriage” gives Christians opportunities to properly image God in creation as we make culture and operate under the Creation Mandate, enjoying God’s blessing (Think: Genesis 1.25-31!)

- 3.

- 4.

- 5.