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LEGISLATURE OF THE STATE OF IDAHO
Sixty-seventh Legislature Second Regular Session - 2024

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1 A JOINT MEMORIAL
2 TO THE SUPREME COURT OF THE UNITED STATES.

3 We, your Memorialists, the House of Representatives and the Senate of
4 the State of Idaho assembled in the Second Regular Session of the Sixty-sev-
5 enth Idaho Legislature, do hereby respectfully represent that:

6 WHEREAS, the decision by the Supreme Court of the United States in
7 *Obergefell v. Hodges*, 576 U.S. 644 (2015), is at odds with the Constitution
8 of the United States and the principles upon which the United States is es-
9 tablished; and

10 WHEREAS, liberty has long been understood as individual freedom from
11 governmental action, not as a right to a particular governmental entitle-
12 ment; and

13 WHEREAS, *Obergefell* invokes a definition of "liberty" that the Framers
14 would not have recognized, rejecting the idea captured in the Declaration
15 of Independence that human dignity is innate, and instead suggested that it
16 comes from the government; and

17 WHEREAS, when the Framers proclaimed in the Declaration of Independence
18 that "all men are created equal" and "endowed by their Creator with certain
19 unalienable Rights," they referred to a vision of mankind in which all humans
20 are created in the image of God and therefore of inherent worth; and

21 WHEREAS, *Obergefell* undermines this vision by declaring that citizens
22 must seek dignity from the state; and

23 WHEREAS, *Obergefell* relies on the dangerous fiction of treating the Due
24 Process Clause of the Fourteenth Amendment to the Constitution as a font of
25 substantive rights, a doctrine that strays from the full meaning of the Con-
26 stitution and exalts judges at the expense of the people from whom they de-
27 rive their authority; and

28 WHEREAS, *Obergefell's* inversion of the original meaning of liberty
29 causes collateral damage to other aspects of our constitutional order that
30 protect liberty, including religious liberty; and

31 WHEREAS, the Supreme Court recognized in *United States v. Windsor*, 570
32 U.S. 744 (2013), that the definition of marriage is "an area that has long
33 been regarded as a virtually exclusive province of the States," meaning that
34 Idaho, and not the Supreme Court, has the right to regulate marriage for its
35 citizens; and

36 WHEREAS, *Obergefell* requires states to issue marriage licenses to same-
37 sex couples and to recognize same-sex marriages in complete contravention of
38 their own state constitutions and the will of their voters, thus undermining
39 the civil liberties of those states' residents and voters; and

40 WHEREAS, marriage as an institution has been recognized as the union of
41 one man and one woman for more than two thousand years, and within common law,
42 the basis of the United States' Anglo-American legal tradition, for more
43 than 800 years; and

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1 WHEREAS, *Obergefell* arbitrarily and unjustly rejected this definition
2 of marriage in favor of a novel, flawed interpretation of key clauses within
3 the Constitution and our nation's legal and cultural precedents; and

4 WHEREAS, since court rulings are not laws and only legislatures elected
5 by the people may pass laws, *Obergefell* is an illegitimate overreach.

6 NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Ses-
7 sion of the Sixty-seventh Idaho Legislature, the House of Representatives
8 and the Senate concurring therein, that the Idaho Legislature rejects the
9 *Obergefell* decision.

10 BE IT FURTHER RESOLVED calls upon the Supreme Court of the United States
11 to reverse *Obergefell* and restore the natural definition of marriage, a
12 union of one man and one woman.

13 BE IT FURTHER RESOLVED that the Idaho Legislature insists on restoring
14 the issue of marriage and enforcement of all laws pertaining to marriage back
15 to the several states and the people.

16 BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representa-
17 tives be, and she is hereby authorized and directed to forward a copy of this
18 Memorial to the Supreme Court of the United States.