

**2013 -- S 0708 SUBSTITUTE A**

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LC02071/SUB A/2  
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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2013**

**J O I N T   R E S O L U T I O N**

**TO APPROVE AND PUBLISH AND SUBMIT TO THE ELECTORS A PROPOSITION OF  
AMENDMENTS TO THE CONSTITUTION OF THE STATE (MARRIAGE)**

Introduced By: Senators Ciccone, DiPalma, Ruggiero, Walaska, and McCaffrey

Date Introduced: March 13, 2013

Referred To: Senate Judiciary

1           WHEREAS, The issue of state recognition of same-sex marriage has created a division  
2 between those who propose recognition of such marriages on grounds that the right to marry is a  
3 fundamental human right which the government must make equally available to all citizens, and  
4 those who oppose same-sex marriage and believe that requiring governmental recognition of such  
5 marriages impinges on their right to freedom of religion guaranteed by Article I Section 3 of our  
6 Constitution; both sides agree, however, on the fundamental importance of marriage to a well-  
7 ordered and productive society; and

8           WHEREAS, That freedom of religion is constitutionally protected and a bedrock value in  
9 society and government action which would require people to affirmatively recognize, perform or  
10 facilitate a form of marriage which is offensive to and forbidden by their religion impinges on  
11 their right to freedom of religion guaranteed by the First Amendment to the Constitution of the  
12 United States and Article I Section 3 of the Constitution of Rhode Island; and

13           WHEREAS, Article XIV Section 1 of our Constitution permits the General Assembly to  
14 draft and recommend a constitutional amendment to balance these important rights and to submit  
15 it to the people for debate and decision in the general election of 2014.

16           ACCORDINGLY, The General Assembly pursuant to Article XIV Section 1 proposes  
17 and recommends a constitutional amendment for approval at the general election of 2014 as  
18 follows:

19           1. CONSTITUTIONAL AMENDMENT-MARRIAGE

1 Approval of this amendment will recognize and define marriage in the state of Rhode  
2 Island as a legally recognized union of two (2) people.

3 APPROVE \_\_\_\_\_

4 REJECT \_\_\_\_\_

5 A new section shall be added to and included in Article I of the Constitution to read as  
6 follows:

7 Article I:

8 Section 25. Right to Marry

9 Marriage in this state is the legally-recognized union of two (2) people. The right of the  
10 people to marry shall not be denied on the basis of the gender of the parties thereto. A marriage  
11 between persons of the same gender validly entered and certified in another jurisdiction which  
12 does not otherwise violate the laws or public policy of this state shall not be denied because of the  
13 gender of the parties thereto.

14 PROVIDED HOWEVER, That consistent with the guarantees of freedom of religion set  
15 forth by both the First Amendment to the United States constitution and article I, section 3 of the  
16 Rhode Island constitution, each religious institution has exclusive control over its own religious  
17 doctrine, policy, and teachings regarding who may marry within its faith, and on what terms, as  
18 long as such policies are consistent with sections 15-1-2, 15-1-3, 15-1-4 and 15-1-5. No court or  
19 other state or local governmental body, entity, agency or commission shall compel, prevent, or  
20 interfere in any way with any religious institution's decisions about marriage eligibility within  
21 that particular faith's tradition; and

22 PROVIDED FURTHER, That consistent with the guarantees of freedom of religion set  
23 forth by both the First Amendment to the United States constitution and article I, section 3 of the  
24 Rhode Island constitution, no regularly licensed or ordained clergyman, minister, elder, priest,  
25 imam, rabbi, or similar official of any church or religious denomination as described and  
26 authorized in sections 15-3-5 and 15-3- 6 of the general laws to officiate at a civil marriage, is  
27 required to solemnize any marriage. A regularly licensed or ordained clergyman, minister,  
28 elder, priest, imam, rabbi, or similar official of any church or religious denomination shall be  
29 immune from any civil claim or cause of action based on a refusal to solemnize any marriage  
30 under this chapter. No state agency or local government may base a decision to penalize,  
31 withhold benefits from, or refuse to contract with any church or religious denomination upon the  
32 refusal of a person associated with such church or religious denomination to solemnize a marriage  
33 under this chapter; and

34 PROVIDED FURTHER, That notwithstanding any other provision of law, a religious

1 organization, association, or society, and any nonprofit institution or organization operated,  
2 supervised or controlled by a religious organization, association or society, or a fraternal benefit  
3 or service organization that has among its stated purposes the promotion and support or protection  
4 of a religious organization, association or society and that restricts membership to practicing  
5 members of that religious organization, association or society, shall not be required to provide  
6 services, accommodations, advantages, facilities, goods, or privileges to an individual if the  
7 request for such services, accommodations, advantages, facilities, goods, or privileges is related  
8 to: (1) The solemnization of a marriage or the celebration of a marriage, and such solemnization  
9 or celebration is in violation of its religious beliefs and faith; or (2) The promotion of marriage  
10 through any social or religious programs or services, which violates the religious doctrine or  
11 teachings of religious organization, association or society. Any refusal by an entity described  
12 above or an officer, employee or member thereof acting in an official capacity on behalf of that  
13 entity to provide services, accommodations, advantages, facilities, goods, or privileges in  
14 accordance with this subsection shall not create any civil claim or cause of action. This subsection  
15 shall not be construed to limit a religious organization, association, or society, or a fraternal  
16 benefit or service organization as described in this subsection, from selectively providing  
17 services, accommodations, advantages, facilities, goods, or privileges to some individuals with  
18 respect to the solemnization or celebration of a marriage but not to others; and

19 PROVIDED FURTHER, That Nothing in the marriage laws of this state shall be deemed  
20 or construed to limit the protections and exemptions provided to religious organizations under  
21 G.L. paragraph 28-5-6(7)(ii) and subsection 34-37-4.2(a); and

22 PROVIDED FURTHER, That a fraternal benefit or service organization that is operated,  
23 supervised or controlled by a religious organization and a fraternal benefit or service organization  
24 which has among its stated purposes the promotion, support or protection of a religious  
25 organization and which restricts its membership to practicing members of that religious  
26 organization shall not be required to admit any individual as a member or to provide benefits to  
27 any individual. A refusal by a fraternal benefit or service organization or by a member, officer or  
28 employee thereof acting in an official capacity on behalf of a society described herein, to admit  
29 an individual as a member or to provide benefits related to a marriage which is in violation of the  
30 religious doctrine or teachings of the religious organization to which its members are required to  
31 adhere, shall not create a civil claim or result in any government action to penalize, withhold  
32 benefits from the fraternal benefit or service organization or discriminate against a society or a  
33 member, officer or employee described herein.

34 RESOLVED, That the voting places in the several cities and towns shall be kept open

1 during the hours required by law for voting therein for general officers of the state; and be it  
2 further

3 RESOLVED, That the secretary of state shall cause said proposition of amendment to be  
4 published as a part of this resolution in the newspaper of the state prior to the date of the said  
5 meetings of the said electors; and said proposition shall be inserted in the warrants or notices to  
6 district meetings of said electors; the district meetings shall be conducted in the same manner as  
7 now provided by law for the town, ward, and district meetings for the election of general officers  
8 of the state.

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