



**AB 1967: The California Marriage License Non-Discrimination Act
by Assemblyman Mark Leno**

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Sponsor: Equality California

The Marriage License Non-Discrimination Act will end discrimination against same-sex couples in the issuance of marriage licenses by government officials in California.

STATUS: Passed Assembly Judiciary Committee. Held at Request of Author and Sponsor. Will be Reintroduced in Next Legislative Session.

PURPOSE OF THE PROPOSED LAW

California Family Code Section 300 defines marriage as “a personal relation arising out of a civil contract between a man and a woman.” The California Marriage License Non-Discrimination Act would amend Section 300 to read: “Marriage is a personal relation arising out of a civil contract between two persons.” Simply put, the bill would amend state law to end discrimination against same-sex couples seeking marriage licenses within California. AB 1967 acknowledges once and for all that same-sex couples in long-term, committed relationships and their families are entitled to equal dignity, liberty, and protection under California law.

WHAT IS MARRIAGE?

California law currently provides registered domestic partners with a significant number of legal rights, benefits, responsibilities, duties, and obligations available to married couples. However, while California’s domestic partner law is very important, it is not equal to marriage. Married couples benefit from more than one thousand rights and responsibilities under federal law that are unavailable to domestic partners, including the right to sponsor a partner for immigration to the U.S., the right to collect social security survivor’s benefits, the right to family and medical leave, and the right to file joint income tax returns.

Marriage is also a universally recognized legal relationship, while domestic partnerships and civil unions are not. Every jurisdiction in the U.S. recognizes and protects marriages from other jurisdictions, as do foreign countries. Married couples benefit from the security of knowing that their relationship will be acknowledged by legal and political institutions all over the world. Although domestic partners enjoy many benefits within California, they become legal strangers to one another when they travel to most other jurisdictions.



Marriage is also not simply a legal status. It is a social institution that our society recognizes as the ultimate expression of love and commitment. Married couples are recognized as a family unit and are afforded a unique respect and dignity in our culture.

DOMESTIC PARTNERSHIPS/CIVIL UNIONS ARE NOT EQUAL TO MARRIAGE

The federal government does not recognize domestic partnerships or civil unions, which means same-sex couples can claim none of the more than one thousand federal benefits or obligations associated with marriage until they are permitted to marry. There are also many joint federal-state programs that provide benefits to married couples. Even if states adopt protections for same-sex couples through civil unions, some state programs that use federal funds or are otherwise associated with the federal government may not be available to same-sex couples without marriage.

In addition to the thousands of legal benefits that are unavailable through civil unions, relegating same-sex couples to civil union status merely perpetuates the notion that they are inferior to married couples and undeserving of equal respect and dignity. As the Massachusetts Supreme Court stated in its recent opinion requiring equal marriage rights in Massachusetts: "The history of our nation has demonstrated that separate is seldom, if ever, equal." AB 1967 recognizes that maintaining a second-class citizen status for same-sex couples is wholly at odds with the fundamental principle of equal protection under the law.

AB 1967 DOES NOT CONFLICT WITH PROPOSITION 22

California Family Code Section 308 states the general rule that a marriage contracted in another state that is valid under that state's law will be recognized as valid in California. Proposition 22 established an exception to this rule that prohibits California from recognizing same-sex marriages contracted in another state. However, Proposition 22 did not prohibit marriage between same-sex couples within California - such a prohibition already existed in Family Code Section 300, which was established by the legislature and defines marriage under California law as between a man and a woman. Proponents of Proposition 22 themselves acknowledged that the initiative was merely meant to "close a loophole" between California's marriage law and the law of other jurisdictions that were considering proposals to permit same-sex marriage.

AB 1967 DOES NOT RESTRICT THE PRACTICE OF ANY RELIGIOUS BELIEF

The federal and state Constitutions protect religious freedom. Religious officials may currently refuse to perform marriages that do not fulfill the requirements of their religious faith. The Marriage License Non-Discrimination Act does not change this principle in any respect. The bill does not require any religious official to perform marriages that conflict with their religious beliefs. Nothing in the Act will restrict the freedom of clergy members to refuse to perform marriages for same-sex partners.



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PARTIAL LIST OF REGISTERED SUPPORTER FOR AB 1967

American Civil Liberties Union	Marriage Equality California
American Federation of State, County, and Municipal Employees	Metropolitan Community Church, Los Angeles
Asian Pacific American Legal Center of Southern California	Mexican American Legal Defense and Education Fund
Asian Americans for Civil Rights and Equality	National Center for Lesbian Rights
California Council of Churches and California IMPACT	Our Family Coalition
California National Organization for Women	People for the American Way
California Insurance Commissioner John Garamendi	PFLAG Central Coast Chapter
California Safe Schools Coalition	PFLAG Danville/San Ramon
California Secretary of State Kevin Shelly	PFLAG Los Angeles
California State Controller Steve Westly	PFLAG Mid-Pacific and Southern Pacific Region
California State Employees Association	PFLAG Oakland-East Bay
California State Treasurer Phil Angelides	PFLAG Orange County
California Teachers Association	PFLAG Pasadena
Charles M. Holmes Campus of the Center City of Oakland	PFLAG Sacramento
City and County of San Francisco	PFLAG San Diego County
City of West Hollywood	PFLAG San Francisco
Congregation Kol Ami	PFLAG San Joaquin/Stockton
Ecumenical Catholic Church of Irvine	PFLAG San Jose Peninsula
El Cerrito Democratic Club	PFLAG Ventura County
Eleanor Roosevelt Democratic Club, Orange County	Pride at Work, Southern California
Equality California (Sponsor)	Protection & Advocacy, Inc.
Family Law Section of the Los Angeles County Bar Association	San Diego Democratic Club
Freedom to Marry Coalition of California	San Francisco AIDS Foundation
Gay & Lesbian Alliance of the Central Coast	San Francisco Labor Council, AFL-CIO
Gay & Lesbian Alumni of Notre Dame	San Francisco LGBT Community Center
Golden Gate Lutheran Church	SEIU International Union Local 525 and 535
Human Rights Campaign	Silver Lake Neighborhood Council
Human Rights/Fair Housing Commission of the City and County of Sacramento	Stonewall Democratic Club of Greater Sacramento
Immigration Equality	Tenderloin Housing Clinic
Lambda Legal	The Center Orange County
Legal Aid Society-Employment Law Center	Transgender Law Center
Los Angeles Gay and Lesbian Community Center	Unitarian Universalist Legislative Ministry California
	United Church of Christ, Northern California Nevada Conference
	University Lutheran Chapel
	West Hollywood Democratic Club
	West Hollywood Presbyterian Church