



FACT SHEET **The Religious Freedom and Civil Marriage Protection Act (AB 43)**

Questions: email@eqca.org

The Religious Freedom and Civil Marriage Protection Act would guarantee the California Constitution's promise of religious freedom and extend the vital protections afforded by marriage to loving and committed same-sex couples.

Status: Sent to Enrollment.

History: Introduced December 4, 2006. Passed Assembly, 42-34, on June 5, 2007. Passed Senate, 22-15, on September 7, 2007.

Lead Author: Assemblymember Mark Leno, D-San Francisco

Sponsor: Equality California

Joint-Authors: Assemblymembers Laird and Lieber

Principal Co-Authors: Senators Kehoe, Kuehl, Migden, and Perata

Co-authors: Senators Alquist, Calderon, Cedillo, Lowenthal, Oropeza, Romero, Steinberg, Torlakson, Wiggins, and Yee; Assemblymembers Beall, Berg, Brownley, Coto, De Leon, DeSaulnier, Eng, Evans, Feuer, Fuentes, Hancock, Hayashi, Huffman, Jones, Krekorian, Levine, Ma, Mendoza, Mullin, Nunez, Portantino, Ruskin, Saldana, Soto, and Swanson

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 Religious Freedom and Civil Marriage Protection 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 the exclusion of same-sex couples from marriage and the social support and legal protections that come with it. AB 43 would validate and safeguard the relationships of loving, committed couples and further California’s interest in promoting family relationships and protecting family members in times of crisis.

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 does not provide 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 survivors benefits, the right to family and medical leave, and the right to file joint federal 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 relationships will be acknowledged by legal and political institutions all over the world.

Although domestic partners receive many benefits within California, they become legal strangers to one another when they travel to most other jurisdictions.

Finally, marriage is 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.

WHY NOT DOMESTIC PARTNERSHIPS/CIVIL UNIONS?

The federal government does not recognize domestic partnerships or civil unions, which means same-sex couples cannot claim the more than one thousand federal benefits and 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.

Domestic partnerships or civil unions cannot replace the critical protections afforded through marriage or adequately safeguard same-sex couples in older age, upon illness or disability, or in times of crisis. Having two lines at the county clerk's office — one for same-sex couples and one for different-sex couples — is unnecessary and fundamentally unequal. As the Massachusetts Supreme Court stated in its 2003 opinion requiring equal marriage rights in Massachusetts: "The history of our nation has demonstrated that separate is seldom, if ever, equal."

AB 43 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 couples to marry.

AB 43 DOES NOT RESTRICT THE PRACTICE OF ANY RELIGIOUS BELIEF

The federal and state Constitutions unequivocally protect religious freedom. Religious officials may currently refuse to perform marriages that do not fulfill the requirements of their religious faith. The Religious Freedom and Civil Marriage Protection Act does not change this principle in any respect, but in fact reinforces it. The bill does not require any religious official to perform marriages that conflict with his or her religious beliefs. Nothing in the Act will restrict the freedom of clergy members to refuse to perform marriages for same-sex partners.

RECORD OF FLOOR VOTES ON AB 43 (Updated September 13, 2007)

Assembly: June 5, 2007 (42-34)

Member	Party	District	Vote on AB 43	Vote on AB 849
Anthony Adams	R	Hesperia	No	N/A
Greg Aghazarian	R	Stockton	No	No
Joel Anderson	R	La Mesa	No	N/A
Juan Arambula	D	Fresno	Absent, Abstaining, or Not Voting	No
Karen Bass	D	Los Angeles	Aye	Aye
Jim Beall*	D	San Jose	Aye	N/A
John Benoit	R	Palm Desert	No	No
Patty Berg	D	Eureka	Aye	Aye
Tom Berryhill	R	Modesto	No	N/A
Sam Blakeslee	R	San Luis Obispo	No	No
Julia Brownley*	D	Santa Monica	Aye	N/A
Anna Caballero*	D	Salinas	Aye	N/A
Charles Calderon*	D	Whittier	Aye	N/A
Wilmer Amina Carter	D	Rialto	No	N/A
Paul Cook	R	Yucaipa	No	N/A
Joe Coto	D	San Jose	Aye	Aye
Mike Davis	D	Los Angeles	Absent, Abstaining, or Not Voting	N/A
Hector De La Torre	D	South Gate	Aye	Aye
Kevin De Leon*	D	Los Angeles	Aye	N/A
Mark DeSaulnier*	D	Martinez	Aye	N/A
Chuck DeVore	R	Irvine	No	No
Mike Duvall	R	Brea	No	N/A
Mervyn Dymally	D	Los Angeles	Aye	Aye
Bill Emmerson	R	Redlands	No	No
Mike Eng*	D	Monterey Park	Aye	N/A
Noreen Evans	D	Santa Rose	Aye	Aye
Mike Feuer*	D	Los Angeles	Aye	N/A
Felipe Fuentes*	D	Arleta	Aye	N/A
Jean Fuller	R	Bakersfield	No	N/A
Ted Gaines	R	Roseville	No	N/A
Cathleen Galgiani	D	Tracy	Absent, Abstaining, or Not Voting	N/A
Bonnie Garcia	R	Cathedral City	No	Absent, Abstaining, or Not Voting
Martin Garrick	R	Carlsbad	No	N/A
Loni Hancock	D	Berkeley	Aye	Aye
Mary Hayashi*	D	Hayward	Aye	N/A
Ed Hernandez*	D	Baldwin Park	Aye	N/A
Shirley Horton	R	San Diego	No	No
Guy Houston	R	San Ramon	No	No
Bob Huff	R	Diamond Bar	No	No
Jared Huffman*	D	San Rafael	Aye	N/A
Kevin Jeffries	R	Riverside	No	N/A
Dave Jones	D	Sacramento	Aye	Aye
Betty Karnette	D	Long Beach	Aye	Aye
Rick Keene	R	Chico	No	No
Paul Krekorian*	D	Burbank	Aye	N/A
Doug La Malfa	R	Biggs	No	No
John Laird	D	Santa Cruz	Aye	Aye
Mark Leno	D	San Francisco	Aye	Aye
Lloyd Levine	D	Van Nuys	Aye	Aye
Sally Lieber	D	Mountain View	Aye	Aye
Ted Lieu*	D	Torrance	Aye	N/A
Fiona Ma*	D	San Francisco	Aye	N/A
Bill Maze	R	Visalia	No	No
Tony Mendoza*	D	Artesia	Aye	N/A
Gene Mullin	D	South S.F.	Aye	Aye
Alan Nakanishi	R	Lodi	No	No
Pedro Nava	D	Santa Barbara	Aye	Aye
Roger Niello	R	Sacramento	No	No
Fabian Nunez	D	Los Angeles	Aye	Aye
Nicole Parra	D	Hanford	No	No

George Plescia	R	San Diego	No	No
Anthony Portantino*	D	Pasadena	Aye	N/A
Curren Price*	D	Inglewood	Aye	N/A
Laura Richardson*	D	Long Beach	Aye	N/A
Sharon Runner	R	Lancaster	No	No
Ira Ruskin	D	Redwood City	Aye	Aye
Mary Salas*	D	Chula Vista	Aye	N/A
Lori Saldana	D	San Diego	Aye	Aye
Jim Silva	R	Huntington Beach	No	N/A
Cameron Smyth	R	Santa Clarita	No	N/A
Jose Solorio*	D	Santa Ana	Aye	N/A
Nell Soto	D	Pomona	Absent, Abstaining, or Not Voting	Aye
Todd Spitzer	R	Orange	No	No
Audra Strickland	R	Camarillo	No	No
Sandre Swanson*	D	Oakland	Aye	N/A
Alberto Torrico	D	Fremont	Aye	Aye
Van Tran	R	Costa Mesa	No	No
Michael Villines	R	Clovis	No	No
Mimi Walters	R	Laguna Niguel	No	No
Lois Wolk	D	Davis	Aye	Aye

Senate: September 7, 2007 (22-15)

Member	Party	District	Vote on AB 43	Vote on AB 849
Sam Aanestad	R	Grass Valley	No	No
Dick Ackerman	R	Tustin	No	No
Elaine Alquist	D	Santa Clara	Aye	Aye
Roy Ashburn	R	Bakersfield	No	No
Jim Battin	R	Palm Desert	No	No
Ronald Calderon	D	Montebello	Aye	Aye
Gil Cedillo	D	Los Angeles	Aye	Aye
Dave Cogdill	R	Fresno	No	No
Ellen Corbett	D	San Leandro	Aye	Aye
Lou Correa	D	Santa Ana	Absent, Abstaining, or Not Voting	N/A
Dave Cox	R	Fair Oaks	No	No
Jeff Denham	R	Merced	No	No
Denise Ducheny*	D	San Diego	Aye	Absent, Abstaining, or Not Voting
Bob Dutton	R	Inland Empire	No	No
Dean Florez	D	Shafter	No	No
Tom Harman	R	Orange	No	No
Dennis Hollingsworth	R	Murrieta	No	No
Christine Kehoe	D	San Diego	Aye	Aye
Sheila Kuehl	D	Santa Monica	Aye	Aye
Alan Lowenthal	D	Long Beach	Aye	Aye
Mike Machado	D	Linden	Absent, Abstaining, or Not Voting	Absent, Abstaining, or Not Voting
Abel Maldonado	R	Santa Maria	No	No
Bob Margett	R	Glendora	No	No
Tom McClintock	R	Thousand Oaks	No	No
Carole Migden	D	San Francisco	Aye	Aye
Gloria Negrete McLeod	D	Chino	Aye	Aye
Jenny Oropeza	D	Long Beach	Aye	Aye
Alex Padilla*	D	Pacoima	Aye	N/A
Don Perata	D	Oakland	Aye	Aye
Mark Ridley-Thomas	D	Los Angeles	Aye	Aye
Gloria Romero	D	Los Angeles	Aye	Aye
George Runner	R	Antelope Valley	No	No
Jack Scott*	D	Pasadena	Aye	Absent, Abstaining, or Not Voting
Joe Simitian	D	Palo Alto	Aye	Aye
Darrell Steinberg*	D	Sacramento	Aye	N/A
Tom Torlakson	D	Antioch	Aye	Aye
Ed Vincent	D	Los Angeles	Aye	Aye
Pat Wiggins*	D	Santa Rosa	Aye	N/A
Leland Yee	D	San Francisco	Aye	Aye

* Indicates new supporter of marriage bill since vote on 2005 Religious Freedom and Civil Marriage Protection Act.