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SB 1005 – Modernizing Code Language to Reflect Marriage Equality

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Sponsor: Equality California

In Brief

Marriage equality is the law of the land in California, and conformity between case law, legal precedent, and statutory language ensures a fair process for those seeking remedy under the law, individual litigants, and those tasked with studying, developing and applying the law. SB 1005 amends various code sections to reflect established case law and legal precedent for marriage equality, and to clarify that “spouses” includes registered domestic partners.

The Issues

California’s Family Code currently reflects marriage equality under SB 1306 by Senator Mark Leno, which Equality California cosponsored with California Attorney General Kamala Harris and the National Center for Lesbian Rights in 2014. This ensures all married couples understand that the law applies to them and makes statutory protections in family law clear. However, there are many other provisions in statutory law, particularly in California’s Probate Code, that have important implications for married couples and the individual rights of a spouse or registered domestic partner. These code sections also require updating.

The Solution

SB 1005 modernizes California code to reflect marriage equality and current law by replacing gendered language with gender-neutral language. Specifically, this bill replaces the gendered language of “husband” and “wife” with the gender-neutral “spouse” throughout seventeen parts of California code. This bill also makes clear that “spouse” includes registered domestic partners.

Background

In May 2008, the California Supreme Court recognized marriage equality, ruling that same-sex couples have the right to marry under the California Constitution. However, in November 2008, voters narrowly approved Proposition 8 and amended California’s Constitution to prohibit same-sex couples from marrying.

In 2010, a federal district court ruled Proposition 8 unconstitutional and in violation of the Equal Protection Clause of the United States Constitution. That decision was appealed up to the United States Supreme Court, who dismissed the appeal, effectively upholding the federal court’s decision.

In light of these decisions, SB 1306 (Leno, 2014) updated the Family Code by replacing references to “husband” and “wife” with gender-neutral language. SB 1306 also made specific revisions to conform to directives handed down by both the Supreme Court and appellate court rulings.

In June 2015, the United States Supreme Court ruled in *Obergefell v. Hodges* that same-sex couples have the right to marry under the Due Process Clause and Equal Protection Clause of the United States Constitution.

Support

Equality California (Sponsor)
American Civil Liberties Union of California
American Federation of State, County and Municipal Employees, AFL-CIO
California Attorney General Kamala D. Harris
National Center for Lesbian Rights

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