



**Testimony of Kimberly McCullough, Legislative Director
In Support of HB 2478
Senate Committee on Rules
June 9, 2015**

Chair Rosenbaum and Members of the Committee:

The ACLU of Oregon supports HB 2478, which would update Oregon's Marriage Laws to be more gender-neutral and inclusive of all Oregon couples and families.

On May 19, 2014, U.S. Federal District Judge Michael McShane ruled that Measure 36 violated the Equal Protection Clause of the federal constitution. Oregon became the 19th jurisdiction to win the freedom to marry for same-sex couples. In April, the U.S. Supreme Court heard oral arguments on state bans to marriage equality in *Obergefell v. Hodges* and is expected to rule on this case in late June 2015.

HB 2478 would be necessary even if the U.S. Supreme Court upheld state marriage bans for several reasons:

First, same-sex couples that are currently married in Oregon will likely be unaffected by the Supreme Court's decision in *Obergefell*. In other words, it is highly unlikely that the Supreme Court's decision would invalidate existing marriages. Therefore, no matter what the Supreme Court decides, already-married same-sex couples will continue to enjoy the legal rights of marriage in Oregon, and the state's statutes should be updated to reflect these couples.

Second, it is possible that a decision by the Supreme Court upholding the marriage bans in Michigan, Ohio, Kentucky, and Tennessee would not affect the existing federal court judgment in Oregon. Judge McShane's decision is tailored to the specific facts and circumstances in Oregon—such as the inconsistency of the policies of Measure 36 and the Oregon Family Fairness Act. Accordingly, it makes sense to update the state's marriage statutes now, regardless of what the Supreme Court decides.

Finally, there is no down-side to modernizing the state's statutes. In the highly unlikely event that Measure 36 were to be revived as a consequence of the Supreme Court's ruling, the constitutional provision would be controlling. Revising Oregon law to read "spouse" in places where they currently read "husband and/or wife" would still be appropriate, as spouse can reference either opposite-sex or same-sex couples.

Again, the ACLU of Oregon supports HB 2478 and urges the committee to pass the bill to the Floor.