

TO: Oregon Senate Committee on Rules
FROM: Mark Johnson Roberts, Attorney, Gevurtz Menashe, Portland
DATE: June 9, 2015
RE: Support for HB 2478 Updating Oregon's Marriage Statutes

Chair Rosenbaum, members of the committee, my name is Mark Johnson Roberts. I have lived in Oregon for 33 years. For over 25 of those years, I have been a family law lawyer in private practice. I am a former President of the Oregon State Bar, a former co-chair of the Oregon Gay and Lesbian Law Association, and a former chair of the State Professional Responsibility Board. Since 2006, I have been Oregon's State Delegate to the American Bar Association.

In December 2013, I was privileged to marry my partner of 32 years, Jay Roberts, although I had to do it in Vancouver, Washington, as marriage equality had not yet come to Oregon at that time.

Last year, a federal court injunction barred our state from denying the rights, responsibilities, and salutary social effects of marriage to couples based on the sex of the partners. In other words, Oregon joined the 37 other American jurisdictions that now recognize the fundamental right of every person to marry the person they love.

Based on my particular experience and expertise in LGBT family law, I strongly urge you to support HB 2478. This bill will help reflect Oregon families as they actually exist in the modern era, by updating Oregon's statutes to create gender-neutral language.

Put simply, HB 2478 would amend state statutes to reference marriage in a gender-neutral manner.

Specifically, this legislation will:

- Adjust statues in the areas of real property, taxes, and estates.
- Adjust civil rights statutes that refer to marital status.
- Adjust statutes in the area of parental obligations.
- Adjust statues with regard to dissolution of marriage.

Most of my professional experience is in the dissolution of relationships, so that is the lens through which I view the problems that the denial of marriage equality has caused for my community. And those problems are legion.

For same-sex couples, even the simple fact of the relationship's existence must be proven through property titles and bank account statements and the like, because there is no marriage certificate. The challenges continue with inadequate support arrangements, because spousal support is not an available option for a court dissolving a non-marital relationship. And, even where the parties operate in good faith, the problems culminate with an inability to make a proper property division, because the federal statutes that apply to retirement plans make no provision for unmarried couples.

An example can help clarify the kinds of challenges my clients face. Two women meet, fall in love, move in together, have children, and remain a couple for many years. When the children are born, they try to get both names on the birth certificates, but are told they can't do it without an adoption. One partner works, and the other stays home to raise the children. When the divorce comes, the partner not on the birth certificates cannot assert parental rights. The stay-at-home mom cannot get Social Security on her partner's account and has no account of her own. Often, the largest asset they own is the working partner's retirement plan, and that cannot be divided. We end up with a very expensive divorce, one that the non-working partner, in particular, can ill afford, and often, an unsatisfactory outcome for all concerned.

Passing HB 2478 is a relatively simple update to align with the reality of marriage in Oregon today. As the example I just articulated illustrates, it will have important positive consequences for families in our state.

Thank you for this opportunity to testify and I would be happy to answer any questions the committee may have.