

1 [Supporting AB19 – Religious Freedom and Civil Marriage Act]

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3 **Resolution urging the California Assembly and Senate and the Governor of California**  
4 **to support Assembly Bill 19 (AB19), the “Religious Freedom and Civil Marriage Act”,**  
5 **which defines marriage as a civil contract between two people.**

6 WHEREAS, Existing law provides that marriage is a personal relation arising out of a  
7 civil contract between a man and a woman; and

8 WHEREAS, From 1850 to 1977, the statutory definition of marriage in California was  
9 gender-neutral, containing no reference to “man” or “woman”; and

10 WHEREAS, In 1948, the California Supreme Court became the first state court in the  
11 country to strike down a law prohibiting interracial marriage and the only state supreme court  
12 to do so before the United States Supreme Court invalidated all those laws in 1967; and

13 WHEREAS, The California Supreme Court held that, “marriage is something more than  
14 a civil contract subject to regulation by the state and it is a fundamental right of free men and  
15 legislation infringing such rights must be based upon more than prejudice and must be free  
16 from oppressive discrimination to comply with the constitutional requirement of due process  
17 and equal protection of the laws” (Perez v. Sharp 1948); and

18 WHEREAS, In 1977, the Legislature amended the state's marriage law to specify that,  
19 since, as a matter of state law, the gender-neutral definition of marriage could permit same-  
20 sex couples to marry and have access to equal rights, the gender-neutral definition would be  
21 changed. The gender-specific definition of marriage that the Legislature adopted specifically  
22 discriminated in favor of different-sex couples and, consequently, discriminated and continues  
23 to discriminate against same-sex couples; and

24 WHEREAS, The highest courts in three states, Hawaii, Vermont, and Massachusetts,  
25 have held that denying the legal rights and obligations of marriage to same-sex couples is  
constitutionally suspect or impermissible under their respective state constitutions; and

1           WHEREAS, The highest courts in seven Canadian provinces have similarly ruled  
2 that marriage laws that discriminate in favor of different-sex couples to the exclusion of same-  
3 sex couples violate the rights of same-sex couples and cannot stand; and

4           WHEREAS, California's discriminatory exclusion of same-sex couples from marriage  
5 violates the California Constitution's guarantee of due process, privacy, equal protection of the  
6 law, and free expression by arbitrarily denying equal marriage rights to lesbian, gay, and  
7 bisexual individuals; and

8           WHEREAS, California's discriminatory exclusion of same-sex couples from marriage  
9 harms same-sex couples and their families by denying those couples and their families  
10 specific legal rights and responsibilities under state law and by depriving members of those  
11 couples and their families of a legal basis to challenge federal laws that deny access to the  
12 many important federal benefits and obligations provided only to spouses. Those federal  
13 benefits include the right to file joint federal income tax returns, the right to sponsor a partner  
14 for immigration to the United States, the right to Social Security survivor benefits, the right to  
15 family and medical leave, and many other substantial benefits and obligations; and

16           WHEREAS, Other jurisdictions have chosen to treat as valid or otherwise recognize  
17 marriages between same-sex couples. California's discriminatory marriage law therefore also  
18 harms California's same-sex couples when they travel to other jurisdictions by preventing  
19 them from having access to the rights, benefits, and protections those jurisdictions provide  
20 only to married couples; and

21           WHEREAS, California's discriminatory exclusion of same-sex couples from marriage  
22 further harms same-sex couples and their families by denying them the unique public  
23 recognition and affirmation that marriage confers on heterosexual couples; and

24           WHEREAS, The City and County of San Francisco has an interest in encouraging  
25 stable relationships regardless of the gender or sexual orientation of the partners, and the  
benefits that accrue to the general community when couples undertake the mutual obligations  
of marriage accrue regardless of the gender or sexual orientation of the partners; and

          WHEREAS, It is also in the interest of the City and County of San Francisco that the  
pernicious practice of marriage discrimination in California is ended; therefore, be it

1           RESOLVED, That the Board of Supervisors of the City and County of San Francisco  
2 strongly urges the California Assembly and Senate and the Governor of California to support  
3 Assembly Bill 19 (AB19), the “Religious Freedom and Civil Marriage Act”, which defines  
4 marriage as a civil contract between two people; and be it

5           FURTHER RESOLVED, That the Board of Supervisors direct the Clerk of the Board  
6 to send copies of this resolution, upon passage, to California Assembly and Senate and the  
7 Governor of California.  
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