



ACA-5 Marriage equality. (2023-2024)

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AMENDED IN ASSEMBLY JUNE 05, 2023

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

ASSEMBLY AMENDMENT

CONSTITUTIONAL

NO. 5

Introduced by Assembly Member Low

(Principal coauthors: Assembly Members Cervantes, Jackson, Lee, Ward, and Zbur)

(Principal coauthors: Senators Atkins, Eggman, Laird, Menjivar, Padilla, and Wiener)

(Coauthors: Assembly Members Addis, Aguiar-Curry, Arambula, Bauer-Kahan, Berman, ~~Boerner-Horvath~~, **Boerner**, Bonta, Calderon, Connolly, Mike Fong, Friedman, Gabriel, Haney, Hart, Irwin, Jones-Sawyer, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pellerin, Petrie-Norris, Quirk-Silva, Luz Rivas, Robert Rivas, Blanca Rubio, Santiago, Ting, Wallis, Weber, Wicks, Wilson, and Wood)
(Coauthors: Senators Allen, Archuleta, Ashby, Becker, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Glazer, Gonzalez, Hurtado, Limón, McGuire, Min, Newman, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, and Wahab)

February 14, 2023

A resolution to propose to the people of the State of California an amendment to the Constitution of the State, *by repealing and adding Section 7.5 of Article I thereof*, relating to rights.

LEGISLATIVE COUNSEL'S DIGEST

ACA 5, as amended, Low. Marriage equality.

The California Constitution provides that only a marriage between a man and a woman is valid or recognized in California, and federal law permanently enjoins the state from enforcing this constitutional provision.

This measure would repeal this unenforceable constitutional provision and would instead provide that the right to marry is a fundamental right, as specified.

~~The California Constitution declares that defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy are inalienable rights, and that a person may not be deprived of life, liberty, or property without due process of law or equal protection of the laws.~~

~~This measure would express the intent of the Legislature to amend the Constitution of the State relating to marriage equality.~~

Vote: 2/3 Appropriation: no Fiscal Committee: no Local Program: no

WHEREAS, Courts have recognized that same-sex couples and interracial couples have the right to marry; and

WHEREAS, This measure, if approved by the voters, would repeal language in the California Constitution stating marriage is only between a man and woman; and

WHEREAS, This measure, if approved by the voters, would amend the California Constitution to include the fundamental right to marry as furthering the rights to enjoy life, liberty, safety, happiness, and privacy, and the rights to equal protection and due process; now, therefore, be it

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 2023–24 Regular Session commencing on the fifth day of December 2022, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California, that the Constitution of the State be amended as follows:

~~It is the intent of the Legislature to amend the Constitution of the State relating to marriage equality.~~

First— That Section 7.5 of Article I thereof is repealed.

~~SEC. 7.5. Only marriage between a man and a woman is valid or recognized in California.~~

Second— That Section 7.5 is added to Article I thereof, to read:

SEC. 7.5. (a) The right to marry is a fundamental right.

(b) This section is in furtherance of both of the following:

(1) The inalienable rights to enjoy life and liberty and to pursue and obtain safety, happiness, and privacy guaranteed by Section 1.

(2) The rights to due process and equal protection guaranteed by Section 7.