

SENATE RESOLUTION 61

(By Senators Azinger and Rucker)

[Introduced March 10, 2026]

1 Urging the Supreme Court of the United States to reverse Obergefell and restore the natural law
2 definition of marriage.

3 Whereas, The decision by the Supreme Court of the United States in Obergefell v. Hodges,
4 576 U.S. 644 (2015), is at odds with the Constitution and the principles of the United States; and

5 Whereas, Liberty has long been understood as individual freedom from governmental
6 action, not as a right to a particular governmental entitlement; and

7 Whereas, Obergefell ignores the Declaration of Independence's proclamation that human
8 dignity is innate, that "all men are created equal" and "endowed by their Creator with certain
9 unalienable Rights,"; but instead sees dignity coming from the government; and

10 Whereas, Obergefell denies the Framers' understanding that Liberty flows from our innate
11 dignity, this causes collateral damage to other aspects of our constitutional order that protect
12 liberty, including Religious Liberty; and

13 Whereas, Obergefell relies on the dangerous fiction of treating the Due Process Clause of
14 the Fourteenth Amendment to the Constitution as a font of substantive rights, a doctrine that strays
15 from the full meaning of the Constitution and exalts judges at the expense of the people from
16 whom they derive their authority; and

17 Whereas, The Supreme Court recognized in United States v. Windsor, 57031 U.S. 744
18 (2013), that the definition of marriage is "an area that has long been regarded as a virtually
19 exclusive province of the States," meaning that West Virginia, and not the Supreme Court, has the
20 right to regulate marriage for its citizens; and

1 Whereas, Obergefell requires states to issue marriage licenses to same-sex couples and
2 to recognize same-sex marriages in contravention of their own state constitutions and the
3 expressed will of their voters, thus undermining the civil liberties of those states' residents and
4 voters; and

5 Whereas, Marriage as an institution has been recognized as the union of one man and one
6 woman for more than two thousand years, and within common law, the basis of the United States'
7 Anglo-American legal tradition, for more than 800 years; and

8 Whereas, Obergefell arbitrarily and unjustly rejected this definition of marriage in favor of a
9 novel, flawed interpretation of key clauses within the Constitution and our nation's legal and
10 cultural precedents; and

11 Whereas, The Obergefell Decision was illegitimate because two of the Justices in the
12 majority ruling, Justices Ruth Bader Ginsburg and Elena Kagan, had previously officiated same-
13 sex weddings, and thus were not impartial triers of fact, and therefore should have recused
14 themselves according to [28 U.S. Code § 455](#); and

15 Whereas, Kentucky county clerk Kim Davis was persecuted for her faith in refusing to
16 issue same-sex marriage licenses, and the Supreme Court declined to uphold and defend her
17 First Amendment rights on account of the passage of Obergefell v Hodges, and

18 Whereas, Since court rulings are not laws and only legislatures elected by the people may
19 pass laws, Obergefell is an illegitimate overreach; therefore, be it

20 *Resolved by the Senate:*

21 That the Senate hereby urges the Supreme Court of the United States to reverse
22 Obergefell and restore the natural law definition of marriage; and, be it

23 *Further Resolved,* That the West Virginia Senate calls upon the Supreme Court of the
24 United States to reverse Obergefell and restore the natural law definition of marriage, a union of
25 one man and one woman, as was recognized at the Founding; and, be it

1 *Further Resolved*, That the West Virginia Senate insists on restoring the issue of marriage
2 and enforcement of all laws pertaining to marriage back to the several states and the people; and,
3 be it

4 *Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to
5 the Supreme Court of the United States.