

DAILY NEWS

## States of Alert: Political and Church Leaders Seek Shelter Against Marriage Ruling

**Defenders of marriage assess the damage wrought by the Supreme Court's decision to redefine the institution in the United States.**

BY BRIAN FRAGA

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WASHINGTON — The U.S. Supreme Court's 5-4 **decision** Friday in *Obergefell v. Hodges* that legalizes same-sex "marriage" across the country will present serious challenges to state governors, lawmakers and Church leaders concerned with protecting religious freedom and conscience rights.

Several governors called for new legislation Friday on the state and federal levels to safeguard religious freedom in the wake of the high court's ruling.

"As a result of this decision, the only alternative left for the American people is to support an amendment to the U.S. Constitution to reaffirm the ability of the states to continue to define marriage," Wisconsin Gov. Scott Walker **said** in a statement.

Louisiana Gov. Bobby Jindal, who announced Wednesday that he is seeking the Republican presidential nomination, **said** the decision "tramples" on state's rights that were once protected by the Constitution's 10th Amendment, which sets forth the nation's principle of federalism.

"This decision will pave the way for an all-out assault against the religious-freedom rights of Christians who disagree with this decision. This ruling must not be used as pretext by Washington to erode our right to religious liberty," said Jindal, who, during last week's Faith & Freedom Coalition conference, **emphasized** his support for laws to shield business owners who refuse service to same-sex couples on religious grounds from discrimination lawsuits.

Kansas Gov. Sam Brownback, who, like Jindal, is Catholic, **decried** that "activist courts should not overrule the people of this state, who have clearly supported the Kansas Constitution's definition of marriage as being between one man and one woman." Brownback said his administration will be reviewing the ruling to understand its effects on the people of Kansas.

### More Protections Needed

The high court's **majority opinion**, written by Justice Anthony Kennedy, a Catholic, noted that the First Amendment "ensures that religious organizations and persons are given proper protection as they seek to teach the principles that are so fulfilling and so central to their lives and faiths and to their own deep aspirations to continue the family structure they have long revered."

However, Roger Severino, director of the Heritage Foundation's **DeVos Center for Religion and Civil Society**, told the Register that state and federal legislators must work to protect the freedom of speech and association of those who continue to abide by the truth that marriage is the lifelong union of one man and one woman.

"We have to ensure that government never penalizes or discriminates against a citizen or institution that believes that marriage is the union of husband and wife," said Severino, who added that individuals and institutions who refuse to recognize same-sex "marriages" could be subject to a wide variety of penalties, including loss of government licenses, grants, contracts, accreditation and tax-exempt status.



"All those areas are at risk because they will be used to exclude religious people and institutions from public life because of their actions being consistent with their views on marriage," said Severino.

Steve Crampton, special counsel for the [Thomas More Society](#), agreed that legal protections are needed, especially given the fact that [bakers](#), [florists](#) and [photographers](#) in several states have already faced civil penalties for refusing to provide services to same-sex weddings.

"It's a troubling past that I would suggest portends a very troubling future for freedom of religion," said Crampton, who added that a newly determined constitutional right to same-sex "marriage" could make it difficult to enact state laws or state-level constitutional amendments aimed at broadening religious freedom and conscience rights.

"The door will still be open for a judge to say the federal constitution trumps your state constitutional rights or your state statutory rights," Crampton said. "It's going to be an uphill battle. We are in for a long, litigious future on these questions, and only time will tell."

### **First Amendment Defense Act**

Severino noted that U.S. Rep. Raul Labrador, an Idaho Republican, recently introduced the [First Amendment Defense Act](#), which would prevent the federal government from punishing individuals and institutions that refuse to accommodate same-sex "marriages" out of sincerely held religious beliefs.

"I would expect state legislatures to follow suit because the court has written another chapter in the debate, but it has not ended the debate. The court has forced the hand of legislators to step in and defend religious liberty," Severino said.

Maureen Ferguson, senior policy adviser with [The Catholic Association](#), called on Congress to pass the First Amendment Defense Act.

"Prior to today's decision, we have already witnessed a growing lack of tolerance that has forced Catholic Charities out of adoption ministries, sincere Christians have been heavily fined for declining to bake wedding cakes and employees from CEOs to fire chiefs have been forced out of jobs merely for respectful expression of their views," Ferguson said.

Another avenue of potential protection is through Religious Freedom Restoration Acts (RFRA). As of mid-June, according to the National Conference of State Legislatures (NCSL), at least 17 states had introduced legislation creating or altering existing laws affecting religious freedom. Two states this year passed RFRA, while some states took other actions to strengthen religious-liberty protections.

Today, 21 states have Religious Freedom Restoration Acts — the latest state to pass its own Religious Freedom Restoration Act (RFRA) was Arkansas, which passed its law the day after Indiana made changes to the RFRA it had enacted earlier in the year.

Jonathan Griffin, who tracks religious-freedom legislation at the NCSL, told the Register earlier this month that the passage of the two RFRA laws in Arkansas and Indiana is consistent with the pace of new state RFRA laws since the federal government enacted the national Religious Freedom Restoration Act in 1993.

Following today's Supreme Court decision, Texas Gov. Greg Abbott said that despite the Supreme Court ruling, he believed Texans' fundamental rights to religious liberty remain protected.

"No Texan is required by the Supreme Court's decision to act contrary to his or her religious beliefs regarding marriage," said Abbott, who cited the Texas Religious Freedom Restoration Act, the Texas Constitution, the First Amendment of the U.S. Constitution and the newly enacted Pastor Protection Act, which bars the government from forcing clergy or churches to perform marriages or ceremonies that violate their teachings on marriage.

Abbott also said he would issue a directive to state agencies instructing them to prioritize the protection of Texans' religious liberties.

### **Bishops React**

Several state-level Catholic bishops' conferences criticized the ruling and said they were reviewing the decision. They also warned that the high court's determination that same-sex couples have a constitutional

right to civil marriage will present difficulties for Catholics and people of faith who believe in the traditional institution of marriage.

The Michigan Catholic Conference, for one, **said** that moving forward the Supreme Court's decision to redefine marriage "will have a significant ripple effect upon the First Amendment right to religious liberty. It sets the Church's teaching about marriage in opposition to the law and will create inestimable conflicts between the state and religious persons and institutions."

The Michigan bishops added that "as the impact of the decision plays out over the coming weeks and months, the Catholic Church will continue to preach the truth about marriage and will promote, in the public square, this truth as what is good for society and our world."

In a conference call with reporters Friday, Archbishop William Lori of Baltimore, the chairman of the U.S. Conference of Catholic Bishops' **Ad Hoc Committee for Religious Liberty**, said that Catholic Americans should be prepared to defend their First Amendment rights.

"And that includes not only the right of free speech, but the right of free exercise [of religion], and I think that the rights of all Americans should be respected," said Archbishop Lori, who added that labeling or vilifying people who disagree with the redefinition of marriage runs counter to the intent of the First Amendment.

"I think as believers, as citizens, we should defend our rights under the First Amendment," Archbishop Lori said. "As believers, we should be prepared, whatever the cost is, to bear witness to our faith, to do it lovingly, but also to do it joyfully and to do it persistently."

*Brian Fraga writes from Fall River, Massachusetts.*

*Register staff contributed to this report.*