

SECOND REGULAR SESSION

HOUSE CONCURRENT RESOLUTION NO. 50

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WHALEY.

7288H.011

JOSEPH ENGLER, Chief Clerk

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

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

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

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13 **WHEREAS**, *Obergefell* denies the framers' understanding that liberty flows from our
14 innate dignity, causing collateral damage to other aspects of our constitutional order that
15 protects liberty, including religious liberty; and

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17 **WHEREAS**, *Obergefell* relies on the dangerous fiction of treating the Due Process
18 Clause of the Fourteenth Amendment to the Constitution of the United States as a font of
19 substantive rights, a doctrine that strays from the full meaning of the Constitution of the
20 United States and exalts judges at the expense of the people from whom they derive their
21 authority; and

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23 **WHEREAS**, the Supreme Court of the United States recognized in *United States v.*
24 *Windsor*, 570 U.S. 744 (2013), that the definition of marriage is "an area that has long been
25 regarded as a virtually exclusive province of the States". Therefore, the state of Missouri, not
26 the Supreme Court of the United States, has the right to regulate marriage for its residents;
27 and

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29 **WHEREAS**, *Obergefell* requires states to issue marriage licenses to same-sex couples
30 and to recognize same-sex marriages in contravention of the states' constitutions and the
31 expressed will of their voters, thus undermining the civil liberties of those states' residents and
32 voters; and

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34 **WHEREAS**, marriage as an institution has been recognized as the union of one man
35 and one woman for more than two thousand years, and within common law, the basis of the
36 United States' Anglo-American legal tradition, for more than eight hundred years; and

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38 **WHEREAS**, the *Obergefell* decision arbitrarily and unjustly rejects the definition of
39 marriage in favor of a novel, flawed interpretation of key clauses within the Constitution of
40 the United States and our nation's legal and cultural precedents; and

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42 **WHEREAS**, the *Obergefell* decision was illegitimate because two of the Justices on
43 the Supreme Court of the United States in the majority ruling, specifically Justices Ruth
44 Bader Ginsburg and Elena Kagan, had previously officiated same-sex weddings and thus
45 were not impartial triers of fact. Therefore, those Justices should have recused themselves
46 according to 28 U.S.C. Section 455; and

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48 **WHEREAS**, Kentucky county clerk Kim Davis was persecuted for her faith in
49 refusing to issue same-sex marriage licenses, and the Supreme Court of the United States
50 declined to uphold and defend her First Amendment rights on account of the *Obergefell*
51 decision; and

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53 **WHEREAS**, since court rulings are not laws and only legislatures elected by the
54 people may pass laws, *Obergefell* is an illegitimate overreach; and

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56 **WHEREAS**, the people of the state of Missouri voted to define marriage as between
57 one man and one woman in Amendment 2 in 2004, by a vote of nearly seventy-one percent to
58 twenty-nine percent:

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60 **NOW THEREFORE BE IT RESOLVED** that the members of the House of
61 Representatives of the One Hundred Third General Assembly, Second Regular Session, the
62 Senate concurring therein, hereby reject the *Obergefell* decision and call upon the Supreme
63 Court of the United States to reverse *Obergefell* and restore the natural law definition of
64 marriage, a union of one man and one woman, as was recognized at the founding; and

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66 **BE IT FURTHER RESOLVED** that the Missouri General Assembly insists on
67 restoring the issue of marriage and enforcement of all laws pertaining to marriage back to the
68 several states and the people; and

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70 **BE IT FURTHER RESOLVED** that the Chief Clerk of the Missouri House of
71 Representatives be instructed to prepare a properly inscribed copy of this resolution for the
72 Supreme Court of the United States.

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