

To: Kenneth J. McGhie
General Counsel
One Judiciary Square,
441 4th Street, NW, Suite 270N
Washington, D.C. 20001

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From: Bob Summersgill
3701 Connecticut Avenue, NW #139
Washington, DC 20008



Date: June 9, 2009

Re: Referendum Concerning the Jury and Marriage Amendment Act of 2009

Dear Mr. McGhie:

Please find that the Measure, "Referendum Concerning the Jury and Marriage Amendment Act of 2009," is not a proper subject of referendum as it "authorizes, or would have the effect of authorizing, discrimination prohibited under Chapter 14 of Title 2", as described in D.C. Official Code § 1-1001.16(b)(1)(C).

Chapter 14 of Title 2, commonly known as the Human Rights Act, is very broad and prohibits discrimination in 19 different categories for almost every reason, other than merit. The stated intent of the Council in passing the law in 1974, and reaffirmed by the elected Council under Home Rule in 1977 is stated in § 2-1401.01:

It is the intent of the Council of the District of Columbia, in enacting this chapter, to secure an end in the District of Columbia to discrimination for any reason other than that of individual merit, including, but not limited to, discrimination by reason of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, and place of residence or business.

The Measure would prohibit the D.C. Government from explicitly providing recognition, and therefore service, programs, and benefits to same-sex couples married in other jurisdictions that are provided to other married couples. Instead of being married as they legally are where the license was issued, the Measure intends to make these couples strangers under the law in the District. The D.C. Council and the Mayor have decided through the Jury and Marriage Amendment Act of 2009 that the on-going lack of explicit recognition of same-sex couples married in other jurisdictions is discriminatory and must end. The Measure would thwart that decision.

The Council of the District of Columbia and the Mayor have in the past decade moved deliberately to remove barriers to marriage equality for same-sex couples. The Council amended the Human Rights Act in 2002 to add § 2-1402.73, "Application to the District government." The