Office of Senator Robert Casey
393 Russell Senate Office Building
U.S. Senate
Washington, DC 20510

Dear Senator Casey,

We write on behalf of thousands of Pennsylvania families who are presently denied critical protections and recognition under the so-called "Defense of Marriage Act," or DOMA. As you know, hundreds of Pennsylvania same-sex couples are legally married out of state. However, these married same-sex couples are treated as legal strangers in the eyes of the federal government because of DOMA and excluded from more than 1,100 federal laws in which marital status is a factor, including Social Security, immigration, and family and medical leave.

Until DOMA was enacted in 1996, federal law deferred to states in determining who could marry and be considered married, and the principle of comity and constitutional guarantee of full faith and credit governed states' obligations to honor marriages validly celebrated elsewhere. DOMA was an unprecedented departure from these long-established rules. Not only does DOMA purport to allow states to refuse to recognize valid civil marriages of same-sex couples (§ 2), it carves all same-sex couples, even those who have taken on the serious legal responsibilities of civil marriage and are recognized as married under state law, out of all federal statutes, regulations, and rulings applicable to all other married people (§ 3).

As a result, legally married same-sex spouses cannot:

- File their taxes jointly
- Receive spousal, mother's and father's, or surviving spouse benefits under Social Security even though they pay into Social Security throughout their careers
- Take unpaid leave to care for a sick or injured spouse
- Receive employer-provided family health benefits without paying an additional tax that different-sex spouses do not pay
- Receive the same family health and retirement/pension benefits as fellow married employees
- Be protected by the safe harbor provisions in bankruptcy law, Medicaid rules and

other federal statutes that secure some resources and the family home when debts of one spouse threaten to leave both financially responsible spouses destitute.

In 1996, supporters of DOMA argued that it was necessary to promote family structures that are best for children. Since then, every credible medical, social science and child welfare organization has concluded that same-sex couples are equally capable parents.[1] In fact, the Justice Department has decided to stop defending Section 3 of the statute, concluding that laws that discriminate based on sexual orientation should receive heightened scrutiny by courts and that the congressional justifications for the law, "reflecting moral disapproval of gays and lesbians and their intimate and family relationships," cannot meet that standard.[2]

When enacted, DOMA's harms were not yet fully appreciated because same-sex couples were not able to marry in any U.S. state. Since then, six states and the District of Columbia have recognized equal marriage rights for same-sex couples, and tens of thousands of couples have married.[3] Two other states have extended these rights. Because of DOMA, the federal government does not honor their legal commitment and the needs of their families, even though these couples have assumed the obligations of civil marriage under state law and contribute as citizens and taxpayers.

Senator Feinstein has introduced S. 598, the Respect for Marriage Act, which repeals DOMA in its entirety. The Act ensures that valid marriages are respected under federal law, providing couples certainty that regardless of where they travel or move, they will not become strangers under federal law if another state refuses to recognize them as married for purposes of that state's law.

The Respect for Marriage Act does not obligate any person, religious organization, locality, or state to celebrate or license a marriage between two persons of the same sex. The First Amendment protects the right of churches and religious bodies to determine the

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[1] Major organizations publishing policy statements on the subject include: American Academy of Pediatrics, http://aappolicy.aappublications.org/cgi/content/full/pediatrics;109/2/339 (February 2002 policy statement); American Psychological Association, http://www.apa.org/pi/lgbc/policy/parents.html (July 2004 policy statement); American Academy of Child and Adolescent Psychiatry, http://www.aacap.org/cs/root/policy_statements/gay_lesbiantransgender_and_bisexual_parents_policy_statement (June 1999 policy statement); American Medical Association, http://www.amaassn.org/ama/pub/about-ama/our- people/member-groups-sections/glbt-advisorycommittee/ama-policy-regarding-sexual-orientation.shtml (AMA Policy Regarding Sexual Orientation); Child Welfare League of America, http://www.cwla.org/programs/culture/glbtqposition.htm (Position Statement on Parenting of Children by Lesbian, Gay, and Bisexual Adults).

[2] Letter from Attorney General Holder to the Honorable John Boehner, Speaker of the House of Representatives (Feb. 23, 2011).

[3] Same-sex couples may marry in Connecticut, the District of Columbia, Iowa, Massachusetts, New Hampshire, New York and Vermont. California recognizes marriages of same-sex couples performed in California before the passage of Proposition 8. Maryland recognizes marriages of same-sex couples celebrated in other states, but does not presently grant civil marriage licenses to same-sex couples.

qualifications for religious marriage, and the Respect for Marriage Act cannot and will not upset that centuries- old protection.

Despite the fact that many of your constituents are legally married out of state, these couples continue to be treated as strangers by the federal government because of DOMA. You have a consistent record of supporting LGBT Pennsylvanians, and we know that you are committed to doing what's right for all families. Loving same-sex couples are committed to sharing their lives and building a family together. They need access to the same safety net and security that other families are afforded by the federal government. On behalf of our thousands of members across the state and the majority of Pennsylvanians who support the freedom to marry, we respectfully ask that you cosponsor the Respect for Marriage Act.

Sincerely,

Freedom to Marry
Equality Pennsylvania
Courage Campaign