



House Human Services Committee
North Dakota State Capitol
600 E. Boulevard Ave
Bismarck, ND 58505

January 20, 2021

Re: Human Rights Campaign Opposition to H.B. 1317

Dear Chair Weisz and Members of the Committee,

The Human Rights Campaign (HRC), on behalf of its three million members and supporters nationwide, thanks you for the opportunity to submit testimony to help inform your deliberation on H.B. 1317. This bill is clearly unconstitutional and an indefensible limitation on the privileges of marriage. We urge you to reject this legislation.

The Human Rights Campaign is America's largest civil rights organization working to achieve lesbian, gay, bisexual, transgender and queer (LGBTQ) equality. By inspiring and engaging all Americans, HRC strives to end discrimination against LGBTQ citizens and realize a nation that achieves fundamental fairness and equality for all.

If the state of North Dakota intends to extend benefits to people who are married, they must do so to all people who are married. Limiting the benefits of marriage to different-sex married couples, and excluding therefore same-sex married couples, is unacceptable as a matter of law.

The 2015 United States Supreme Court decision in *Obergefell v. Hodges* made it clear that the United States Constitution forbids the withholding of the privileges of marriage from same-sex couples. Marriage is a fundamental right protected by the Due Process clause, because the right to marry is inherent to the concept of individual autonomy. The decision specifically dwells on issues of family, and marriage's role in building a home and raising children, and finds that denying the benefits of marriage to same-sex couples is harmful to families. Subsequent cases, including the 2017 decision in *Pavan v. Smith*, have made it clear that efforts to limit the privileges of marriage from same-sex couples and their families will not be tolerated. Further, the Constitution requires equal protection of the law, which is also violated by laws which deny the benefits of marriage to same-sex couples.

There is no question that the limitation of these benefits to married different-sex couples violates the United States Constitution. The purpose of such a limitation is to impose exactly the dignitary harm that the *Obergefell* decision forbids. This limitation is both indefensible and illegal.

Thank you for the opportunity to submit testimony, and we request that you immediately reject this insulting and unconstitutional bill.

Sincerely,

A handwritten signature in black ink that reads "Cathryn M. Oakley". The signature is written in a cursive, flowing style.

Cathryn Oakley
State Legislative Director and Senior Counsel
Human Rights Campaign