



American Civil Liberties Union of the National Capital Area

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June 9, 2009

Kenneth J. McGhie, Esquire
General Counsel
District of Columbia Board of Elections and Ethics
441 4th Street, N.W., Suite 250
Washington, DC 20001

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

Dear Mr. McGhie:

In accordance with the Board's invitation, the American Civil Liberties Union of the National Capital Area ("ACLU") submits these written comments on the above topic.

Section 3 of the Jury and Marriage Amendment Act of 2009 provides that "[a] marriage legally entered into in another jurisdiction between 2 persons of the same sex that is recognized as valid in that jurisdiction, and that is not expressly prohibited by [other District of Columbia law], shall be recognized as a marriage in the District [of Columbia]."

As several members of the D.C. Council stated before voting for this Act, the new statute simply makes explicit what was already implicit under District of Columbia law. For that reason, it will make no legal difference whether the Act is submitted to referendum or whether such a referendum succeeds or fails. In either event, same-sex marriages that have been formalized in other jurisdictions and that are recognized as lawful and valid in those jurisdictions will be recognized as lawful, valid marriages in the District of Columbia.

First, under long-standing and widely shared principles of interstate comity, jurisdictions in the United States recognize marriages validly created in other jurisdictions that are not offensive to their own strong public policy. Considering the mobility of American citizens, it would be absurd and wholly impractical if lawfully

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