



## 2026 South Dakota Legislature

# House Concurrent Resolution 6010

Introduced by: **Representative** Randolph

1 **A CONCURRENT RESOLUTION** urging the Supreme Court of the United States to  
2 **overturn the decision in Obergefell v. Hodges.**

3 WHEREAS, the decision by the Supreme Court of the United States in Obergefell v.  
4 Hodges, 576 U.S. 644 (2015), is at odds with the Constitution of the United States and the  
5 principles upon which the United States was established; and

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

8 WHEREAS, Obergefell, in invoking a definition of "liberty" that the Framers would not have  
9 recognized, rejected the idea that human dignity is innate, which is captured in the  
10 Declaration of Independence, and instead suggested that human dignity comes from the  
11 government; and

12 WHEREAS, when the Framers proclaimed in the Declaration of Independence that "all men  
13 are created equal" and "endowed by their Creator with certain unalienable rights," they  
14 referred to a vision of mankind in which all humans are created in the image of God and  
15 therefore are of inherent worth; and

16 WHEREAS, Obergefell undermines this vision by declaring that citizens must seek dignity  
17 from the state; and

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

1 WHEREAS, Obergefell's inversion of the original meaning of liberty causes collateral  
2 damage to other aspects of our constitutional order that protect liberty, including religious  
3 liberty; and

4 WHEREAS, the Supreme Court recognized in the United States v. Windsor, 570 U.S. 744  
5 (2013), that the definition of marriage is "an area that has long been regarded as a virtually  
6 exclusive province of the States," meaning that South Dakota, and not the Supreme Court,  
7 has the right to regulate marriage for its citizens; and

8 WHEREAS, Obergefell requires states to issue marriage licenses to same sex couples and  
9 to recognize same-sex marriages in complete contravention of their own state constitutions  
10 and the will of their voters, thus undermining the civil liberties of those states' residents and  
11 voters; and

12 WHEREAS, marriage as an institution has been recognized as the union of one man and  
13 one woman for more than two thousand years, and within common law, the basis of the  
14 United States' Anglo-American legal tradition, for more than 800 years; and

15 WHEREAS, the voters of the state of South Dakota defined marriage in a 2006 statewide  
16 initiative as only the union of one man and one woman; and

17 WHEREAS, Obergefell arbitrarily and unjustly rejected this definition of marriage in favor  
18 of a novel, flawed interpretation of key clauses within the Constitution and our nation's legal  
19 and cultural precedents; and

20 WHEREAS, the Obergefell decision was illegitimate because two of the Justices in the  
21 majority ruling, Justices Ruth Bader Ginsburg and Elena Kagan, had previously officiated  
22 same-sex weddings, and thus were not impartial triers of fact, and therefore should have  
23 recused themselves according to 28 U.S.C. § 455 (December 1, 1990); and

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

26 NOW, THEREFORE, BE IT RESOLVED, by the House of Representatives of the One Hundred  
27 First Legislature of the State of South Dakota, the Senate concurring therein, that the  
28 Supreme Court of the United States be urged to revisit, at the first opportunity, the precedent  
29 set in Obergefell v. Hodges, overturn the decision, and thereby correct the overreach of  
30 judicial power exemplified therein.