



2025 South Dakota Legislature
**House Concurrent Resolution
6012**

Introduced by: **Representative** Randolph

1 **A CONCURRENT RESOLUTION, Urging the Supreme Court of the United States to**
2 **establish marriage as between a man and a woman.**

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 is 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, the ruling in Obergefell invokes a definition of "liberty" that the founders of the
9 United States would not have recognized, rejecting the idea captured in the Declaration of
10 Independence that human dignity is innate, and instead suggested that it comes from the
11 government; and

12 WHEREAS, when the founders proclaimed in the Declaration of Independence that all men
13 are created equal and are 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 are
15 therefore of inherent worth; and

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

18 WHEREAS, the ruling in Obergefell relies on the dangerous fiction of treating the Due
19 Process Clause of the Fourteenth Amendment to the Constitution of the United States as a
20 font of substantive rights, a doctrine that strays from the full meaning of the Constitution of
21 the United States and exalts judges at the expense of the people from whom they derive their
22 authority; and

1 WHEREAS, the ruling in *Obergefell* inverts the original meaning of liberty and causes
2 collateral damage to other aspects of our constitutional order that protect liberty, including
3 religious liberty; and

4 WHEREAS, the Supreme Court recognized in *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, the ruling in *Obergefell* requires states to issue marriage licenses to same sex
9 couples and to recognize same-sex marriages in complete contravention of their own state
10 constitutions and the will of their voters, thus undermining the civil liberties of those states'
11 residents and 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 United
14 States' Anglo-American legal tradition, for more than eight hundred years; and

15 WHEREAS, the ruling in *Obergefell* arbitrarily and unjustly rejected this definition of
16 marriage in favor of a novel, flawed interpretation of key clauses within the Constitution of
17 the United States and our nation's legal and cultural precedents; and

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

22 WHEREAS, case precedent in *Obergefell* is an overreach;

23 NOW, THEREFORE, BE IT RESOLVED, by the House of Representatives of the One
24 Hundredth Legislature of the State of South Dakota, the Senate concurring therein, that the
25 South Dakota Legislature protests the *Obergefell* decision; and

26 BE IT FURTHER RESOLVED, that the Supreme Court of the United States be urged to
27 reverse the ruling in *Obergefell* and restore the natural definition of marriage, a union of one
28 man and one woman; and

- 1 BE IT FURTHER RESOLVED, that the South Dakota Legislature urges the Supreme Court
- 2 to return to the long standing, traditional meaning of marriage recognized by the founders
- 3 and our society.