



May 4, 2017

The Honorable Bill Haslam  
Governor of Tennessee  
Office of Governor Bill Haslam  
1st Floor, State Capitol  
Nashville, TN 37243

Dear Governor Haslam,

On behalf of the more than thirty thousand American Civil Liberties Union of Tennessee constituents across the state, I write to urge you to veto SB 1085/HB 1111. This legislation is nothing more than a thinly-veiled attempt to open the door to discrimination against LGBT residents of Tennessee.

Ever since the Supreme Court's landmark ruling in *Obergefell* established marriage equality as the law of the land, we have seen a wave of legislative attacks on LGBT individuals. SB 1085/HB 1111 is an example of those mean-spirited, unconstitutional attacks which promote discrimination and bias.

SB 1085/HB 1111 would require that any undefined words in Tennessee law "be given their natural and ordinary meaning, without forced or subtle construction that would limit or extend the meaning of the language." In other words, under this bill, terms like "husband," "wife," "mother" and "father" could only be interpreted as gender-specific under the law.

This unnecessary legislation invites confusion into the application and implementation of a wide range of laws, including those affecting education, family relationships, health care and taxes.

As noted by your own attorney general, SB 1085/HB 1111 would, in some instances, directly conflict with Tenn. Code Ann. § 1-3-104(b), an existing part of Tennessee code that explicitly states that where gendered terms are used in Tennessee statutes, they should be considered inclusive of all genders or neutral, unless otherwise explicitly written into that part of the law. This statute has been in place for at least a hundred years and has not created any problems, reinforcing the public perception that SB 1085/HB 1111 is born not of necessity but of a political agenda to undermine LGBT equality in Tennessee.

In his recent opinion on this measure, Attorney General Slatery further stated that SB 1085/HB 1111 could force some Tennessee laws to conflict with the U.S. Supreme Court decision in *Obergefell*, which held that same-sex couples have a fundamental right to marry and that state laws are "invalid to the extent they exclude same-sex couples from civil marriage on the same terms and conditions as opposite-sex couples." Under

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SB 1085/HB 1111, any Tennessee statute related to marriage – or to its terms, conditions, benefits or obligations – that contains gender-specific terms could conflict with *Obergefell* if construed literally, as SB 1085/HB 1111 requires.

In the end, if a court were asked to resolve any conflict between the proposed law and Tenn. Code Ann. § 1-3-104(b), in keeping with the long-standing “specific-general” canon of statutory construction, it would likely resolve such a conflict by applying the very specific gender-inclusive requirement imposed by existing law, as opposed to the very general “ordinary meaning” requirement articulated in SB 1085/HB 1111. This begs the question of the utility of SB 1085/HB 1111 in the first place.

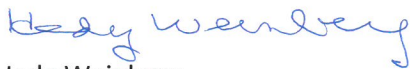
However, in the meantime, this proposed law would unnecessarily wreak havoc with the lives and families of LGBT people in Tennessee. For example, county clerks could reference it when refusing to issue a marriage license to a same-sex couple, or a judge could rely on it to deny a mother in a same-sex marriage the presumption of parentage or to reject second-parent adoption for a married couple. ACLU-TN stands ready to challenge these unconstitutional practices were the law to be enacted and used by state agents.

SB 1085/HB 1111 also sends an ugly message to LGBT Tennesseans that they will not be fully recognized as equal residents of our state. Recent history has shown the negative economic impact that anti-LGBT laws like this have had on other states, from the costs of litigation to corporations canceling proposed expansions to boycotts by entertainers, sports organizations and tourists.

For these reasons, ACLU-TN urges you to veto this discriminatory measure. Tennessee is a welcoming state. Your veto would send a clear message that Tennessee is committed to advancing freedom and fairness and ensuring equality and justice for all residents.

I am happy to expand on our concerns and can be reached at 615-320-7142. Thank you for your consideration.

Sincerely,



Hedy Weinberg  
Executive Director