

TESTIMONY IN SUPPORT OF 12 H-7752, THE “SAME-SEX DIVORCE” BILL
May 2, 2012

Article I, Section 5 of the Rhode Island Constitution guarantees that for every legal wrong, there ought to be a remedy. Unfortunately, as a result of a 2007 Rhode Island Supreme Court decision, there is a “gay” exception to that guarantee. In that decision, a majority of the court held that gay and lesbian couples, even though they have been lawfully married elsewhere, cannot obtain a divorce in Rhode Island’s courts.

I want to emphasize this: under the Supreme Court’s decision, *validly married* same-sex couples have no access to divorce in this state and thus no way to exit their marriage. These couples are the only group without access to the courts for this purpose. Even parties to clearly *void* marriages can get a divorce. That is, under Rhode Island law, people who violate the marriage laws governing bigamy or incest have access to Family Court, but gay and lesbian couples who have been lawfully married do not. This is an intolerable and untenable state of affairs. Denying access to divorce has real consequences beyond the emotional – the inability to nullify this contractual relationship potentially injures significant property rights of the parties, impairs their legal ability to marry again, and leaves important financial obligations and responsibilities in limbo.

Absolutely no public policy is served by requiring people to stay married when they have no desire to do so. No public policy is served by blocking same-sex couples from using a court system that is available to bigamists. The current situation is made even more problematic with so many states in New England recognizing same-sex marriage and, therefore, leading to more same-sex couples living in Rhode Island.

This bill is just a matter of fairness and common sense. It provides one more basic reason why Rhode Island should enact marriage equality legislation. At a minimum, though, we hope that the Committee will act swiftly on passage of this bill and eliminate the unfortunate legal limbo that same-sex couples face at the present time.

Submitted by: Steven Brown, Executive Director