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COMMENTS ON 10-H 7990, SAME-SEX DIVORCE LEGISLATION May 4, 2010

Article I, Section 5 of the Rhode Island Constitution guarantees that for every legal wrong, there ought to be a remedy. Unfortunately, the R.I. Supreme Court's divided opinion in *Chambers v. Ormiston* in 2007 made that a hollow promise for some Rhode Island residents.

Parties to clearly void marriages – such as those violating the laws governing bigamy or incest – have access to divorce in Rhode Island. Yet under the Supreme Court's decision, *validly married* same-sex couples have become the only group with no access to this remedy and thus no way to exit their marriage. The current situation is both bizarre and untenable. 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 and impairs their legal ability to marry again.

This bill is an attempt to reinstate the obvious. It takes no position on the issue of same-sex marriage. It simply provides that “regardless of whether the parties would have been eligible to marry in Rhode Island,” parties to a marriage or similar domestic relationship officially recognized elsewhere may petition for a divorce in Rhode Island.

In short, whatever view one has of same-sex marriage, there should be no question whatsoever that people who have been validly married in another state should have the right to get divorced. Absolutely no public policy is served by requiring people to stay married when they have no desire to do so. The situation is made even less tenable in light of the number of 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, and ensuring that Rhode Island residents have access to the courts. 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