



SOGI MEASURES REPORT AND ANALYSIS

**TALKING POINTS
NOTES
FACT SHEETS**

2019 - 2020

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Foreword





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Foreword

The purpose of this report is to give you, as legislators, the benefit of good work done by others and model legislation on various related topics for your consideration and potential use. This report reflects the collective wisdom and experience of individual legislators and legal teams who have worked with various pieces of legislation, as well as groups who have or will support such legislation, and the strategic analysis of a great many organizations, teams, and individuals who have studied these measures. This is not an exhaustive collection of model acts, resolutions, and proclamations on the topic, but it addresses most areas of recent interest.

The following principles apply to all of the measures and should be considered early on:

1. Nothing is more important than learning to tell a story that shows why the legislation is needed. Although the text of legislation is critical, it can become sterile without painting a picture of “why” it is necessary. When you have limited time, tell the story and let the legislation speak for itself.
2. Never forget that you often communicate more with your actions than your words. Tone and temperament are vital.
3. Give special care to the name of the bill, making sure it will capture the essence of the enactment and will be easy to grasp in a positive light.
4. Do not let the perfect be the enemy of the good.

Thank you for serving your country. May God bless you richly.





Category #1:

Religious Liberty Protection Legislation – Public Policy Resolutions



Category #1: Public Policy Resolutions Overview

The following public policy resolutions are organized somewhat differently than the other model acts. They rely on publicly available surveys and studies based on social science and medical care. To include all the supporting citations would unduly burden the model resolutions, but the citations are critical evidence on which the resolutions rely. Thus, the citations have been provided in a separate “Fact Sheet.”

We emphasize that the purpose of these resolutions is to avoid support for these public policies because they happen to coincide with “traditional” or “biblical” norms. Rather than find that justification compelling, courts have frequently found such justifications “unreasonable” or “irrational,” as they are not based on “reason” or “science.” These resolutions and the accompanying talking points and fact sheets show that traditional, biblical norms are also reasonable and rational in light of the available empirical evidence. Similarly, the compelling state interests identified are not tied to “traditional” or “biblical” morality or standards of conduct, but, rather, to measurable interests such as avoiding medical costs and the like.

Although these resolutions may engender lively opposition, we believe it important to begin a public discourse on these important topics grounded in the language that the opponents themselves use. Moreover, it is important to recognize that, just because the Supreme Court has dictated that states must allow civil marriages between same-sex couples, states may still discourage that practice and encourage intimate sexual relations to take place only among a married man and woman. Indeed, as we set out, there are persuasive health and welfare reasons for states to do so. A helpful analogy in this respect is abortion, in which the Supreme Court has dictated that women have the right to abort their child in certain circumstances, but the states are not required to fund or otherwise support it.

1. [Resolution Establishing Public Policy Favoring Intimate Sexual Relations Only Between Married, Heterosexual Couples](#)
2. [Resolution Establishing Public Policy Favoring Reliance on and Maintenance of Birth Gender](#)
3. [Resolution Establishing Public Policy Favoring Adoption by Intact Heterosexual, Marriage-based Families](#)



Resolution Establishing Public Policy Favoring Intimate Sexual Relations Only Between Married, Heterosexual Couples

The issue of homosexual rights has been brought to the fore in recent years, particularly in the context of same-sex marriage. While recognizing the requirements of rulings of the United States Supreme Court, it is beneficial for the health and welfare of the inhabitants of this state to set out its public policy in regard to intimate sexual relations.

Many states currently have constitutional or legislative Statements that marriage is between one man and one woman. For example, Louisiana's Constitution, Article XII ("General Provisions"), Section 15 ("Defense of Marriage"), provides, in part, "Marriage in the state of Louisiana shall consist only of the union of one man and one woman." In addition, Louisiana's Civil Code, Article 3520(b) ("Marriage") provides, in part, "A purported marriage between persons of the same sex violates a strong public policy of the state of Louisiana" As stated above, Obergefell does not override these statements of public policy. However, in no state is the public policy expressly supported by social science research and health care statistics as provided in this draft resolution.

Click here for the full description,
helpful links, and talking points



Resolution Establishing Public Policy Favoring Reliance on and Maintenance of Birth Gender

The issue of transgender rights has been brought to the fore in recent years, particularly in the context of access to birth gender-specific facilities and in the context of funding for sex realignment medical procedures. This state recognizes the personhood of all its citizens and acknowledges the importance of promoting the health and social welfare of its citizenry. For these reasons, it is beneficial for the long-term well-being of the inhabitants of this state to set out its public policy in regard to birth gender.



Click here for the full description,
helpful links, and talking points



Resolution Establishing Public Policy Favoring Adoption by Intact Heterosexual, Marriage-based Families

The issue of what family structures are best suited to foster the most desirable childhood outcomes has been debated widely and is the subject of ongoing research. Although causal relationships cannot be drawn conclusively based on the current state of research, there are sufficient preliminary results to indicate a strong association between certain family structures and beneficial, publicly desirable childhood outcomes.

Recognizing the ongoing need for child placement, it is beneficial for the health and welfare of children in this state to set out the state's public policy in regard to family structures that promote favorable childhood outcomes.

Click here for the full description,
helpful links, and talking points





Category #2:

Talking Points to Counter Anti-Religious Freedom Legislation



Category #2 – Talking Points to Counter Anti-Religious Freedom Legislation

Click the link below to go straight to each category of legislation.

Section #1

Countering Adding “Sexual Orientation” as a Civil Rights Category

Section #2

Countering Adding “Gender Identity” as a Civil Rights Category

Section #3

Countering Conversion Therapy Prohibitions



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Countering Adding “Sexual Orientation” as a Civil Rights Category

The category of “sexual orientation” should not be included in the legislation. It is not a category uniformly recognized throughout the country, and it is subject to misinterpretation and abuse. See Todd A. Salzman & Michael G. Lawler, *The Sexual Person* 150 (2008) (“The meaning of the phrase ‘sexual orientation’ is complex and not universally agreed upon.”)

Including “sexual orientation” as a protected civil rights category has multiple consequences. Click below to read more.

Click here for the full description,
helpful links, and talking points



Countering Adding “Gender Identity” as a Civil Rights Category

The term “gender identity” has no fixed meaning and, by definition, is the product of an individual, subjective determination that may conflict with how the individual objectively appears to others. Because of its subjectivity, the term can be used by an individual in a temporally inconsistent manner, and legislation based on its use is vague and violates due process.

The movement for official acknowledgement that taking transgender actions is “normal,” and that such inclinations should even be encouraged, contrasts with social science studies documenting the dramatic, long-term deleterious effects on those who have elected to have transgender medical procedures performed.

There is substantial evidence that “sex change” procedures are not beneficial in addressing the underlying causes and consequences of gender dysphoria.

Click here for the full description,
helpful links, and talking points



Countering Conversion Therapy Prohibitions



A number of states (see links below) have recently passed bills that prohibit conversion therapy practices. This legislation is premised, at least in part, on the policy assumption that conversion therapy is invariably harmful and that the only help that can be offered to individuals suffering from gender dysphoria is that which concedes the condition and seeks to accommodate efforts by the individual to transform socially and physically. This policy assumption ignores data demonstrating the short- and long-term harmfulness of gender conversion to the transgendered individual and to society.

The following states are only a few of the states that have recently enacted prohibitions on conversion therapy. Click below to see the full list and more information.

- California— https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201120120SB1172
- Colorado— https://leg.colorado.gov/sites/default/files/2019a_1129_signed.pdf
- Connecticut— <https://www.cga.ct.gov/2017/ACT/pa/2017PA-00005-R00HB-06695-PA.htm>
- Delaware— <http://legis.delaware.gov/BillDetail?legislationId=25678> (click on relevant pdf file)
- Hawaii— https://www.capitol.hawaii.gov/session2018/bills/GM1113_PDF
- Illinois— <http://www.ilga.gov/legislation/fulltext.asp?DocName=&SessionId=88&GA=99&DocTypeId=HB&DocNum=217&GAID=13&LegID=&SpecSess=&Session>

Click here for the full description,
helpful links, and talking points

