

Testimony of
The Honorable Jerrold Nadler

Congressman
U.S. House of Representatives
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CONGRESSMAN JERROLD NADLER 8th Congressional District of New York Statement of Representative Jerrold Nadler Ranking Member, House Judiciary Subcommittee on the Constitution Hearing before the Senate Committee on the Judiciary S.598, The Respect for Marriage Act: Assessing the Impact of DOMA on American Families FOR IMMEDIATE RELEASE: Wednesday, July 20, 2011 CONTACT: Ilan Kayatsky, 212-367-7350 Thank you, Mr. Chairman, for holding this hearing and for your leadership on this issue. I also thank our colleague, the Senior Senator from California, Senator Feinstein, for her leadership in introducing the Respect for Marriage Act in the Senate earlier this year along with the Chairman and with our outstanding Junior Senator from New York, Senator Kirsten Gillibrand. I am thrilled to be here today as the author and lead sponsor of the Respect for Marriage Act, which now enjoys the support of 119 co-sponsors in the House. Just yesterday, President Obama announced his support for the bill, and I applaud his leadership on this issue as well. When Congress passed DOMA in 1996, it was not yet possible for a gay or lesbian couple to marry anywhere in the world. Fifteen years later, much has changed. Six states and the District of Columbia now include gay and lesbian couples in their state marriage laws, and there are an estimated 80,000 gay and lesbian couples married in this country. As a result, and as former stereotypes about lesbians, gay men, and their relationships have fallen away, public understanding and opinion on this issue has shifted dramatically. While 75% of the public opposed allowing gay and lesbian couples to marry when Congress enacted DOMA, a majority of Americans now support marriage equality. Once viewed as a fiercely partisan issue, most individuals under age 45 who identify as Republican now support equal responsibilities and rights for gay and lesbian couples. Recently, in my home state, Republican and Democratic lawmakers joined forces and voted to include gay and lesbian New Yorkers in our state marriage laws. This shift in understanding and opinion now makes clear what should have been apparent in 1996: the refusal to recognize the legal marriages of a category of our citizens based on their sexual orientation is unjustifiable. Time and experience have eroded the legal and factual foundations used to support DOMA's passage, and meaningful Congressional examination of this law is long overdue. Some of Congress's reasons for DOMA have now been disavowed, most notably the claim that Congress can or should use the force of law to express moral disapproval of gay and lesbian Americans. It is no longer credible to claim that most Americans hold this view; and, of course, while once believed a legitimate reason for the law, it is now reason enough to declare it invalid. DOMA's supporters still claim that the law should survive, and argue primarily that DOMA serves a legitimate interest in protecting the welfare of children by promoting an "optimal" family structure - one that consists of a married opposite-sex couple raising their biological children. There is no credible support for the notion that children are better off with opposite-sex parents or that married gay and lesbian parents do not provide an equally loving, supportive, and wholesome environment. Any legitimate interest in children

demands that the children of married lesbian and gay couples also receive the advantages that would flow from equal federal recognition of their parents' state marriages. No legitimate Congressional interest in the welfare of children is ever advanced by withholding protection from some children based on a desire to express moral disapproval of their parents. And it defies common sense to claim that it is necessary to harm or exclude the children of married same-sex couples in order to protect the children of opposite-sex couples. Nor is it accurate to claim that Congress's only interest in marriage is in its children. Congress routinely allocates federal obligations and benefits based on marital status, and often does so to promote the welfare and security of these adults. These interests are not possibly served by DOMA. While no legitimate federal interest is served by this law, DOMA unquestionably causes harm, as we will hear from the married gay and lesbian couples who have joined us today. These couples pay taxes, serve their communities, struggle to balance work and family, raise children, and care for aging parents. They have undertaken the serious public and legal pledge to care for and support each other and their families that civil marriage entails. They deserve equal treatment from the federal government; in fact, the Constitution demands it and the Respect for Marriage Act would provide it. The Respect for Marriage Act honors the greatest traditions of this Nation. The bill does not define marriage but, instead, restores our practice of respecting all state-sanctioned marriages for purposes of federal law while allowing each state to determine its own marriage laws. Unlike DOMA, the Respect for Marriage Act protects states' rights. Though each state now sets its own marriage law, DOMA currently prevents the federal government from treating all states' marriages equally. The Respect for Marriage Act would restore equal respect for the marriages of every state. The Respect for Marriage Act also honors America's highest traditions of religious freedom. Religious views on marriage unquestionably differ, with some religions opposing and others solemnizing marriages for lesbian and gay couples. The Respect for Marriage Act allows this diversity to flourish, leaving every religion free to marry the couples it chooses without government interference. In authoring this bill, I worked closely with family law experts to ensure that the federal government once again works cooperatively with the states to support and stabilize American families. I am confident that this bill strikes the right balance, and I look forward to working with all of you to ensure its passage. ### Jerrold Nadler has served in Congress since 1992. He represents New York's 8th Congressional District, which includes parts of Manhattan and Brooklyn.