

**Statement of Senator Dianne Feinstein  
On “The Respect for Marriage Act,” S. 598  
Executive Business Meeting  
U.S. Senate  
Committee on the Judiciary  
November 3, 2011**

Thank you very much, Mr. Chairman, and thank you for your help and leadership with this issue. We have 31 cosponsors to date. I want to thank everyone who has been a cosponsor and I want to thank the members of this committee who are supporting this.

15 years ago in 1996, DOMA passed. I was one of 14 senators who voted against it. I voted against it for the same reasons then that I am for its repeal today.

But 15 years was 15 years ago and the times have changed. Today, 6 states and the District of Columbia have legalized marriages between people of the same sex. When DOMA passed, no state had passed a same-sex marriage bill.

There are now today 131,000 couples in the United States. They are real people – they are our family members, friends, and neighbors. They have made the solemn commitment of marriage to each other. They stand by each other, in good times and in bad, in sickness and in health, until death they do part.

But, though legally married, these Americans are denied 1,100 federal rights and benefits provided to every other legally married couple in the country.

Let me give you just 3 or 4 examples of these rights.

- They cannot file joint federal income taxes and claim certain deductions;
- They cannot receive spousal benefits under Social Security;

- They cannot take unpaid leave under the *Family and Medical Leave Act*, when a spouse falls seriously ill; and
- They cannot obtain the protections from the estate tax, when a spouse passes and wants to leave his or her possessions to the other.

Just three months ago, this Committee heard testimony documenting the heartbreaking impact of DOMA on same-sex couples legally married across the country.

Ron Wallen told us how he was denied Social Security survivor benefits when his husband passed away. As a result, he couldn't afford to live in his home they owned and shared.

Jill Johnson-Young's spouse— a veteran — died in 2010. One of her final wishes was to be buried in a national cemetery—but only if she and her spouse could eventually be buried together.

Now, Federal law allows this benefit to a spouse, but DOMA denies it. So this veteran's spouse was denied something which is accorded to every other couple.

Mark Kalend paid nearly two million dollars in estate taxes after his spouse, long-term, died unexpectedly from an aggressive form of cancer. Now, most married couples' assets are shielded from the estate tax in that situation. But DOMA strips this protection away from same-sex couples.

Now here's the point: DOMA, in my view, is clearly discriminatory.

It has been firmly established over decades that family law, including marriage, is a legal preserve of the states.

Chief Justice Rehnquist once said that family law, and I quote, “has been left to the States from time immemorial, and not without good reason,” end quote. He was right.

So, in my view, DOMA is a pernicious denial to one class of legally married couples of more than 1,100 federal rights and benefits that are provided to all other members of that class- legally married couples. I believe this is a clear violation of Equal Protection.

Even the author of the Defense of Marriage Act in the House – former Representative Bob Barr, a Republican from Georgia – has changed his mind about DOMA.

He believes it was a mistake, and that DOMA infringes on the rights of the states in the area of family law.

If the author of DOMA can understand the need for its repeal, I hope at least some of my colleagues on the other side can as well.

In short, DOMA was wrong when it was passed, and it should be repealed. And this bill will do that. It will strike DOMA from federal law and restore the role of the states in determining who may marry in this country.

I believe the time has come. And it will not require anybody, of any religious faith, to perform a same-sex marriage, or any state to issue any marriage license it does not wish to issue.

Simply put, this bill will accord federal respect to the marriage decisions made by a growing number of states.

So I urge my colleagues to support this bill, and I thank you very much, Mr. Chairman.