

MEMORANDUM

To: The Committee on Scope and Program

From: Jamie Pedersen, Chair, Study Committee on Possible Amendments to the Uniform Parentage Act and Other ULC Acts in Light of Potential Supreme Court Decisions Concerning Same-Sex Marriage (the “**Study Committee**”)

Date: June 29, 2015

Subject: Supplemental Report Regarding *Obergefell v. Hodges*

On June 26, 2015, the U.S. Supreme Court issued its opinion in *Obergefell v. Hodges*. This memorandum briefly summarizes that decision and its immediate effects. It supplements the Final Report of the Study Committee dated June 12, 2015.

Fourteen same-sex couples and two men with deceased same-sex spouses filed suit in the federal district courts of their home states, Michigan, Kentucky, Ohio, and Tennessee, challenging those states’ laws restricting marriage to different-sex couples. All plaintiffs won in district court, but the U.S. Court of Appeals for the Sixth Circuit consolidated the cases and reversed the decisions.

The U.S. Supreme Court granted certiorari and reversed the Sixth Circuit, deciding that states may not deny marriage licenses to same-sex couples and must recognize marriages of same-sex couples validly entered into outside the state. The Court held that the right to marry is a fundamental liberty protected by the due process clause of the Fourteenth Amendment, and that the reasons that marriage is a fundamental liberty apply with equal force to same-sex couples. The Court also held that restricting marriage to different-sex couples violates the equal protection clause of the Fourteenth Amendment. Finally, the Court held that because same-sex couples may now exercise the fundamental right to marry in all states, there is no lawful basis for a state to refuse to recognize the lawful marriage of a same-sex couple.

Although some procedural steps remain for the Court’s mandate to become effective, at least some counties have issued marriage licenses to same-sex couples in Arkansas, Georgia, Kentucky, Michigan, Nebraska, North Dakota, Ohio, South Dakota, Tennessee, and Texas. State officials in Mississippi and Louisiana have directed county clerks not to issue licenses until a final, binding order compels them to do so.

Absent an extraordinary reversal of course by the Court, it appears that all states will be issuing marriage licenses to same-sex couples by late July.