

United States Senate

WASHINGTON, DC 20510

February 6, 2023

Honorable Richard L. Saslaw
Majority Leader
Senate of Virginia
900 E. Main St. Room E602
Richmond, Virginia 23219

Honorable Thomas K. Norment, Jr.
Minority Leader
Senate of Virginia
900 E. Main St. Room E603
Richmond, Virginia 23219

Honorable Terry Kilgore
Majority Leader
House of Delegates
900 E. Main St. Room E201
Richmond, Virginia 23219

Honorable Don Scott
Minority Leader
House of Delegates
900 E. Main St. Room E601
Richmond, Virginia 23219

Dear Leaders Saslaw, Norment, Kilgore, and Scott:

We write today to urge you to take action to protect marriage equality. The General Assembly should act now to repeal the shameful ban on same-sex marriage that remains in the state constitution.¹

Marriage is a sacred and fundamental right in our society. In a long-overdue victory for the LGBTQ community, the Supreme Court concluded in *Obergefell v. Hodges* that the 14th Amendment requires states to issue marriage licenses to same-sex couples, bringing the country one step closer to the fundamental ideal of equality for all.² We were proud to cosponsor and support the passage of the *Respect for Marriage Act* in the Senate. On December 13, 2022, President Biden signed the *Respect for Marriage Act* into law, ensuring that same-sex and interracial couples lawfully married in any state will have their marriages recognized across the country even if *Obergefell* is overturned.³ Although the *Respect for Marriage Act* provides full faith and credit for state-issued marriage licenses, the legislation does not require a state to issue a marriage licenses to same-sex couples.

While the *Obergefell* decision supersedes Virginia's constitutional ban, the Supreme Court's decision in *Dobbs v. Jackson Women's Health*⁴ makes same-sex couples feel that their marriages are in jeopardy. In fact, Justice Clarence Thomas stated in his concurring opinion that "in future cases, we should reconsider all of this Court's substantive due process precedents, including *Griswold*, *Lawrence*, and *Obergefell*."⁵ If *Obergefell* is overturned, then LGBTQ Virginians will likely lose the right to marry the person they love unless the General Assembly repeals the ban in Virginia's constitution. Virginia's circuit courts would be prohibited from issuing marriage licenses to same-sex couples due to the prohibition in the Commonwealth's constitution.

¹ Va. Const. art. I, § 15-A: Marriage

² *Obergefell v. Hodges*, 576 U.S. 644 (2015).

³ Public Law No: 117-228

⁴ *Dobbs v. Jackson Women's Health Org.*, 142 S. Ct. 2228 (2022).

⁵ *Id.*, at 2301 (Thomas, J., concurring).

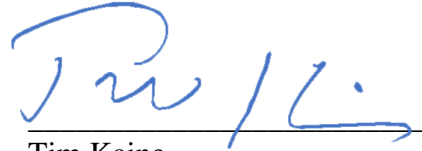
We are encouraged by proposals in both the Virginia House of Delegates and Senate to repeal the constitutional provision. It is long past time that Virginia's governing document conveys to same-sex marriages the same freedoms, rights, and responsibilities that are afforded to all other constitutional marriages. We urge you to work with your colleagues to advance legislation for a referendum that would fully protect Virginia's LGBTQ couples.

Thank you for your continued leadership and service to the Commonwealth of Virginia.

Sincerely,



Mark R. Warner
U.S. Senator



Tim Kaine
U.S. Senator

CC:

Senator Louise Lucas, President Pro Tempore
Delegate Todd Gilbert, Speaker of the Virginia House of Delegates
Senator Adam Ebbin
Senator Jennifer Boysko
Delegate Mark Sickles
Delegate Tim Anderson