

A.J.R. 2 of the 79th Session

ASSEMBLY JOINT RESOLUTION NO. 2 OF THE 79TH SESSION—
ASSEMBLYMEN ARAUJO; ELLIOT ANDERSON, BILBRAY-
AXELROD, BROOKS, CARRILLO, DIAZ, JOINER, MONROE-
MORENO, OHRENSCHALL, SPRINKLE, SWANK, THOMPSON
AND YEAGER

PREFILED FEBRUARY 1, 2017

JOINT SPONSORS: SENATORS PARKS; CANCELA, FORD,
MANENDO, RATTI, SEGERBLOM AND WOODHOUSE

Referred to Committee on Legislative Operations and Elections

SUMMARY—Proposes to amend the Nevada Constitution to
require the recognition of all marriages regardless of
gender. (BDR C-690)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

ASSEMBLY JOINT RESOLUTION—Proposing to amend the
Nevada Constitution to require the recognition of all
marriages regardless of gender.

Legislative Counsel’s Digest:

1 Section 21 of Article 1 of the Nevada Constitution provides that only a
2 marriage between a male and a female person may be recognized and given effect
3 in this State. The United States Supreme Court, however, held in 2015 that the right
4 to marry is guaranteed by the Fourteenth Amendment to the United States
5 Constitution and that same-sex couples may not be deprived of that right. *See*
6 *Obergefell v. Hodges*, 135 S. Ct. 2584 (2015). Under the Supremacy Clause of the
7 United States Constitution, federal constitutional law supersedes state constitutional
8 law in most cases. (U.S. Const. Art. VI, cl. 2) As a result, Section 21 of Article 1 of
9 the Nevada Constitution is not enforceable.

10 This resolution amends Section 21 of Article 1 of the Nevada Constitution to
11 require the State of Nevada and its political subdivisions to recognize all marriages
12 regardless of gender. In addition, this resolution establishes the rights of religious
13 organizations and members of the clergy to refuse to perform marriages on the
14 basis of gender or other factors, and specifically provides that a person does not



15 have a right to make a claim against a religious organization or member of the
16 clergy for refusing to perform a marriage. This resolution further provides that all
17 legally valid marriages must be treated equally under the law.

1 RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF
2 NEVADA, JOINTLY, That Section 21 of Article 1 of the Nevada
3 Constitution be amended to read as follows:

4 ~~[Sec:]~~ *Sec. 21. [Limitation on recognition] Recognition*
5 *of marriage. [Only a marriage between a male and female*
6 *person shall be recognized and given effect in this state.]*

7 *1. The State of Nevada and its political subdivisions*
8 *shall recognize marriages and issue marriage licenses to*
9 *couples regardless of gender.*

10 *2. Religious organizations and members of the clergy*
11 *have the right to refuse to solemnize a marriage, and no*
12 *person has the right to make any claim against a religious*
13 *organization or member of the clergy for such a refusal.*

14 *3. All legally valid marriages must be treated equally*
15 *under the law.*

