

# House Concurrent Resolution No. 45

## 96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES POLLOCK (Sponsor), GATSCHENBERGER, DUGGER, WELLS, WRIGHT, LOEHNER, KEENEY, ROWLAND, COX, LANT, REIBOLDT, DAVIS, FUHR, SCHOELLER, ENTLICHER, HOSKINS, SCHAD, SOLON, STREAM, THOMSON, COOKSON, BROWN (116), HIGDON, KORMAN, DENISON, LONG, KOENIG, FISHER, GRISAMORE, CURTMAN, McCAHERTY, FREDERICK, SCHATZ, HOUGHTON, CRAWFORD, ELMER, HAMPTON, CIERPIOT, SCHIEBER, FITZWATER, HOUGH, CROSS, JONES (89), LICHTENEGGER, LASATER, BAHR, FRAKER, WALLINGFORD, RICHARDSON, JONES (117), FUNDERBURK, FLANIGAN AND ASBURY (Co-sponsors).

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2       **WHEREAS**, states have plenary power to recognize marriages, to establish their own  
3 public policies with regard to the institution of marriage, and to provide for the benefits related  
4 to marriage in a rational manner; and

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5       **WHEREAS**, Article I, Section 33 of the Missouri Constitution states:

6       "That to be valid and recognized in this state, a marriage shall exist only between  
7 a man and a woman."; and

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9       **WHEREAS**, Article I, Section 33 of the Missouri Constitution as adopted on August 3,  
10 2004, is an expression of the supermajority will of Missouri citizens having passed in every  
11 county in Missouri and having passed by a total percentage of 71% in favor of the amendment;  
12 and

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14       **WHEREAS**, the primary function and purpose of Article I, Section 33 of the Missouri  
15 Constitution is to express the State of Missouri's support for the longstanding secular and  
16 religious tradition of marriage between a man and a woman and not to invidiously discriminate  
17 against a particular class of persons; and

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19       **WHEREAS**, the extremely rare and perplexing refusal of President Barack Obama's  
20 Administration to defend the constitutionality of the Defense of Marriage Act in federal court,  
21 as expressed in a February 23, 2011, letter from Attorney General Eric H. Holder, Jr. to House  
22 Speaker John Boehner, is a serious threat to the rule of law; and

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24           **WHEREAS**, the Obama Administration's articulation of a novel legal theory whereby  
25 sexual orientation is elevated to the status of "heightened scrutiny" under the Equal Protection  
26 Clause of the United States Constitution is without precedential support, and poses a serious  
27 threat to the longstanding rights of the states to recognize marriage and to establish their own  
28 public policies with regard to the institution of marriage:

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30           **NOW, THEREFORE, BE IT RESOLVED** that the members of the House of  
31 Representatives of the Ninety-sixth General Assembly, First Regular Session, the Senate  
32 concurring therein, hereby urge the United States Congress and the President of the United States  
33 to uphold and defend the federal Defense of Marriage Act; and

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35           **BE IT FURTHER RESOLVED** that the Missouri General Assembly further urges the  
36 United States Congress and the President of the United States to uphold and defend the  
37 traditional right of states to legislate with a rational basis to recognize marriages, establish their  
38 own public policies with regard to the institution of marriage, and to provide benefits related to  
39 the institution of marriage; and

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41           **BE IT FURTHER RESOLVED** that the Chief Clerk of the Missouri House of  
42 Representatives be instructed to prepare properly inscribed copies of this resolution for the  
43 President of the United States, the Speaker of the United States House of Representatives, and  
44 each member of the Missouri Congressional Delegation.

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