

THE U.S. SUPREME COURT HAS LEGALIZED SAME-SEX MARRIAGES WHAT MUST A CHURCH DO NOW

On June 26, 2015, the U.S. Supreme Court issued its decision in the Obergefell v. Hodges case involving same-sex marriage. The 5 to 4 decision, written by Justice Kennedy, legalized same-sex marriages in all 50 states. The court based its decision on both the Due Process Clause and the Equal Protection Clause of the Fourteenth Amendment of the Constitution. The decision of the court did two things: it required all states to license a marriage between two people of the same-sex; and it required all states to recognize a marriage between two people of the same-sex when their marriage was lawfully performed out-of-state. A copy of the court's decision can be found at http://www.supremecourt.gov/opinions/14pdf/14-556_3204.pdf.

The decision left many Georgia Baptist churches wondering how to respond to the legalization of same-sex marriage in the state and are questioning how the decision might affect the church. It is too early to know all the ramifications of the decision and how it could impact churches opposed to same-sex marriage. There have been many commentators and articles claiming everything from "churches will lose their tax exemption" to "there will be claims of discrimination and litigation against churches." However, this is an evolving situation and no one can say at this time what churches may face in the future or how this may impact individual churches. It is not unlikely that threats based on non-discrimination or a violation of Constitutional rights may be made against some churches in the future and there are steps churches can now take to clarify their position on same-sex marriage and other human sexuality issues.

The Ethics & Religious Liberty Commission of the Southern Baptist Convention ("ELRC") <http://erlc.com/> has been very active in working to provide churches the information they need to understand national and local issues related to same-sex marriage and to provide recommendations for preventative actions that churches should take in light of the same-sex marriage decision. ELRC has also joined with the Alliance Defending Freedom <http://www.alliancedefendingfreedom.org/> to provide a legal guide for churches. This 44 page guide, Protecting Your Ministry, is free and has suggested language and recommendations for Churches, Christian Schools, and Christian Ministries. It is available on the ELRC website at https://erlc.com/store/product_detail/18876. It is also available for download from the Georgia Baptist Convention website under the Ethics and Public Affairs section at <https://gabaptist-wpengine.netdna-ssl.com/wp-content/uploads/2015/02/ERLC-protecting-your-ministry-legal-guide.pdf>. Churches concerned about what to do should start with these resources. They should also continue to check the ELRC and Georgia Baptist Convention websites for updates as developments occur.

The Georgia Baptist Convention through its Communication Services and Ethics and Public Affairs ministry will continue to keep its churches informed on these and other issues of interest and concern. Also, the Ethics and Public Affairs webpage has a number of other articles and papers dealing with a variety of subjects of importance to Georgia Baptist churches. See <https://gabaptist.org/publicaffairs/>.

This article was prepared by Thomas O. Duvall, attorney for the Georgia Baptist Convention. The article is only for general information purposes and is not intended to be, and should not be taken as, legal advice. It is suggested that you contact a local attorney should you have specific questions or need legal advice relating the subject matter of this article.