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OPINION COMMITTEE



The Senate of
The State of Texas

FILE # ML-47752-15
I.D. # 47752

RQ-0031-KP

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LIEUTENANT GOVERNOR

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June 25, 2015

The Honorable Ken Paxton
Attorney General
Office of the Attorney General of Texas
Post Office Box 12548
Austin, Texas 78711-2548

Dear Attorney General Paxton:

Re: Request for an opinion regarding the religious liberties of county clerks and their employees regarding same-sex marriage licenses and of justices of the peace and judges regarding same-sex marriage ceremonies

The protection of religious liberty rights guaranteed under the First Amendment of the U.S. Constitution is of utmost importance to Texans. Accordingly, Senate Bill 2065, the "Pastor Protection Bill," was passed and signed into law in the 84th Legislative Session to protect houses of worship, religious organizations and their employees and clergy or ministers from being required to participate in a marriage or celebration of a marriage if it would violate a sincerely held religious belief.

In anticipation of the U.S. Supreme Court's ruling in the next few days on *Obergefell v. Hodges*, the case that could redefine marriage, I continue to receive questions from concerned Texans regarding the protection of their religious liberty rights guaranteed under the First Amendment of the U.S. Constitution. As such, I request your opinion on the balance and protection of said religious liberty rights should the Texas definition of marriage be overturned. Specifically, in the event the Texas definition of marriage is overturned, may government officials such as employees of county clerks, justices of the peace, and judges refuse to issue same-sex marriage licenses or conduct same-sex marriage ceremonies due to their sincerely held religious beliefs that marriage is the union of one man and one woman?

The Honorable Ken Paxton

August 29, 2011

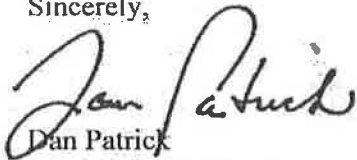
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Under Texas law, county clerks issue marriage licenses, TEX. FAM. CODE § 2.001(a), and pastors, justices of the peace, and judges may perform marriage ceremonies, *id.* § 2.202(a). If the Supreme Court declares a constitutional right to same-sex marriage, can a county clerk or his or her employees refuse to issue a same-sex marriage license if doing so would violate their sincerely held religious beliefs on marriage? Lastly, could a justice of the peace or a judge refuse to conduct a same-sex wedding ceremony if doing so would violate their sincerely held religious beliefs on marriage?

Texans have clearly spoken that marriage is the union of one man and one woman. Should the U.S. Supreme Court rule contrary to the voice of Texas, the answers to these questions are important.

I look forward to your response.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Patrick". The signature is written in a cursive, flowing style with a large initial "D".

Dan Patrick
Lieutenant Governor