



THE UNITED STATES VIRGIN ISLANDS

OFFICE OF THE GOVERNOR
GOVERNMENT HOUSE

Charlotte Amalie, V.I. 00802
340-774-0001

EXECUTIVE ORDER NO. 473-2015

GOVERNOR OF THE VIRGIN ISLANDS OF THE UNITED STATES

WHEREAS, on April 28, 2015, the Supreme Court of the United States heard oral arguments on two issues concerning marriage equality: (1) Whether the Fourteenth Amendment requires a State to license a marriage between two people of the same sex, and (2) Whether the Fourteenth Amendment requires a State to recognize a same sex marriage licensed and performed in a State in which same-sex marriage was legalized;

WHEREAS, on June 26, 2015, the Supreme Court of the United States ruled that the Fourteenth Amendment requires a State to license a marriage between two people of the same sex and to recognize a marriage between two people of the same sex when their marriage was lawfully licensed and performed out-of-state;

WHEREAS, the Supreme Court of the United States' decision was premised on the mandates of the Fourteenth Amendment to the United States Constitution that no State shall "deprive any person of life, liberty, or property, without due process of law and on the requirements that all citizens be afforded Equal Protection under the law";

WHEREAS, Section 3 of the Revised Organic Act of 1954, as amended, provides that "[n]o law shall be enacted in the Virgin Islands which shall deprive any person of life, liberty, or property without due process of law or deny to any person therein equal protection of the laws";

WHEREAS, the United States Congress, by enacting the Revised Organic Act of 1954, made the due process clause of the Fourteenth Amendment directly applicable to the Territory of the Virgin Islands of the United States;

WHEREAS, the Supreme Court of the United States has long held, and has now affirmed, that the right to marry is protected by the United States Constitution, and therefore, constitutes a fundamental right under the due process clause;

WHEREAS, States and Territories have conferred on all married couples certain benefits and have made marriage the basis for certain governmental rights, benefits, and responsibilities, including, but not limited to: taxation; inheritance and property rights; rules of intestate succession; spousal privilege in the law of evidence; hospital access; medical decision-making authority;

adoption rights; the rights and benefits of survivors; birth and death certificates; professional ethics rules; campaign finance restrictions; workers' compensation benefits; health insurance; and child custody, support, and visitation rules;

WHEREAS, the Supreme Court of the United States has reasoned that laws prohibiting same sex individuals from entering into the civil act of marriage burden their liberty and abridge the central precepts of equality;

WHEREAS, the Supreme Court of the United States concluded that the right to marry is a fundamental right inherent in the liberty of the person; and under the Due Process and Equal Protection Clauses of the Fourteenth Amendment of the United States Constitution, couples of the same-sex may not be deprived of that right and that liberty, and therefore, same-sex couples may exercise the fundamental right to marry;

WHEREAS, the United States Constitution contemplates that democracy is the appropriate process for change, so long as that process does not abridge fundamental rights, the Supreme Court of the United States has reasoned that “[t]he freedom secured by the Constitution consists, in one of its essential dimensions, of the right of the individual not be injured by the unlawful exercise of governmental power.”;

WHEREAS, the Supreme Court of the United States has reasoned that “[a]n individual can invoke a right to constitutional protection when he or she is harmed, even if the broader public disagrees and even if the legislature refuses to act”;

WHEREAS, the Supreme Court of the United States recognized that while there may be a natural inclination to proceed with caution and await further legislation, litigation, or debate, the Court has ruled that “[t]he dynamic of our constitutional system is that individuals need not await legislative action before asserting a fundamental right” and indicated the issue of same-sex marriage has been resolved as a matter of constitutional law;

WHEREAS, the Supreme Court of the United States has made it unequivocally clear that religious organizations or entities that object to performing same-sex marriages will not have their First Amendment rights to do so abridged by the new law;

WHEREAS, the Supreme Court of the United States is the court of last resort of decisions governing the United States and all Territories and possessions under the United States jurisdiction;

WHEREAS, the decision of the Supreme Court of the United States redefining marriage invalidates any law to the contrary in the Virgin Islands of the United States;

WHEREAS, under our tripartite system of government and our judicial hierarchy, the decision of the Supreme Court of the United States on the issue of marriage establishes the law governing all United States jurisdictions, and the Virgin Islands of the United States is not entitled to depart therefrom;

WHEREAS, the decision of the Supreme Court of the United States on the issue of same-sex marriage was self-executing and did not require additional legislation for its effectiveness; and

WHEREAS, it is imperative that the Territory, as a whole, takes action to ensure compliance with the ruling of the Supreme Court of the United States regarding same-sex marriage;

NOW THEREFORE, pursuant to the authority vested in me by Section 11 of the Revised Organic Act of the Virgin Islands of 1954, as amended

BE IT RESOLVED THAT the Territory of the Virgin Islands of the United States recognizes marriage as a fundamental right, as held by the Supreme Court of the United States in *Obergefell, et al v. Hodges, Director, Ohio Department of Health, et al*, 2015 US LEXIS 4250 (U.S. June 26, 2015); 576 U.S. _____ (2015), and it is now the law of the land;

BE IT FURTHER RESOLVED THAT the Territory of the Virgin Islands of the United States shall recognize marriages duly licensed and performed in any State or Territory of the Union;

BE IT FURTHER RESOLVED THAT the Judicial Branch take all steps necessary to implement rules and regulations necessary to be in compliance with the law regarding marriage equality as ruled by the Supreme Court of the United States in *Obergefell, et al v. Hodges, Director, Ohio Department of Health, et al*, 2015 US LEXIS 4250 (U.S. June 26, 2015); 576 U.S. _____ (2015);

ACCORDINGLY, IT IS HEREBY ORDERED

THAT all entities, departments, agencies, and instrumentalities of the Virgin Islands of the United States immediately comply with the ruling of the Supreme Court of the United States in *Obergefell, et al v. Hodges, Director, Ohio Department of Health, et al*, 2015 US LEXIS 4250 (U.S. June 26, 2015); 576 U.S. _____ (2015);

THAT all executive departments, agencies, and instrumentalities shall additionally, with the assistance of the Virgin Islands Department of Justice, review all of their respective Rules and Regulations and bring them into compliance with the ruling by the Supreme Court of the United States requiring the recognition of marriage equality and all of the rights and privileges appurtenant thereto;

THAT all executive departments, agencies, and instrumentalities shall provide a status update to the Governor of the Virgin Islands on their compliance within fifteen (15) days from the date of this Executive Order; and

THAT nothing in this Executive Order shall be construed as mandating, requiring or forcing any religious entity, organization, or clergy to perform any act or acts contrary to the recognized principles of their religious beliefs

Done and So **ORDERED** this 28th day of July, 2015.




Kenneth E. Mapp
Governor


Osbert E. Potter
Lieutenant Governor