

# THE UTAH COMPROMISE

## LGBT PROTECTIONS

- Bans employment discrimination, including against transgendered individuals
- Requires reasonable workplace accommodations, including for transgendered individuals
- Bans housing discrimination
- Guarantees access to marriage, even in rural areas

## RELIGIOUS PROTECTIONS

- Protects the character of faith communities & buildings
- Adds affiliates, religious societies and educational institutions, & Boy Scouts to existing carve-outs for small employers, religious corporations, associations, and subsidiaries
- Permits churches and religious groups to celebrate marriages & do religious counseling consistent with their faith

## PROTECTIONS FOR BOTH

- Protects political and religious expression outside the workplace
- Places political and religious expression inside the workplace on a level playing field

SB 297*	Exempts clergy from officiating a wedding	Exempts religious organizations from providing wedding services	Protects objectors from private suits and government penalties**	Exempts religious marriage counseling courses or retreats	Allows adoption/foster agencies to maintain existing placement policies***	Designates only willing clerks	No revocation of professional/business license for expression in nonprofessional setting	Proactively protects character of religious buildings & wedding services	SB 296	Exempts religiously affiliated housing	Permits religious/political expression outside the workplace****	Gives parity to religious/political expression inside the workplace
Delaware	✓		✓			✓			Delaware			
Illinois	✓	✓	✓						Illinois		✓	
Vermont	✓	✓	✓						Vermont		✓	
Hawaii	✓	✓	✓						Hawaii		✓	
Washington	✓	✓	✓	✓					Washington		✓	
New York	✓	✓	✓						New York	✓	✓	
Connecticut	✓	✓	✓		✓				Connecticut	✓	✓	
D.C.	✓	✓	✓	✓					D.C.		✓	
Minnesota	✓	✓	✓		✓				Minnesota	✓	✓	
N.H.	✓	✓	✓	✓					N.H.	✓	✓	
Rhode Island	✓	✓	✓	✓	✓				Rhode Island			
Maryland	✓	✓	✓	✓	✓				Maryland			
Utah	✓ <sup>i</sup>	✓ <sup>ii</sup>	✓ <sup>iii</sup>	✓ <sup>iv</sup>	✓ <sup>v</sup>	✓ <sup>vi</sup>	✓ <sup>vii</sup>	✓ <sup>viii</sup>	Utah	✓ <sup>ix</sup>	✓ <sup>x</sup>	✓ <sup>xi</sup>

### Takeaways from Utah

- Secures autonomy over marriage in wake of federal court decision
- Makes good on marriage promise, creating new obligation on State
- Includes the "T," which nixed bargain in Michigan
- Unprecedented emphasis on individual protections, not just Big Religion (see circled checks)
- Concrete measures to allay fears of being fired for "wrong" sexuality or views
- Deliberate decision to avoid forced resignations or firings of government workers

\*Adapted from Robin Fretwell Wilson, *Marriage of Necessity: Same-Sex Marriage and Religious Liberty Protections*, 64 Case Western Reserve Law Review 1161 (2014), *available at* [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2448344](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2448344)

\*\*Delaware-"No fine or penalty"; Vermont-Civil claim only

\*\*\*Connecticut, Minnesota, Maryland-If no public money; Utah- Recognition for "ecclesiastical purposes only." Light check indicates significant restriction on protection

\*\*\*\*As of 2012; Adapted from Eugene Volokh, Texas Review of Law & Politics; Utah-Includes religious expression; New York-Recreational activities; Connecticut- Rights protected by First Amendment; New Hampshire-Campaign contributions; others focused on voting and initiatives; light checks indicate narrower scope of protection

i SB297, lines 187-194

ii SB297, lines 195-198

iii SB297, lines 203-207; 238-242

iv SB297, lines 199-201

v SB297, lines 187-189

vi SB297, lines 76-78

vii SB297, lines 209-219

viii SB297, lines 235-242

ix SB296, lines 68; 814-828

x SB296, lines 693-699

xi SB296, lines 700-706