STATE OF MICHIGAN GRETCHEN WHITMER, Governor

MICHIGAN CIVIL RIGHTS COMMISSION

RESOLUTION

RESOLUTION IN SUPPORT OF REMOVAL OF ARTICLE 1, §25 OF THE STATE OF MICHIGAN CONSTITUTION

WHEREAS the Michigan Civil Rights Commission is a public body established under Article V, Section 29 of the Michigan constitution, which vests the commission with the power "to investigate alleged discrimination against any person because of religion, race, color or national origin in the enjoyment of the civil rights guaranteed by law and by [the] constitution, and to secure the equal protection of such civil rights without such discrimination"; and

WHEREAS the Michigan Constitution was amended to add Article 1, §25 prohibiting same-sex marriages and similar unions, via a voter initiative approved November 2, 2004, and made effective December 18, 2004; and

WHEREAS in June 2015 the United States Supreme Court in Obergefell v Hodges held that state bans on same-sex marriages were unconstitutional, in violation of the Equal Protection Clause of the 14th Amendment to the United States Constitution; and

WHEREAS marriage is a fundamental civil right that is, and should continue to be, available to all and the Supreme Court has recognized in Obergefell that, "No union is more profound than marriage, for it embodies the highest ideals of love, fidelity, devotion, sacrifice, and family. In forming a marital union, two people become something greater than once they were"; and

WHEREAS on March 16, 2023, the Michigan Elliott Larsen Civil Rights Act was amended to prohibit discrimination based on sexual orientation and gender identity effective February 13, 2024; and

WHEREAS the Michigan Law Revision Commission, an advisory body to the Michigan Legislature which is charged by statue, MCL 4.1403(1)(a), with "Examin[ing] the common law and statutes of this state and current judicial decisions for the purpose of discovering defects and anachronisms in the law and recommending needed reforms" issued a 2016 Special Report entitled "Same-Sex Marriage: A Review of Michigan's Constitutional Provisions and Statutes" and therein recommended removal of Article I, §25 from the State's Constitution in light of the U.S. Supreme Court's decision in Obergefell v Hodges; and

WHEREAS in his concurring opinion in Dobbs v. Jackson Women's Health Organization, 597 U.S. 215 (2022), Justice Clarence Thomas stated of the Court's substantive due process precedents, including Lawrence v Texas 539 U.S. 558 (2003), Griswold v Connecticut, 381 U.S. 479 (1965), and Obergefell, "Because any substantive due process decision is 'demonstrably erroneous,' we have a duty to 'correct the error' established in those precedents"; and

WHEREAS the comments offered in the dissenting opinion of Associate Justice Thomas in Obergefell could also be construed to weaken the impact and the protections in Loving v Virginia, 388 U.S. 1 (1967) and its strike down on the ban on interracial marriage; and

WHEREAS lawmakers in at least nine US states have introduced measures advocating for the Supreme Court to overturn Obergefell; and

WHEREAS Michigan House Resolution No. 28, currently before the Michigan House of Representatives, states that the sponsors "condemn the Obergefell decision" and that "Obergefell is an illegitimate overreach"; and

WHEREAS Michigan House Resolution No. 28's main impact serves to divide the people of the state rather than to enhance their lives and livelihoods; and

WHEREAS LGBTQ+ citizens enjoy the same rights and privileges as all Michiganders and should have the text of our laws not disparage them but accurately reflect the equal protection rights afforded them by the United States Constitution; and

WHEREAS this commission has previously stated that the lives of LGBTQ+ Michiganders have value, and they are deserving of support and continued protection from assaults on their dignity and humanity; and

WHEREAS the matrimonial preferences of consenting adults and the affections that naturally attend such unions are not the province of state sanction but rather adhere in the loftier embrace of the fundamental right to "Life, Liberty and the pursuit of Happiness" enshrined in and championed by our countries professed sacred testament to human dignity and universal respect for freedom of choice; and

THEREFORE, IT IS RESOLVED that the Michigan Civil Rights Commission supports legislative action, citizen initiatives or other legal efforts to remove the unconstitutional ban on same-sex marriages enshrined in Article I, §25 of the Michigan Constitution; and

IT IS FURTHER RESOLVED that the Michigan Civil Rights Commission urges the Michigan House of Representatives defeat Michigan House Resolution No. 28, which would present a hurdle to the removal of legally unconstitutional Article I, §25 from the State of Michigan's Constitution; and

IT IS FURTHER RESOLVED that this resolution be provided to the Speaker of the House, Speaker Pro Tempore, Majority and Minority Leaders of the Michigan House of Representatives, Senate President, President Pro Tempore, Majority and Minority Leaders of the Michigan Senate, and Governor Gretchen Whitmer.

MCRC
MICHIGAN CIVIL RIGHTS COMMISSION

Passed on Monday the 28th day of April 2025, by the **MICHIGAN CIVIL RIGHTS COMMISSION**

Commissioner David Worthams, Chair
Commissioner Gloria E. Lara, Secretary
Commissioner Zenna Faraj Elhasan
Commissioner Rosann Barker
Commissioner Luke Londo, Vice-Chair
Commissioner Portia Roberson
Commissioner Regina Gasco
Commissioner Richard White III