

## **The Pro-Family Law Center**

Of Abiding Truth Ministries  
6060 Sunrise Vista Drive, Ste 3050  
Citrus Heights, CA 95610  
(916) 676-1057

From: Scott Lively, Esq.

To: Pro-Family Legislators

Re: Sexual Orientation Clarification Statute

(For use in any jurisdiction in which SO has been added to anti-discrimination statutes).

### **Civilian “Don’t Ask, Don’t Tell” Act**

1. In [your jurisdiction] the term sexual orientation shall be defined as “a person’s state of mind regarding the object of his or her sexual desire or interest.”
2. In no case shall the term sexual orientation be interpreted to legitimize or protect sexual activity with children, animals or corpses, anal or oral sodomy, sado-masochism or torture, cross-dressing, sex change treatment or surgery or any sexual conduct.
3. This statute shall not be construed to prohibit any person from defining himself or herself as having a gay, lesbian, bisexual, transgendered or any other sexual orientation.
4. This statute shall preserve existing laws banning discrimination on the basis of sexual orientation but no such law shall prohibit discrimination on the basis of sexual conduct.
5. To preserve personal privacy, no person shall be subject to being questioned about his or her sexual orientation as a condition of employment, housing or public accommodation unless that person has made a public declaration about his or her sexual orientation.
  - a. Any inquiry regarding a person’s sexual orientation under this section must be narrowly limited to those questions which will allow the inquirer to determine if the declarant engages in conduct that could threaten the health and safety of the inquirer or others toward whom the inquirer may have a legal duty.
  - b. For the purpose of this statute, an admission or finding regarding a person’s sexual orientation by any public entity shall be deemed a public declaration.
6. For the purpose of this statute, all sexual conduct carrying a greater risk to individual and/or public health and safety than that associated with monogamous heterosexual marriage shall be deemed unsafe.
7. This statute shall supercede all existing law.
8. This statute shall not change existing criminal law regarding sexual conduct.

Explanation: This statute would clarify the difference between orientation and conduct, preserving and strengthening protections for sexual orientation, but allowing society to protect itself from the consequences of harmful sexual conduct. For example, under this act a Day Care Center would regain the legal right to not hire a person who admits to a present sexual lifestyle that could spread disease to children.

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