



Written by [Jack Kenny](#) on July 13, 2011

“Gay Marriage” Controversy Continues in N.Y.

Claiming allegiance to a "higher law than the law of the land," a town clerk in western New York has submitted her resignation rather than issue marriage licenses to same-sex couples, as required by the Marriage Equality Act the New York Senate narrowly passed on June 24 at the urging of Governor Andrew Cuomo. The bill had previously won approval in the state Assembly and Cuomo immediately signed the bill into law, effective July 24. Laura Fotusky, the town clerk in Barker, notified town officials that she was resigning effective Friday, July 21, three days before the new law takes effect.



"I believe that there is a higher law than the law of the land. It is the law of God in the Bible. In Acts 5:29, it states, 'We ought to obey God rather than men,' " Fotusky said in a letter presented to Barker Town board on July 11. "The Bible clearly teaches that God created marriage between male and female as a divine gift that preserves families and cultures. Since I love and follow Him, I cannot put my signature on something that is against God." Fotusky wrote that she would be "compromising my moral conscience if I participated in the licensing procedure." The letter has been circulated to the media by New Yorkers for Constitutional Freedom, a conservative non-profit Christian group that has also posted the letter on its web site. <http://www.nycf.info/> The posting notes that the legislation includes a conscience clause that exempts clergy from having to perform same-sex marriages or churches to host "gay" weddings, a protection that already exists under the freedom of religion guarantee of the First Amendment to the U.S. Constitution. The exemptions in the New York law do not extend, however, to people and businesses not affiliated with churches or religious organizations.



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"For licensed Christian counselors, not directly affiliated with a church, a day may come when the state may refuse licensure to those who practice reparative or ex-gay therapy," the group warns. "Wedding photographers and caterers will similarly find no protection. Refuse to photograph or serve a gay nuptial and people with strong convictions concerning the authentic definition of marriage will find themselves vulnerable to a lawsuit."

A New York disc jockey has said he will refuse to play music at wedding receptions for same-sex couples. Clifton McLaughlin, president of DJ Enterprises in the Bronx told the [New York Times](#) in an interview that no same-sex couple has yet requested his services, but he is prepared to turn down any such request that might come his way. City and town clerks who have moral or religious convictions against same-sex marriage are in a more precarious position, however, since they are government officials. While Fatusky is, according to New Yorkers for Constitutional Freedoms, the first town clerk to resign over the issue, there have been signs of widespread reluctance on the part of clerks elsewhere in the state to follow the new law. In Nassau County on Long Island, District Attorney Kathleen Rice sent a letter to clerks last week warning of prosecution if they refuse to issue marriage licenses to same-sex couples.

Asked on Tuesday about Fatusky's resignation, Governor Cuomo said he agreed that if a town or city clerk's conscience won't permit following the new law, the official should resign.

"The law is the law; when you enforce the laws of the state, you don't get to pick and choose," he said "If you can't enforce the law, then you shouldn't be in that position."

Opponents of same-sex marriage are planning rallies in New York City as well as Albany, Buffalo, and Rochester on July 24, the day the new marriage law goes into effect. The National Organization for Marriage has announced the goal of raising \$2 million for an advertising campaign in the 2012 elections, targeting for defeat seven senators the organization considers pivotal in passing the legislation. NOM will also be pushing for a constitutional amendment to overturn the new law and reaffirm marriage as a union between man and woman

"The people of New York want to vote on this issue," NOM President Brian S. Brown told the *Times*. "They don't believe the process was either transparent or fair, and it basically stole the right of the people of New York to vote."

Getting a constitutional amendment on the ballot without the support of the Legislature would be a difficult process and The New York Constitution makes no provision for referendum or initiative.

Organized opposition to the Marriage Equality Act came from a wide variety of both secular and religious organizations, including the Catholic Church, and some church leaders have continued to register their displeasure with the legislators who supported the bill. In the Roman Catholic Diocese of Brooklyn, Bishop Nicholas A. DiMarzio has instructed Catholic schools and parishes not to invite state lawmakers to speak or be present at any ceremonies. Our Lady of Mount Carmel parish in Williamsburg has already rejected a \$50 donation from Assemblyman Joseph R. Lentol, a Democrat who helped pass the legislation. Archbishop of New York Timothy Dolan commented on the passage of the law on his blog of July 7 as follows:

Almost two weeks ago — hauntingly, on the Feast of the Birth of John the Baptist, whom King Herod would behead because the saint dared to defend the God-given truth about marriage — our state sadly attempted a re-definition of marriage.

Describing the unsuccessful effort to stop the bill by Catholics and others in an ecumenical and



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interfaith effort, the bishop suggested the setback would be temporary. "We have been bloodied, and bruised, and, yes, for the moment, we have been defeated," he wrote. "But, we're used to that. So was the Founder of our Church."



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