



STATE OF NEW HAMPSHIRE
OFFICE OF THE GOVERNOR

CHRISTOPHER T. SUNUNU
Governor

March 9, 2020

The Honorable Steven J. Shurtleff
Speaker of the House
State House, Room 311
107 North Main Street
Concord, NH 03301

The Honorable Donna M. Soucy
President of the Senate
State House, Room 302
107 North Main Street
Concord, NH 03301

Dear Speaker Shurtleff and President Soucy:

Over the past three years, my administration has undertaken significant efforts to make New Hampshire a more welcoming and inclusive state for individuals of all backgrounds. These efforts have included the establishment of the State's first Civil Rights Unit within the Department of Justice, and the creation of the Governor's Advisory Council on Diversity and Inclusion through Executive Order 2017-09. We have also worked hand in hand with legislators of both parties to pass multiple pieces of legislation to prohibit discrimination and eliminate barriers to inclusion.

In my continuing efforts to identify opportunities to strengthen New Hampshire's reputation as an open and welcoming state, a troubling shortcoming relative to the requirements for obtaining a marriage license has been brought to my attention. A review of RSA 5-C:41 (Marriage Registration Forms and Procedures) indicates that New Hampshire law, specifically RSA 5-C:41, III appears to require prospective married couples to provide their race and ancestry in order to obtain a marriage license. It reads as follows:

III. The clerk of the town or city shall complete the following statistical and legal information on the marriage application worksheet for both the bride and groom with **information supplied by the bride and groom**: the number which represents of the currently intended marriage; if previously married, whether a civil annulment occurred or the marriage ended by death or divorce; the date of civil annulment or that the last marriage ended; **their race and ancestry**; their level of education; any waivers presented by the groom or the bride, either for time or age pursuant to RSA 457:4 through RSA 457:9 or RSA 457:26 and RSA 457:27; whether proof of age of the bride and groom was demonstrated using identification with photograph; if applicable, the divorce decree; and, if applicable, the death record of the former spouse.

We are one of only eight states to impose such an outdated requirement, and a similar requirement in Virginia was recently determined by a Virginia federal court to be an

unconstitutional burden on the fundamental right to marry. Importantly, the court found the requirement to be unconstitutional even if some clerks do not ask for or require the information.

House Bill 1644 is a bill that aims to remove the collection of race data on marriage licenses, birth certificates, death certificates, and other government forms. It will be on the floor of the House this week with a recommendation of Interim Study due to concerns related to federal reporting requirements and funding. Although many of these concerns have merit and require further study, there is an opportunity to move forward in a way that does not expose the state to risk.

Section 3 of the bill deals with the statutory language in RSA 5-C41, III that purports to require individuals to provide their race and ancestry in order to obtain a marriage license. It is imperative that New Hampshire take immediate action to repeal this language. New Hampshire has been a leader on issues of diversity and inclusion for many years, and we should not remain one of only a few states to impose a requirement that is rooted in misguided and discriminatory views on race and marriage. In addition, I have been assured by the Department of Health and Human Services that Section 3 of the bill would not expose the state to the potentially severe funding consequences that the other components could. Further, failure to take action may expose the State to litigation.

I invite you to join me in this effort to chart a path forward for this legislation. Together, we can continue our work to make New Hampshire a welcoming and inclusive place for people of all backgrounds.

Sincerely,



Christopher T. Sununu
Governor