SE-05 · WORKING DRAFT

Conscience to the Church; Obligation to the State

Marriage as incorporation

Working draft · November 2026 · S. Harrison Knudson, J.D.

The wrong fight

For thirty years the American argument over marriage has been about who may enter the category. The prior question went unasked: why does the state keep the category at all? Taxes, benefits, housing, inheritance and support turn on one status, when the state could look directly at who has undertaken what and who depends on whom.

This is not an argument against marriage. Churches, synagogues, mosques and families will go on marrying people. The word belongs to whoever uses it.

Finish the unbundling

The law has been taking the bundle apart for nearly two centuries. The Married Women's Property Acts ended coverture. Levy v. Louisiana attached children's claims to children. Hospital visitation follows the patient's designation, and HIPAA gives a spouse no special right. Each time, the state kept the protection and changed what triggered it — Maine's movement from status to contract, carried out inside marriage itself.

Two steps

First, a religious ceremony should have no civil effect on its own. Alabama already made formation a filing in 2019. Second, the state should let people register the household they are actually forming: a joint-estate association, a term association with renewal, or a separate-estate association that organizes property and liability much as an LLC does. Civil marriage remains one available form.

Beneath every form sits a floor no agreement can waive: support for children, recognition of caregiving and lost earning capacity, full disclosure, and protection against coercion and abuse.

Function, not status

Why should someone who cared for a disabled partner for twenty years have fewer rights than someone married for two? Why may a state forbid an employer to consider marital status, and then tax by it? The church answers for the soul. The state answers for what people owe.

> The draft works through Obergefell and the Respect for Marriage Act, the three kinds of authority, taxation without marital status, five hard cases and a transition with grandfathering, and includes a fifty-state appendix.