

U. S. Department of Justice
Office of Legislative Affairs

May 14, 1996

May 13, 1996

MEMORANDUM

TO: Jack Quinn

FR: Walter Dellinger

We have done a new version of the Defense of Marriage letter that takes out any reference to the President's view of same sex marriage. The reference to the President's views may misleadingly give the impression he favors the federal bill, a matter we need not determine now.

Dear Mr. Chairman:

The Attorney General has referred your letter of May 9, 1996 to this office for a response. We appreciate your inviting the Department to send a representative to appear and testify on Wednesday, May 23 at a hearing before the Subcommittee on the Constitution concerning H.R. 3396, the Defense of Marriage Act. We understand that the date of the hearing has now been moved forward to May 15.

H.R. 3396 contains two principal provisions. One would essentially provide that no state would be required to give legal effect to a decision by another state to treat as a marriage a relationship between persons of the same sex. The other section would essentially provide that for purposes of federal laws and regulations, the term "marriage" includes only unions between one man and one woman and that the term "spouse" refers only to a person of the opposite sex who is a husband or a wife.

The Department of Justice believes that H.R. 3396 would be sustained as constitutional, and that there are no legal issues raised by H.R. 3396 that necessitate an appearance by a



U. S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

May 13, 1996

Andrew Fols
Assistant Attorney General

cc: The Honorable Charles T. Canady
Chairman
Subcommittee on the Constitution
The Honorable John Chafee, Jr.

The Honorable Henry J. Hyde
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

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Counsel's Office

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representative of the Department.

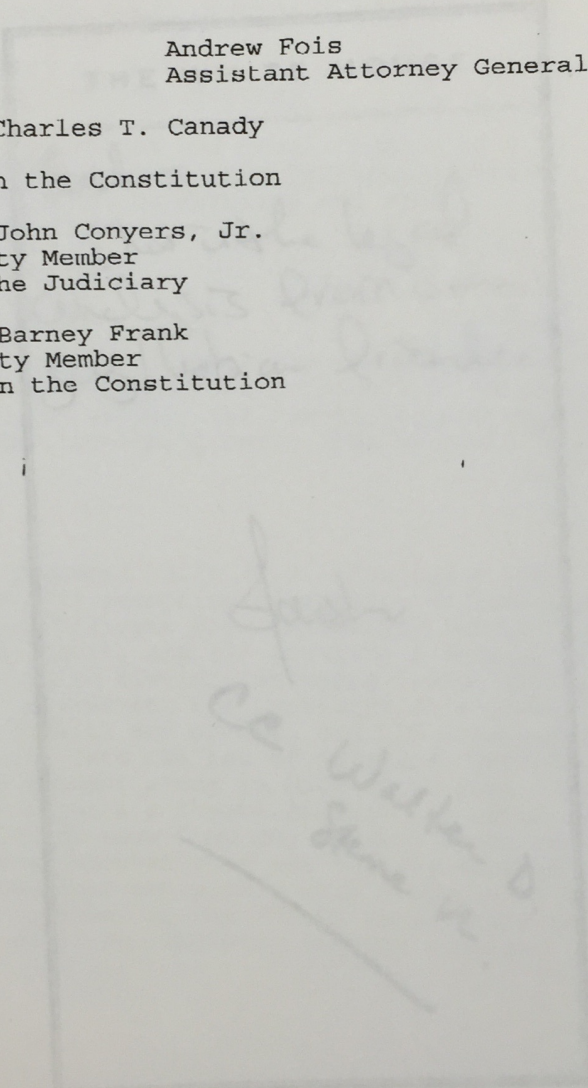
Sincerely,

Andrew Fois
Assistant Attorney General

cc: The Honorable Charles T. Canady
Chairman
Subcommittee on the Constitution

The Honorable John Conyers, Jr.
Ranking Minority Member
Committee on the Judiciary

The Honorable Barney Frank
Ranking Minority Member
Subcommittee on the Constitution



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MAY 29 1996

The Honorable Charles T. Canady
Chairman
Subcommittee on the Constitution
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I write in response to your letter of May 28 requesting updated information regarding the Administration's analysis of the constitutionality of H.R. 3396, the Defense of Marriage Act.

The Administration continues to believe that H.R. 3396 would be sustained as constitutional if challenged in court, and that it does not raise any legal issues that necessitate further comment by the Department. As stated by the President's spokesman Michael McCurry on Wednesday, May 22, the Supreme Court's ruling in Romer v. Evans does not affect the Department's analysis (that H.R. 3396 is constitutionally sustainable), and the President "would sign the bill if it was presented to him as currently written."

Please feel free to contact this office if you have further questions.

Sincerely,

Andrew Fois *for AF*
Assistant Attorney General

cc: The Honorable Henry Hyde
Chairman
Committee on the Judiciary

The Honorable John Conyers, Jr.
Ranking Minority Member
Committee on the Judiciary

The Honorable Barney Frank
Ranking Minority Member
Subcommittee on the Constitution