

Renee McGuinness, Vermont Family Alliance Policy Analyst
Supplemental Testimony following March 1, 2024, 9:05 AM

1. Vermont Family Alliance requests the Committee on Judiciary call upon a sitting or retired judge and a second independent Constitutional law expert to provide their opinions on the various versions of the amendment that have been proposed: language from 2019 and 2023; language inserted within Article 7 versus a stand-alone amendment; ‘religion’ included or excluded; Professor Teachout’s recommended amendment language, etc. There was much speculation on how a judge might interpret Proposition 4 during the March 1 Judiciary Committee meeting: testimony from judges and additional constitutional law experts might provide concrete answers. Judge Thomas Zonay, Chief Superior Judge, Vermont Judiciary, was called to testify on H.89 (Act 14) in 2023, found here: <https://legislature.vermont.gov/bill/status/2024/H.89>.
2. As I pointed out in [my testimony on February 20, 2024](#) page 4/8, Professor Teachout, Constitutional law expert from Vermont Law School, missed a critical sentence underlined below in Baker v. Vermont that indicates the court’s opinion on the historical intent that Common Protections refer to inherent rights and prosperity based upon work and merit, not government programs:

The Vermont Constitution would ensure that the law uniformly afforded every Vermonter its benefit, protection, and security so that social and political preeminence would reflect differences of capacity, disposition, and virtue, rather than governmental favor and privilege. (FN9)

source: <https://law.justia.com/cases/vermont/supreme-court/1999/98-032op.html>

3. Vermont Family Alliance requests you also seek the opinion of sitting or retired State judges and an independent expert on Constitutional law on whether the statement, “This proposed amendment is not intended to limit the scope of rights and protections afforded by Article 7 or any other provision in the Vermont Constitution” in the Purpose section (a) will be considered by judges regarding legislative intent, or whether this language should be express in the amendment in order for a judge to consider it in court decisions.

4. There was some discussion on whether to include an express statement of intent, as per the 2019 version, “nothing in this article shall be interpreted or applied to prevent the adoption or implementation of measures intended to provide equality of treatment and opportunity for members of groups that have historically been subject to discrimination.”

This statement within the amendment itself would help indicate your legislative intent to voters. Voters have a right to know your legislative intent prior to voting on Prop 4 under Article 6, Chapter 1 of the [Constitution of the State of Vermont](#).

5. Laura Wisniewski’s [public comment](#): regarding her concerns of ‘White Nationalism’ and ‘Christian Nationalism’: our founders were Deists who believed our unalienable rights come from our Creator; that we have rights under Natural Law that cannot be given and taken away by the State. Our Founders, however, also ensured that the State could not sanction a church under the [First Amendment](#). – the State cannot proclaim this nation to be Christian or any other religion, which is in alignment with the Christian belief of free will - no one can force anyone to believe in Jesus as our Savior, not even God Himself; and also under the First Amendment, no one’s right to practice their religion can be abridged. “Separation of church and state” means that the State is not to be involved in the affairs of the church. It does NOT mean the Christian worldview is to be censored from public policy discussions. Wisniewski’s fear of how she, as Jewish person, and other persons of religious minority will stand if 45% of Americans who believe the U.S. should be a Christian country “have their way” according to a [Pew Research survey](#) that she cited, is based upon media fear-mongering. Wisniewski apparently did not comprehend the distinction made in the survey itself that, *“For instance, many supporters of Christian nationhood define the concept in broad terms, as the idea that the country is guided by Christian values. Those who say the United States should not be a Christian nation, on the other hand, are much more inclined to define a Christian nation as one where the laws explicitly enshrine religious teachings.”* [emphasis mine] It appears Wisniewski wants religion protected – but only for minority religious groups, and that she has a particular distain for – or irrational fear of - the Christian worldview: this is discrimination.

6. Senator Vyhovsky assumed there is “robust” data for sex discrimination against women and asked Cary Brown, Executive Director of the Vermont Commission on Women, if there is any data on the ‘intersectionality’ of sex discrimination with other forms of discrimination @44:15 https://www.youtube.com/watch?v=0uoco_aBweQ Vyhovsky, “I imagine you have a pretty robust set of data showing right now women are not always entirely treated equally, and I’m wondering over time if you’ve started to compile the data on intersections of women [combined with other State-sanctioned ‘marginalized’ groups] . . .” Brown stated that unfortunately they do not have the data they would like to have on intersectionality discrimination. Vermont Family Alliance requests that Cary Brown submit existing data on sex discrimination and emerging data on ‘intersectionality’ discrimination against women to be uploaded to witness testimony. Vermont Family Alliance has witnessed over the past two years a standard response from expert witnesses called to testify before committees of not having the data that a legislator requests or assumes exists. Constituents are entitled under Article 6 Chapter 1 of the Vermont Constitution to see the data upon which legislators base their decisions.