

Religious beliefs create conflict over gay marriage for NC officials

Six magistrates have resigned since gay marriage was legalized.

BY [KATE GRISE](#) | PUBLISHED 11/11/14 12:19AM

Since a federal judge [struck down North Carolina's gay marriage ban in October](#), there has been an ongoing struggle among state officials about granting same-sex marriage licenses.

Six county magistrates have resigned from their positions, saying they can't grant gay marriage licenses due to religious convictions.

N.C. Senate President Pro Tempore Phil Berger said Oct. 21 that [he would support a bill in the legislature allowing magistrates and other state officials to refrain from granting same-sex licenses for religious reasons](#).

Berger also wrote a letter Oct. 24 to John W. Smith, director of the N.C. Administrative Office of the Courts, asking him to review the law and consider these exemptions. But Smith said in a letter Wednesday that he was concerned that the publicity of Berger's comments might have "misled magistrates as to their legal rights."

He said in the letter that he sees no legal reason magistrates could claim a religious exemption from performing same-sex marriages.

Tami Fitzgerald, executive director of the N.C. Values Coalition, said she disagrees.

"The First Amendment and our own N.C. Constitution both guarantee that all people in North Carolina have the right to freely exercise their religious beliefs and they don't have to keep those beliefs in the closet," she said.

Michael Crowell, a UNC School of Government professor, said it is important to remember that a magistrate takes the same oath as a judge to perform all duties of the office.

"I think that creates an obligation to marry any couple that comes before the magistrate," he said. "So first of all, it's one of the duties of the office, and if assigned to that particular duty, I think they have an obligation to do it."

He also said there is no civil law or court case that could provide a precedent for refusing to perform a civil same-sex marriage.

The magistrates are employees of the court and are performing only civil marriages, which Chris Sgro, executive director of Equality N.C., said is an important distinction to make.

"This is not an issue that is related to religious freedom; it's just about doing your job," he said.

“There’s no church that is conducting these marriages.”

But Fitzgerald said her organization believes that a memo sent from the administrative office to county courts after same-sex marriage was legalized incorrectly interpreted the law. She said she thinks magistrates have a right to sue the state for violating their religious freedom.

Still, Crowell said it is unlikely the courts will have an opportunity to rule on the issue.

“What’s surprising is that although the issue is new to North Carolina, it’s not new to other parts of the country,” he said.

Crowell said he doesn’t think it will be a long-term issue.

“Even those magistrates who may be uneasy or reluctant about it will see that the ceremonies have become even more common. They’ll probably see people they know getting married. Folks will get used to it.”

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This online timeline was compiled by Assistant Online Editor Kelsey Weekman.

January 1, 1973

First statute banning same-sex marriage

Maryland is the first state to pass a statute banning same-sex marriage.



[First statute banning same-sex marriage](#)