



## SOCIAL SECURITY AND MARRIAGE EQUALITY (SAME) ACT OF 2014

*Sponsored by Sen. Patty Murray and Sen. Mark Udall*

In 2008, Midori Fujii and Kristie Kay Brittain were married in California. Three years later, living in Indiana, Midori Fujii lost her wife to ovarian cancer. Like so many other committed spouses across the country, Midori served as the primary caregiver for her ailing wife until the very end. She supported Kristie emotionally and financially, setting aside concerns about her career and long-term financial stability to fulfill her commitment to the woman she loved. However, because the state where she lives does not recognize the legitimacy of her marriage – she will be ineligible to receive Kristie’s Social Security benefits in retirement. Now, as Midori grieves the loss of her wife, she is faced with a difficult reality.

### BACKGROUND

In its 2013 decision in *United States v. Windsor*, the U.S. Supreme Court overturned Section 3 of the *Defense of Marriage Act* and found that the federal government may not, through its statutes, create two classes of marriage. To implement the ruling, the U.S. Attorney General issued a memorandum to his Department on February 10, 2014, regarding Department policy on treatment of same-sex married couples. In this memorandum, the Attorney General repeatedly relies on a “place of celebration” standard in determining the validity of marriages for purposes of Department of Justice policies and procedures. Since then, the Administration has made significant strides toward equal treatment of all marriages under federal law.

Eligibility for spousal benefits provided under the *Social Security Act*, however, is determined by a place of residence standard. This standard has resulted in applications for Social Security benefits for legally married same-sex spouses living in states that do not recognize same-sex marriage being placed on hold. In light of the Supreme Court’s ruling, the Social Security Administration should be afforded the same standard in order to conform to *Windsor* and avoid further discrimination against legally married same-sex couples. While the Social Security Administration has the ability to resolve this inconsistency through administrative action, the *Social Security and Marriage Equality (SAME) Act of 2014* provides a roadmap to ensure equal access.

Equality under our federal laws should not end at state lines. The *SAME Act* ensures that all same-sex spouses receive equal treatment under the *Social Security Act* when applying for Social Security benefits, regardless of where they live.

### LEGISLATIVE SUMMARY

The *SAME Act* would amend the *Social Security Act* to:

- Confer Spousal Benefits to any individual legally married in United States.
- Eliminate the requirement that the spouse reside in a state that recognizes same-sex marriage in order to be eligible for Social Security benefits.
- Ensure spouses legally married outside the United States are eligible for Social Security benefits.