

SENATE BILL 2566

By Kelsey

AN ACT to amend Tennessee Code Annotated, Title 4 and Title 36, relative to religious freedom.

WHEREAS, protecting the free exercise of religion is a government interest of the highest order; and

WHEREAS, laws that protect the free exercise of religious beliefs regarding marriage will encourage private citizens and institutions to demonstrate tolerance of others' beliefs; and

WHEREAS, the President of the United States stated in response to the United States Supreme Court's 2013 decision regarding the Defense of Marriage Act, "Americans hold a wide range of views" on the issue of same-sex marriage, and "maintaining our Nation's commitment to religious freedom" is "vital"; and

WHEREAS, this act shall be construed in favor of a broad protection of religious exercise, to the maximum extent permitted by its terms and by the Constitution of Tennessee and the Constitution of the United States of America; and

WHEREAS, this act shall not authorize any governmental discrimination or permit the assignment of any penalty against any individual or entity based upon its performance, facilitation, or support of any celebrations of same-gender unions or relationships; and

WHEREAS, this act shall not authorize or allow a place of public accommodation to discriminate solely on the basis of sexual orientation or identity, unrelated to a marriage, domestic partnership, civil union, or similar arrangement; and

WHEREAS, this act shall not allow any individual or entity, acting under color of state law to perform any marriage prohibited by state law, including, but not limited to, laws relating to bigamy, incest, consanguinity, and marriageable age; now, therefore:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 4, Chapter 1, Part 4, is amended by adding the following language as new sections:

4-1-413.

(a) For purposes of this section:

(1) "Local government" means any county, municipality, city, or other political subdivision of this state;

(2) "Marriage not recognized by this state" means any marriage that does not meet the requirements of Article XI, § 18 of the Constitution of Tennessee, title 36, chapter 3, or title 39, chapter 13, part 3;

(3) "Person" means any natural person, partnership, trust, estate, corporation, association, joint venture, joint stock company, or other organization excluding employees of this state or local government; and

(4) "Religious or denominational organization" means an entity, regardless of non-profit or for-profit status, and regardless of whether its activities are deemed wholly or partly religious, that is:

(A) A religious corporation, association, educational institution, or society;

(B) An entity operated, supervised, controlled by, or connected with a religious corporation, association, educational institution, or society; or

(C) A privately held business operating consistently with its sincerely held religious beliefs.

(b)

(1) No person or religious or denominational organization shall be required to perform any of the following actions related to, or related to the celebration of, any civil union, domestic partnership, or marriage not recognized

by this state, if doing so would violate the sincerely held religious beliefs of the person or religious or denominational organization regarding sex or gender:

(A) Provide any services, accommodations, advantages, facilities, goods, or privileges;

(B) Provide counseling, adoption, foster care, or other social services;

(C) Provide employment or employment benefits; or

(D) Solemnize a civil union, domestic partnership, or marriage not recognized by this state.

(2) If a person is employed by another person and the employer requires performance of an action under subdivision (b)(1) as a condition of employment, then subdivision (b)(1) shall not apply to the employee.

4-1-414.

(a) A refusal under § 4-1-413 by a person or a religious or denominational organization shall not give rise to:

(1) A civil claim or cause of action under state or local law challenging the refusal; or

(2) An action by the state or a local government to penalize, withhold benefits from, or discriminate against any person or religious or denominational organization.

(b) If this state, any local government, or any person asserts a claim or cause of action or takes adverse action against a person or a religious or denominational organization in violation of § 4-1-413, the person or religious or denominational organization shall be entitled to recover all reasonable attorneys' fees and costs.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end, the provisions of this act are declared to be severable.

SECTION 3. This act shall take effect July 1, 2014, the public welfare requiring it.