

114TH CONGRESS
1ST SESSION

S. 1598

To prevent discriminatory treatment of any person on the basis of views held with respect to marriage.

IN THE SENATE OF THE UNITED STATES

JUNE 17, 2015

Mr. LEE (for himself, Mr. VITTER, Mr. CRUZ, Mr. CRAPO, Mr. RUBIO, Mr. INHOFE, Mr. ROBERTS, Mr. ENZI, Mr. PERDUE, Mr. SESSIONS, Mr. DAINES, Mr. GRAHAM, Mr. HATCH, Mr. COTTON, Mr. RISCH, Mr. CASIDY, Mr. ROUNDS, Mr. WICKER, and Mr. SASSE) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To prevent discriminatory treatment of any person on the basis of views held with respect to marriage.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “First Amendment De-
5 fense Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Leading legal scholars concur that conflicts
2 between same-sex marriage and religious liberty are
3 real and should be legislatively addressed.

4 (2) As the President stated in response to the
5 decision of the Supreme Court on the Defense of
6 Marriage Act in 2013, “Americans hold a wide
7 range of views” on the issue of same-sex marriage,
8 and “maintaining our Nation’s commitment to reli-
9 gious freedom” is “vital”.

10 (3) Nevertheless, in 2015, when asked whether
11 a religious school could lose its tax-exempt status for
12 opposing same-sex marriage, the Solicitor General of
13 the United States represented to the United States
14 Supreme Court that “[i]t’s certainly going to be an
15 issue”.

16 (4) Protecting religious freedom from Govern-
17 ment intrusion is a Government interest of the high-
18 est order. Legislatively enacted measures advance
19 this interest by remedying, deterring, and preventing
20 Government interference with religious exercise in a
21 way that complements the protections mandated by
22 the First Amendment to the Constitution of the
23 United States.

24 (5) Laws that protect the free exercise of reli-
25 gious beliefs and moral convictions about marriage

1 will encourage private citizens and institutions to
2 demonstrate tolerance for those beliefs and convic-
3 tions and therefore contribute to a more respectful,
4 diverse, and peaceful society.

5 **SEC. 3. PROTECTION OF THE FREE EXERCISE OF RELI-**
6 **GIUS BELIEFS AND MORAL CONVICTIONS.**

7 (a) IN GENERAL.—Notwithstanding any other provi-
8 sion of law, the Federal Government shall not take any
9 discriminatory action against a person, wholly or partially
10 on the basis that such person believes or acts in accord-
11 ance with a religious belief or moral conviction that mar-
12 riage is or should be recognized as the union of one man
13 and one woman, or that sexual relations are properly re-
14 served to such a marriage.

15 (b) DISCRIMINATORY ACTION DEFINED.—As used in
16 subsection (a), a discriminatory action means any action
17 taken by the Federal Government to—

18 (1) alter in any way the Federal tax treatment
19 of, or cause any tax, penalty, or payment to be as-
20 sessed against, or deny, delay, or revoke an exemp-
21 tion from taxation under section 501(a) of the Inter-
22 nal Revenue Code of 1986 of, any person referred to
23 in subsection (a);

1 (2) disallow a deduction for Federal tax pur-
2 poses of any charitable contribution made to or by
3 such person;

4 (3) withhold, reduce, exclude, terminate, or oth-
5 erwise deny any Federal grant, contract, sub-
6 contract, cooperative agreement, loan, license, cer-
7 tification, accreditation, employment, or other simi-
8 lar position or status from or to such person;

9 (4) withhold, reduce, exclude, terminate, or oth-
10 erwise deny any benefit under a Federal benefit pro-
11 gram from or to such person; or

12 (5) otherwise discriminate against such person.

13 (c) ACCREDITATION; LICENSURE; CERTIFICATION.—

14 The Federal Government shall consider accredited, li-
15 censed, or certified for purposes of Federal law any person
16 that would be accredited, licensed, or certified, respec-
17 tively, for such purposes but for a determination against
18 such person wholly or partially on the basis that the per-
19 son believes or acts in accordance with a religious belief
20 or moral conviction that marriage is or should be recog-
21 nized as the union of one man and one woman, or that
22 sexual relations are properly reserved to such a marriage.

23 **SEC. 4. JUDICIAL RELIEF.**

24 (a) CAUSE OF ACTION.—A person may assert an ac-
25 tual or threatened violation of this Act as a claim or de-

1 fense in a judicial or administrative proceeding and obtain
2 compensatory damages, injunctive relief, declaratory re-
3 lief, or any other appropriate relief against the Federal
4 Government. Standing to assert a claim or defense under
5 this section shall be governed by the general rules of
6 standing under Article III of the Constitution.

7 (b) ADMINISTRATIVE REMEDIES NOT REQUIRED.—
8 Notwithstanding any other provision of law, an action
9 under this section may be commenced, and relief may be
10 granted, in a United States district court without regard
11 to whether the person commencing the action has sought
12 or exhausted available administrative remedies.

13 (c) ATTORNEYS' FEES.—Section 722(b) of the Re-
14 vised Statutes (42 U.S.C. 1988(b)) is amended by insert-
15 ing “the First Amendment Defense Act,” after “the Reli-
16 gious Land Use and Institutionalized Persons Act of
17 2000,”.

18 (d) AUTHORITY OF UNITED STATES TO ENFORCE
19 THIS ACT.—The Attorney General may bring an action
20 for injunctive or declaratory relief against an independent
21 establishment described in section 104(1) of title 5, United
22 States Code, or an officer or employee of that independent
23 establishment, to enforce compliance with this Act. Noth-
24 ing in this subsection shall be construed to deny, impair,
25 or otherwise affect any right or authority of the Attorney

1 General, the United States, or any agency, officer, or em-
2 ployee of the United States, acting under any law other
3 than this subsection, to institute or intervene in any pro-
4 ceeding.

5 **SEC. 5. RULES OF CONSTRUCTION.**

6 (a) BROAD CONSTRUCTION.—This Act shall be con-
7 strued in favor of a broad protection of free exercise of
8 religious beliefs and moral convictions, to the maximum
9 extent permitted by the terms of this Act and the Con-
10 stitution.

11 (b) NO PREEMPTION, REPEAL, OR NARROW CON-
12 STRUCTION.—Nothing in this Act shall be construed to
13 preempt State law, or repeal Federal law, that is equally
14 or more protective of free exercise of religious beliefs and
15 moral convictions. Nothing in this Act shall be construed
16 to narrow the meaning or application of any State or Fed-
17 eral law protecting free exercise of religious beliefs and
18 moral convictions. Nothing in this Act shall be construed
19 to prevent the Federal Government from providing, either
20 directly or through a person not seeking protection under
21 this Act, any benefit or service authorized under Federal
22 law.

23 (c) SEVERABILITY.—If any provision of this Act or
24 any application of such provision to any person or cir-
25 cumstance is held to be unconstitutional, the remainder

1 of this Act and the application of the provision to any
2 other person or circumstance shall not be affected.

3 **SEC. 6. DEFINITIONS.**

4 In this Act:

5 (1) **FEDERAL BENEFIT PROGRAM.**—The term
6 “Federal benefit program” has the meaning given
7 that term in section 552a of title 5, United States
8 Code.

9 (2) **FEDERAL GOVERNMENT.**—The term “Fed-
10 eral Government” includes each authority of any
11 branch of the Government of the United States.

12 (3) **PERSON.**—The term “person” means a per-
13 son as defined in section 1 of title 1, United States
14 Code, and includes any such person regardless of re-
15 ligious affiliation or lack thereof, and regardless of
16 for-profit or nonprofit status.

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