

SB0064



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB0064

Introduced 1/11/2017, by Sen. Kyle McCarter

SYNOPSIS AS INTRODUCED:

New Act

Creates the Religious Freedom Defense Act. Prohibits the State and local governments from taking discriminatory action against a person if the person believes or acts under a religious belief or moral conviction that marriage is only between one man and one woman, or that sexual relations are properly reserved to such a marriage. Allows a person to assert a claim or defense under the Act in a judicial or administrative proceeding for damages, injunctive relief, declaratory relief, or other appropriate relief against the State or local government. Also allows the Attorney General to seek enforcement of the Act. Defines "discriminatory action", "person", "State benefit program", and "State".

LRB100 03642 SLF 13647 b

A BILL FOR

1 AN ACT concerning religious freedom.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Religious Freedom Defense Act.

6 Section 3. Findings.

7 The General Assembly finds the following:

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

11 (2) There are as President Obama stated in response to
12 the decision of the United States Supreme Court on the
13 Defense of Marriage Act in 2013, "Americans hold a wide
14 range of views" on the issue of same-sex marriage, and
15 "maintaining our Nation's commitment to religious freedom"
16 is "vital".

17 (3) Nevertheless, in 2015, when asked whether a
18 religious school could lose its tax-exempt status for
19 opposing same-sex marriage, the Solicitor General of the
20 United States represented to the United States Supreme
21 Court that it is "certainly going to be an issue".

22 (4) Protecting religious freedom from government
23 intrusion is a government interest of the highest order.

1 Legislatively enacted measures advance this interest by
2 remedying, deterring, and preventing government
3 interference with religious exercise in a way that
4 complements the protections mandated by the First
5 Amendment to the Constitution of the United States and
6 Section 3 of Article I of the Illinois Constitution.

7 (5) Laws that protect the free exercise of religious
8 beliefs and moral convictions about marriage will
9 encourage private citizens and institutions to demonstrate
10 tolerance for those beliefs and convictions and therefore
11 contribute to a more respectful, diverse, and peaceful
12 society.

13 Section 5. Definitions. In this Act:

14 "Discriminatory action" means any action taken by the
15 State to:

16 (1) alter in any way the State tax treatment of, or
17 cause any tax, penalty, or payment to be assessed
18 against, or deny, delay, or revoke an exemption from
19 taxation under any State law or ordinance of, any
20 person;

21 (2) disallow a deduction for State tax purposes of
22 any charitable contribution made to or by any person;

23 (3) withhold, reduce, exclude, terminate, or
24 otherwise deny any State grant, contract, subcontract,
25 cooperative agreement, loan, license, certification,

1 accreditation, employment, or other similar position
2 or status from or to any person;

3 (4) withhold, reduce, exclude, terminate, or
4 otherwise deny any benefit under a State benefit
5 program from or to any person; or

6 (5) otherwise discriminate against any person.

7 "Person" includes corporations, companies,
8 associations, firms, partnerships, societies, and joint
9 stock companies, as well as individuals and includes any
10 person regardless of religious affiliation or lack
11 thereof, and regardless of for-profit or nonprofit status.

12 "State benefit program" means any program administered
13 or funded by the State, or by any agent on behalf of the
14 State, providing cash or in-kind assistance in the form of
15 payments, grants, loans, or loan guarantees to persons.

16 "State" means all officers, boards, commissions, and
17 agencies created by the Illinois Constitution, whether in
18 the executive, legislative, or judicial branch; all
19 officers, departments, boards, commissions, agencies,
20 institutions, authorities, universities, units of local
21 government, bodies politic and corporate of the State; or
22 administrative units or corporate outgrowths of the State
23 which are created by or under statute or ordinance.

24 Section 10. Protection of the free exercise of religious
25 beliefs and moral convictions.

1 (a) Notwithstanding any other provision of law, the State
2 shall not take any discriminatory action against a person,
3 wholly or partially on the basis that the person believes or
4 acts in accordance with a religious belief or moral conviction
5 that marriage is or should be recognized as the union of one
6 man and one woman, or that sexual relations are properly
7 reserved to such a marriage.

8 (b) The State shall consider accredited, licensed, or
9 certified for purposes of State law any person that would be
10 accredited, licensed, or certified, respectively, for these
11 purposes but for a determination against the person wholly or
12 partially on the basis that the person believes or acts in
13 accordance with a religious belief or moral conviction that
14 marriage is or should be recognized as the union of one man and
15 one woman, or that sexual relations are properly reserved to
16 such a marriage.

17 Section 15. Judicial relief.

18 (a) A person may assert an actual or threatened violation
19 of this Act as a claim or defense in a judicial or
20 administrative proceeding and obtain compensatory damages,
21 injunctive relief, declaratory relief, or any other
22 appropriate relief against the State.

23 (b) Notwithstanding any other provision of law, an action
24 under this Section may be commenced, and relief may be granted,
25 without regard to whether the person commencing the action has

1 sought or exhausted available administrative remedies.

2 (c) If the person's claim or defense prevails, the person
3 shall be awarded reasonable attorney's fees and costs.

4 (d) The Attorney General may bring an action for injunctive
5 or declaratory relief to enforce compliance with this Act.
6 Nothing in this subsection (d) shall be construed to deny,
7 impair, or otherwise affect any right or authority of the
8 Attorney General, the State, or any agency, officer, or
9 employee of the State, acting under any law other than this
10 subsection, to institute or intervene in any proceeding.

11 Section 20. Rules of construction.

12 (a) This Act shall be construed in favor of a broad
13 protection of free exercise of religious beliefs and moral
14 convictions, to the maximum extent permitted by the terms of
15 this Act and the federal and State Constitution.

16 (b) Nothing in this Act shall be construed to preempt State
17 law, that is equally or more protective of free exercise of
18 religious beliefs and moral convictions. Nothing in this Act
19 shall be construed to narrow the meaning or application of any
20 State or federal law protecting free exercise of religious
21 beliefs and moral convictions. Nothing in this Act shall be
22 construed to prevent the State from providing, either directly
23 or through a person not seeking protection under this Act, any
24 benefit or service authorized under State law.