

PASTOR PROTECTION ACT

Georgia Speaker David Ralston's wording for a Pastor Protection Act

"No minister of the gospel or cleric or religious practitioner ordained or authorized to solemnize marriages according to the usages of the denomination, when acting in his or her official religious capacity, shall be required to solemnize any marriage in violation of his or her right to free exercise of religion."

Texas Pastor Protection Act - SB 2065

SUBCHAPTER G. FREEDOM OF RELIGION WITH RESPECT TO RECOGNIZING OR PERFORMING CERTAIN MARRIAGES

Sec.A2.601.AA RIGHTS OF CERTAIN RELIGIOUS ORGANIZATIONS. A religious organization, an organization supervised or controlled by or in connection with a religious organization, an individual employed by a religious organization while acting in the scope of that employment, or a clergy or minister may not be required to solemnize any marriage or provide services, accommodations, facilities, goods, or privileges for a purpose related to the solemnization, formation, or celebration of any marriage if the action would cause the organization or individual to violate a sincerely held religious belief.

Sec.A2.602.AA DISCRIMINATION AGAINST RELIGIOUS ORGANIZATION

PROHIBITED. A refusal to provide services, accommodations, facilities, goods, or privileges under Section 2.601 is not the basis for a civil or criminal cause of action or any other action by this state or a political subdivision of this state to penalize or withhold benefits or privileges, including tax exemptions or governmental contracts, grants, or licenses, from any protected organization or individual.

ANALYSIS:

Speaker's proposed language does not actually accomplish what it suggests. Instead, the wording, along with the placement of commas, indicates that the government would be able to interfere within a denomination on how it deals with its pastors regarding marriage ceremonies.

A bill can protect pastors from losing the ability for their marriages to be recognized by the state, and in that sense protect them from being "forced" to solemnize same-sex "marriages." The government can threaten the tax exemption also, and so a bill to protect them and the churches from losing tax exemption due to their commitment to the Biblical model of marriage would also be in order.

The language should say "the government shall not force any pastor to perform same-sex marriage." There is absolutely no need for the government to interject itself into denominations. The current wording could lead to government judging denominational practices. It also could lead to government seeking to define "pastor" and "denomination."

It would be far better just to have a state-level First Amendment Defense Act (FADA) which protects all people. Pastors should first tend to their flocks. Their first concern, as good shepherds, would be to protect the religious liberty of their members first, their religious rights in the workplace and in all the religious ministries that their people may be involved in. With broad language such as this, then their own concerns as pastors and any issues related to their own church facilities and ministries would essentially be covered as well.

First Amendment Defense Act

1. What would the First Amendment Defense Act do?

The First Amendment Defense Act (H.R. 2802, S. 1598) would bar the federal government from discriminating against individuals and organizations based upon their religious beliefs or moral convictions that marriage is the union of one man and one woman or that sexual relations are properly reserved to such a marriage. The Act provides broad protections against adverse federal actions directed toward individuals and organizations that act on such beliefs.

2. What are some examples of how such individuals and organizations would be protected?

The Act would prohibit the federal government from denying or revoking a nonprofit entity's tax-exempt status. It would also prohibit the federal government from denying or excluding an individual or organization from a federal grant, contract, or employment. Indeed, the Act would bar any discrimination by the federal government against individuals or organizations based upon their religious belief or moral convictions that marriage is the union of one man and one woman or that sexual relations are properly reserved to such a marriage. The Act would also require the federal government to consider accredited any entity that failed to be accredited because of a religious belief or moral conviction that marriage is the union of one man and one woman or that sexual relations are properly reserved to such a marriage.

3. Who would the Act protect?

Importantly, the First Amendment Defense Act would protect a wide array of persons, including individuals and organizations – both for-profits and non-profits – regardless of whether or not they are religiously affiliated. Thus, business owners as well as faith communities would be protected.

4. Why is the First Amendment Defense Act needed?

The Act is needed because of growing intolerance toward religiously-minded individuals and organizations who want to live by their conviction that marriage is the union of one man and one woman or that sexual relations are properly reserved to such a marriage. There are increasing reports of individuals and organizations holding such beliefs being targeted for discrimination by state governments. This bill would prevent the federal government from engaging in similar discrimination.

5. What states have attempted this discrimination?

There are many examples. Recently, in Idaho, two ministers – a husband and wife – were threatened with criminal prosecution for not officiating at same-sex “weddings.” In California, a bill was introduced in the California legislature to strip the Boy Scouts of their state tax exemption based on the Scouts’ decision not to have adults who publically identify as homosexual serve as Scout leaders. The bill would also have revoked the tax-exempt status of other youth organizations that hold to an authentic sexual morality, including organizations affiliated with Catholic schools. In New Mexico, the State Supreme Court ruled that a husband and wife who own and operate a photography studio must act against their religious beliefs and take photographs of a same-sex commitment ceremony, if they want to do business in the state. One of the judges wrote that violating one’s religious beliefs was “the price of citizenship.”

In light of these and many other cases involving government action against those who believe that marriage is the union of one man and one woman or that sexual relations are properly reserved to such a marriage, it is vital that Congress act now to prevent similar intolerance at the federal level.

6. Does the First Amendment Defense Act have any effect on states or state law?

No. It only affects the federal government.