



May 7, 2019

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Representative Paul Gosar
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Representative David Schweikert
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Representative Greg Stanton
2944 N. 44th St., #150
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Re. The Do No Harm Act (2019)

Congressional Delegation of Arizona,

The Secular Coalition for Arizona writes to request that you sponsor and support the Do No Harm Act of 2019, sponsored in the Senate by Senator Kamala Harris (S. 593) and in the House by Representative Joseph Kennedy (H.R. 1450). Since our nation's founding, the freedom to practice your faith or non-faith as you desire has been a fundamental American value that provides a vital shield from discrimination and persecution, particularly for persons of minority faiths and non-believers. Unfortunately, employers, businesses and the courts are increasingly interpreting the Religious Freedom Restoration Act of 1993 (RFRA) in opposition to our shared values and using RFRA as a license to discriminate and impose their personal religious views on others. The Do No Harm Act restores the original intent of RFRA, protecting personal religious freedom from undue government influence, while also ensuring RFRA cannot be used by private entities to discriminate against or harm others. The Do No Harm Act makes clear that we do not need to sanction discrimination to protect the faith community. We ask that you join with your colleagues to sponsor and support this key piece of legislation.



RFRA was passed in 1993 after the Supreme Court rejected a claim under the First Amendment Free Exercise clause brought by two Native Americans fired from their jobs and denied unemployment benefits because they used peyote in religious ceremonies. With the passage of RFRA, Congress sought to protect persons of faith from the application of seemingly neutral laws that infringed on their freedom. Despite the good intentions of the original drafters, RFRA is currently being interpreted in ways that result in discrimination and harm to others:

- In *Burwell v. Hobby Lobby Stores, Inc.*, the Supreme Court held under RFRA, employers could refuse to provide birth control coverage guaranteed to their employees if the decision came from the corporation's sincerely held religious belief. This wrongheaded decision left women employees, even those who did not share the religious beliefs of Hobby Lobby's owners, without coverage until an accommodation was extended to them—an accommodation which was itself the subject of litigation under RFRA.
- In *Perez v. Paragon Contractors*, a federal court held under RFRA a member of the Fundamentalist Church of Jesus Christ of Latter-Day Saints could not be compelled to provide testimony in an investigation of child labor law violations. Church leaders were accused of removing children from school and forcing them to harvest pecans on a private ranch, without pay, for eight hours a day.
- In a 2017 memo titled "Federal Law Protections for Religious Liberty," the Department of Justice (DOJ) claimed RFRA "protects the exercise of religion by individuals and by corporations, companies, associations, firms, partnerships, societies, and joint stock companies." The memo asserts that under RFRA, "employers are entitled to employ only persons whose beliefs and conduct are consistent with the employers' religious precepts." If implemented by the courts, the DOJ guidance would open the door for widespread discrimination against minority faiths, non-believers, and the LGBTQ community.

The "Do No Harm" Act amends the Religious Freedom Restoration Act of 1993 (RFRA) to ensure that RFRA is no longer used to undermine important federal nondiscrimination laws, workplace laws regarding wages and compensation, laws protecting children's welfare, and laws ensuring access to healthcare. The "Do No Harm Act" strengthens the original intent of RFRA by making clear that RFRA should not be interpreted in a manner that: (1) authorizes an exemption "from generally applicable law that imposes the religious views, habits, or practices of one party upon another"; (2) subjects another party to "meaningful harm" or (3) authorizes "an exemption for one party that permits discrimination against others, including persons who do not belong to the religion or adhere to the beliefs of that party." Importantly, the Act limits RFRA applicability to only lawsuits in which the government is a party. Under the Act, RFRA could no longer be used in suits involving private parties, preventing, for example, an employer from citing RFRA as a defense to a discrimination lawsuit under Title VII of the Civil Rights Act. The Act amends RFRA so that the law is used strictly as a shield to protect free religious exercise, not as a sword that enables discrimination and endangers the rights of women, religious minorities, and the LGBTQ community.



The Do No Harm Act amends RFRA to ensure that it cannot be used to undermine federal law. The Act does not affirmatively create new, explicit protections, but it will ensure RFRA cannot be used to claim exemptions to laws that provide important protections against discrimination. The Act does not create any new affirmative requirement to provide or cover abortion, birth control, or any other type of health care. However, if Congress does pass laws that protect reproductive health care access, the Do No Harm Act will ensure that RFRA cannot be used to undermine those protections.

The Do No Harm Act is an effort to address specific ways that RFRA has been used to allow discrimination and deny rights to others. The Do No Harm Act draws the correct line between stopping improper government interference with religion and not allowing private actors to impose their religious views on others or to evade nondiscrimination and labor laws. We urge that you join with your colleagues to sponsor and support this important legislation.

Sincerely,

Zenaido Quintana
President
Secular Arizona