

June 28, 2017

Dear Representative:

We write to ask that you become an original co-sponsor of the Do No Harm Act, which Rep. Joseph P. Kennedy III and Rep. Robert C. “Bobby” Scott plan to introduce following the July 4 recess. This critical legislation would ensure that the Religious Freedom Restoration Act (RFRA) continues to protect religious freedom, but cannot be misused to harm others. The reintroduction of this bill is particularly timely and important, as President Trump’s May 4 executive order lays the groundwork for Attorney General Jeff Sessions to misuse RFRA and other protections for religious freedom to license taxpayer-funded discrimination.

Our organizations, including some that supported the passage of RFRA in 1993, have grown increasingly alarmed by the misuse of RFRA. For example, religiously affiliated social service providers that get government grants currently use RFRA to discriminate in employment with taxpayer funds. And, employers, including Hobby Lobby, have successfully invoked RFRA to deny their employees insurance coverage for contraception.

In August, a federal district court ruled that RFRA exempts a for-profit funeral home from the prohibition on sex discrimination in Title VII of the Civil Rights Act of 1964.¹ The funeral home fired a transgender female employee after she informed her employer that she would be transitioning to present full-time as a woman. The funeral home said her gender transition was “unacceptable.” In December, a federal district court sided with healthcare providers who used RFRA alongside other claims to challenge the Affordable Care Act’s prohibition on sex discrimination against transgender people and those seeking reproductive health care, halting enforcement of key ACA protections.²

The Do No Harm Act is simple: It would honor RFRA’s original intent by preserving its power to act as a shield for religious exercise while also clarifying that RFRA may not be used as a sword to harm others, as it has been in these cases.

RFRA could still be used to grant important accommodations for religious exercise for people of all faiths, including allowing a Sikh soldier to serve his country while wearing his articles of faith. But RFRA could not be used to exempt anyone—including individuals, corporations, and taxpayer-funded organizations—from laws designed to ensure basic civil rights and legal protections, such as laws prohibiting discrimination, requiring equal pay, protecting child welfare, and guaranteeing access to health care. In addition, RFRA could not be used to justify refusing to provide government-funded services under a contract or refusing to perform duties as a government employee. After all, we all deserve to be treated equally by our government.

The Do No Harm Act furthers true religious freedom. We are all free to believe—or not—as we see fit, and to practice our faith, but not in a way that causes harm to the legally protected rights of others, including undermining basic civil rights protections. This is enshrined in the First Amendment to the U.S. Constitution and is what those of us who originally supported RFRA intended and understood the law to accomplish. That is the basic tenet clarified and affirmed by this bill.

¹*EEOC v. R.G. & G.R. Funeral Homes, Inc.*, 201 F. Supp. 3d 837 (E.D. Mich. 2016).

² *Franciscan Alliance, Inc. v. Burwell*, No. 7:16-sv-00108-O, 2016 WL 7638311 (N.D. Tex. Dec. 31, 2016).

Accordingly, we urge you to become an original co-sponsor of the Do No Harm Act. To co-sponsor this important bill, please contact Abigail Burman (abigail.burman@mail.house.gov) with Rep. Kennedy or Véronique Pluviose (veronique.pluviose@mail.house.gov) with Rep. Scott by July 7.

Sincerely,

Abortion Care Network
Advocates for Youth
American Atheists
American Civil Liberties Union
American Humanist Association
American Psychological Association
Americans United for Separation of Church and State
Anti-Defamation League
Basic Rights Oregon
Bend the Arc Jewish Action
BiNet USA
Call To Action
Catholics for Choice
Center for American Progress
Center for Black Equity
Center for Inquiry
Center for Reproductive Rights
DignityUSA
Disciples Action Network
Disciples Center for Public Witness
Equal Partners in Faith
Equality California
Equality Federation
Family Equality Council
Feminist Majority
FORGE, Inc.
Friends Committee on National Legislation
GLBTQ Legal Advocates & Defenders (GLAD)
GLSEN
Hindu American Foundation
Human Rights Campaign
Institute for Science and Human Values
Interfaith Alliance
Lambda Legal
Legal Voice
LGBT Technology Partnership & Institute
Medical Students for Choice
Movement Advancement Project
NAACP
NARAL Pro-Choice America
National Asian Pacific American Women's Forum (NAPAWF)
National Association of Social Workers
National Black Justice Coalition
National Center for Lesbian Rights
National Center for Transgender Equality

National Council of Jewish Women
National Gay & Lesbian Chamber of Commerce
National LGBTQ Task Force Action Fund
National Partnership for Women and Families
National Women's Law Center
NEAT - National Equality Action Team
NMAC
Nursing Students for Sexual & Reproductive Health
Out & Equal Workplace Advocates
OutServe - Servicemembers Legal Defense Network (SLDN)
Physicians for Reproductive Health
Planned Parenthood Federation of America
Presbyterian Church (U.S.A.)
Pride at Work
Pro-Choice Resources
Religious Institute
Reproductive Health Access Project
Secular Coalition for America
Secular Policy Institute
Sexuality Information and Education Council of the U.S. (SIECUS)
The Trevor Project
T'ruah: The Rabbinic Call for Human Rights
Unitarian Universalist Association
Whitman-Walker Health
Women's Alliance for Theology, Ethics, and Ritual (WATER)