

Senate File 2211 - Introduced

SENATE FILE 2211

BY GUTH, SEGEBART,
SCHULTZ, JOHNSON,
ROZENBOOM, CHAPMAN, ZAUN,
KRAAYENBRINK, BEHN, and
FEENSTRA

A BILL FOR

1 An Act establishing the government nondiscrimination Act, and
2 including effective date provisions.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 216F.1 Title.

2 This chapter shall be known and may be cited as the
3 "*Government Nondiscrimination Act*".

4 Sec. 2. NEW SECTION. 216F.2 Definitions.

5 As used in this chapter, unless the context otherwise
6 requires:

7 1. "*Person*" means an individual or a corporation, company,
8 sole proprietorship, partnership, society, club, organization,
9 agency, association, church, religious corporation, religious
10 association, religious organization or agency, or religious
11 educational institution, or any employee, agent, or volunteer
12 of any of these entities.

13 2. "*State*" means any department, commission, board, agency,
14 or agent of the state; any political subdivision of the state
15 and any department, commission, board, agency, or agent of such
16 political subdivision; and any individual or entity acting
17 under color of state law.

18 3. "*State benefit program*" means any program administered
19 or funded by the state, or by any agent on behalf of the state,
20 providing cash, vouchers, payments, grants, contracts, loans,
21 or in-kind assistance.

22 Sec. 3. NEW SECTION. 216F.3 Protection of the free exercise
23 of religious beliefs and moral convictions.

24 1. Notwithstanding any law to the contrary, the state shall
25 not take any discriminatory or adverse action against a person,
26 wholly or partially on the basis that such person believes,
27 speaks, or acts in accordance with a sincerely held religious
28 belief or moral conviction that evidences any of the following:

29 a. Marriage is or should be recognized as the union of one
30 man and one woman.

31 b. Male and female refer to distinct and immutable
32 biological sexes that are determinable by anatomy and genetics
33 by the time of birth.

34 2. As used in subsection 1, a discriminatory or adverse
35 action means any action taken by the state against a person

1 described in subsection 1 that results in any of the following:

2 *a.* Altering in any way the tax treatment of, or causing
3 any tax, penalty, or payment to be assessed against, or
4 denying, delaying, revoking, or otherwise making unavailable
5 an exemption from taxation of such persons. To the extent
6 the state relies on the determination of a federal entity in
7 determining tax treatment of a person, the determination of
8 the federal entity shall be imputed to the state under this
9 paragraph.

10 *b.* Applying or causing to be applied, a fine, penalty, or
11 payment assessed against such person.

12 *c.* Disallowing, denying, or otherwise making unavailable a
13 deduction for state tax purposes of any charitable contribution
14 made to or by such person.

15 *d.* Withholding, reducing, excluding, terminating,
16 materially altering the terms or conditions of, or
17 otherwise making unavailable or denying any state grant,
18 contract, subcontract, cooperative agreement, guarantee,
19 loan, scholarship, diploma, grade, recognition, license,
20 certification, accreditation, employment, or other similar
21 benefit, position, or status from or to such person.

22 *e.* Withholding, reducing, excluding, terminating, or
23 otherwise making unavailable or denying any entitlement or
24 benefit under a state benefit program, including admission
25 to, equal treatment in, or eligibility for a degree from an
26 educational program, from or to such person.

27 *f.* Withholding, reducing, excluding, terminating,
28 or otherwise making unavailable or denying access or an
29 entitlement to state property, facilities, educational
30 institutions, speaking forums whether traditional, limited, or
31 nonpublic, or charitable fundraising campaigns from or to such
32 person.

33 *g.* Investigating or initiating an investigation, claim, or
34 administrative proceeding of such person, if that person would
35 not otherwise be subject to such action.

1 3. The state shall consider accredited, licensed, or
2 certified any person that would otherwise be accredited,
3 licensed, or certified, respectively, for any purposes under
4 state law but for a determination against such person wholly
5 or partially on the basis that the person believes, speaks, or
6 acts in accordance with a sincerely held religious belief or
7 moral conviction described in subsection 1.

8 Sec. 4. NEW SECTION. 216F.4 Cause of action and relief —
9 standing — attorney fees and costs — state enforcement.

10 1. A person may assert an actual or threatened violation
11 of this chapter as a claim or defense in any judicial or
12 administrative proceeding and obtain compensatory damages,
13 injunctive relief, declaratory relief, or any other appropriate
14 relief. Standing to assert a claim or defense under this
15 section shall be governed by the general rules of standing
16 under the laws of this state.

17 2. Notwithstanding any provision of law to the contrary, an
18 action under this section may be commenced, and relief may be
19 granted, in a court of the state without regard to whether the
20 person commencing the action has sought or exhausted available
21 administrative remedies.

22 3. In any action or proceeding to enforce a provision of
23 this chapter, a prevailing party who establishes a violation of
24 this chapter shall be entitled to recover reasonable attorney
25 fees and costs.

26 4. In addition to or in lieu of a person asserting a
27 violation of this chapter under subsection 1, the office of
28 the attorney general may also bring an action for injunctive
29 or declaratory relief against the state to enforce compliance
30 with this chapter. This subsection shall not be construed to
31 deny, impair, or otherwise affect any right or authority of the
32 office of the attorney general or the state, acting under any
33 law other than this subsection, to institute or intervene in
34 any proceeding.

35 Sec. 5. NEW SECTION. 216F.5 Rules of construction.

1 1. This chapter shall be construed in favor of a broad
2 protection of free exercise of religious beliefs and moral
3 convictions, to the maximum extent permitted by the terms of
4 this chapter and the Constitution of the State of Iowa and the
5 Constitution of the United States.

6 2. This chapter shall not be construed to prevent the state
7 from providing, either directly or through an individual or
8 entity not seeking protection under this chapter, any benefit
9 or service authorized under state law.

10 3. This chapter shall not be construed to authorize a
11 medical provider, hospital, clinic, hospice program, or health
12 care facility to deny visitation, to refuse to recognize
13 an attorney in fact under a durable power of attorney for
14 health care pursuant to chapter 144B, or to refuse to provide
15 life-saving or emergency medical treatment necessary to cure
16 an illness or disease.

17 4. The protection of free exercise of religious beliefs
18 and moral convictions afforded by this chapter is in addition
19 to the protections provided under federal law, state law, and
20 the Constitution of the State of Iowa and the Constitution of
21 the United States. This chapter shall not be construed to
22 preempt or repeal any state or local law that is equally or
23 more protective of free exercise of religious beliefs or moral
24 convictions, and this chapter shall not be construed to narrow
25 the meaning or application of any state or local law protecting
26 free exercise of religious beliefs or moral convictions.

27 Sec. 6. NEW SECTION. 216F.6 Severability.

28 If any provision of this chapter or the application
29 thereof to any person or circumstances is held invalid, the
30 invalidity shall not affect other provisions or applications
31 of this chapter which can be given effect without the invalid
32 provisions or application and, to this end, the provisions of
33 this chapter are severable.

34 Sec. 7. EFFECTIVE DATE. This Act takes effect thirty days
35 after enactment.

1

EXPLANATION

2

The inclusion of this explanation does not constitute agreement with
3 the explanation's substance by the members of the general assembly.

3

4 This bill establishes the "Government Nondiscrimination
5 Act" and provides definitions. The bill provides that
6 notwithstanding any law to the contrary, the state shall not
7 take any discriminatory or adverse action against a person,
8 wholly or partially on the basis that such person believes,
9 speaks, or acts in accordance with a sincerely held religious
10 belief or moral conviction that evidences that marriage is or
11 should be recognized as the union of one man and one woman; or
12 that male and female refer to distinct and immutable biological
13 sexes that are determinable by anatomy and genetics by the time
14 of birth.

15 The bill specifies what a discriminatory or adverse
16 action means when taken by the state against such a person.
17 Discriminatory or adverse actions include altering in any
18 way the tax treatment of, or causing any tax, penalty,
19 or payment to be assessed against, or denying, delaying,
20 revoking, or otherwise making unavailable an exemption
21 from taxation of such persons and provides for imputing
22 federal determinations of tax treatment of a person when the
23 state relies on such federal determinations; applying or
24 causing to be applied, a fine, penalty, or payment assessed
25 against such person; disallowing, denying, or otherwise
26 making unavailable a deduction for state tax purposes of any
27 charitable contribution made to or by such person; withholding,
28 reducing, excluding, terminating, materially altering the
29 terms or conditions of, or otherwise making unavailable or
30 denying any state grant, contract, subcontract, cooperative
31 agreement, guarantee, loan, scholarship, diploma, grade,
32 recognition, license, certification, accreditation, employment,
33 or other similar benefit, position, or status from or to such
34 person; withholding, reducing, excluding, terminating, or
35 otherwise making unavailable or denying any entitlement or

1 benefit under a state benefit program as defined by the bill,
2 including admission to, equal treatment in, or eligibility for
3 a degree from an educational program, from or to such person;
4 withholding, reducing, excluding, terminating, or otherwise
5 making unavailable or denying access or an entitlement to state
6 property, facilities, educational institutions, speaking forums
7 whether traditional, limited, or nonpublic, or charitable
8 fundraising campaigns from or to such person; and investigating
9 or initiating an investigation, claim, or administrative
10 proceeding of such person, if that person would not otherwise
11 be subject to such action. Under the bill, the state is
12 to consider accredited, licensed, or certified any person
13 that would otherwise be accredited, licensed, or certified,
14 respectively, for any purposes under state law but for a
15 determination against such person wholly or partially on the
16 basis that the person believes, speaks, or acts in accordance
17 with a sincerely held religious belief or moral conviction as
18 described in the bill.

19 The bill provides that a person may assert an actual or
20 threatened violation of the bill as a cause of action in any
21 judicial or administrative proceeding and obtain compensatory
22 damages, injunctive relief, declaratory relief, or any other
23 appropriate relief. Standing to assert a claim or defense
24 under the bill is governed by the general rules of standing
25 under the laws of the state. Notwithstanding any provision of
26 law to the contrary, an action under the bill may be commenced,
27 and relief may be granted, in a court of the state without
28 regard to whether the person commencing the action has sought
29 or exhausted available administrative remedies. A prevailing
30 party in an action under the new Code chapter who establishes
31 a violation of the new Code chapter is entitled to recover
32 reasonable attorney fees and costs. The office of the attorney
33 general may also bring an action for injunctive or declaratory
34 relief against the state to enforce compliance with the new
35 Code chapter. The bill is not to be construed to deny, impair,

1 or otherwise affect any right or authority of the office of the
2 attorney general or the state, acting under any law other than
3 the bill, to institute or intervene in any proceeding.

4 The bill is to be construed in favor of a broad protection
5 of free exercise of religious beliefs and moral convictions,
6 to the maximum extent permitted by the terms of the bill and
7 the Constitutions of the State of Iowa and of the United
8 States. The bill is not to be construed to prevent the state
9 from providing any benefit or service authorized under state
10 law. The bill is also not to be construed to authorize a
11 medical provider, hospital, clinic, hospice program, or health
12 care facility to deny visitation, to refuse to recognize
13 an attorney in fact under a durable power of attorney for
14 health care pursuant to Code chapter 144B, or to refuse to
15 provide life-saving or emergency medical treatment necessary
16 to cure illness or disease. The protection of free exercise
17 of religious beliefs and moral convictions afforded by the
18 bill is in addition to the protections provided under federal
19 law, state law, and the Constitutions of the State of Iowa
20 and of the United States, and the bill is not to be construed
21 to preempt or repeal any state or local law that is equally
22 or more protective of free exercise of religious beliefs or
23 moral convictions or to narrow the meaning or application of
24 any state or local law protecting free exercise of religious
25 beliefs or moral convictions.

26 The provisions of the bill are severable. The bill takes
27 effect 30 days after enactment.