

House File 2273 - Introduced

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A BILL FOR

1 An Act establishing the protecting freedom of conscience from
2 government discrimination Act, and including effective date
3 provisions.

4 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 "*Protecting Freedom of Conscience from Government Discrimination*
4 *Act*".

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

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

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

12 2. "*Religious organization*" means a house of worship,
13 including but not limited to churches, synagogues, shrines,
14 mosques, and temples, or a religious group, corporation,
15 association, school or educational institution, ministry,
16 order, society or similar entity, regardless of whether it
17 is integrated or affiliated with a church or other house of
18 worship.

19 3. "*State*" means any department, commission, board, agency,
20 or agent of the state; any political subdivision of the state
21 and any department, commission, board, agency, or agent of such
22 political subdivision; and any individual or entity acting
23 under color of state law.

24 4. "*State benefit program*" means any program administered
25 or funded by the state, or by any agent on behalf of the state,
26 providing cash, vouchers, payments, grants, contracts, loans,
27 or in-kind assistance.

28 5. "*Unborn child*" means the same as defined in section
29 146A.1.

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

32 1. The sincerely held religious beliefs and moral
33 convictions protected by this chapter include all of the
34 following:

35 a. Marriage is or should be recognized as the union of one

1 man and one woman.

2 *b.* The terms "*male*" and "*female*" refer to distinct and
3 immutable biological sexes that are determinable by anatomy and
4 genetics by the time of birth.

5 *c.* An unborn child is recognized as fully human from the
6 moment of conception and life should be sacred and valued from
7 the moment of conception.

8 2. Notwithstanding any law to the contrary, the state shall
9 not take any discriminatory or adverse action against a person,
10 wholly or partially, on the basis that such person does any of
11 the following:

12 *a.* Solemnizes or declines to solemnize any marriage, or
13 provides or declines to provide services, accommodations,
14 facilities, goods, or privileges for a purpose related to
15 the solemnization, formation, celebration, or recognition of
16 any marriage, based upon or in a manner consistent with a
17 sincerely held religious belief or moral conviction described
18 in subsection 1.

19 *b.* Makes any employment-related decision including but not
20 limited to a decision whether or not to hire, terminate, or
21 discipline another person whose conduct or religious beliefs
22 are inconsistent with those of the person, based upon or in a
23 manner consistent with a sincerely held religious belief or
24 moral conviction described in subsection 1.

25 *c.* Makes any decision concerning the sale, rental,
26 occupancy, or terms and conditions of occupying a dwelling or
27 other housing under the person's control, based upon or in a
28 manner consistent with a sincerely held religious belief or
29 moral conviction described in subsection 1.

30 *d.* Advertises, provides, or facilitates adoption or foster
31 care, when the person has provided or declined to provide any
32 adoption, foster care, or related service based upon or in a
33 manner consistent with a sincerely held religious belief or
34 moral conviction described in subsection 1.

35 *e.* Guides, instructs, or raises a child, who has been

1 placed in the care or custody of the person as a foster or
2 adoptive child, based upon or in a manner consistent with a
3 sincerely held religious belief or moral conviction described
4 in subsection 1.

5 *f.* Declines to participate in the provision of treatments,
6 counseling, or surgeries related to sex reassignment or
7 gender identity transitioning or declines to participate in
8 the provision of psychological, counseling, or fertility
9 services based upon a sincerely held religious belief or moral
10 conviction described in subsection 1.

11 *g.* Establishes sex-specific standards or policies concerning
12 employee or student dress or grooming, or concerning access to
13 restrooms, spas, baths, showers, dressing rooms, locker rooms,
14 or other intimate facilities or settings, based upon or in a
15 manner consistent with a sincerely held religious belief or
16 moral conviction described in subsection 1.

17 *h.* If the person is a state employee, lawfully speaks
18 or engages in expressive conduct based upon or in a manner
19 consistent with a sincerely held religious belief or moral
20 conviction described in subsection 1, if any of the following
21 applies:

22 (1) The state employee's speech or expressive conduct
23 occurs in the workplace, and the speech or expressive conduct
24 is consistent with the time, place, manner and frequency of any
25 other expression of a religious, political, or moral belief or
26 conviction allowed.

27 (2) The state employee's speech or expressive conduct
28 occurs outside the workplace, and the speech or expressive
29 conduct is in the employee's personal capacity and outside the
30 course of performing work duties.

31 *i.* (1) If the person is employed by or acting on behalf
32 of the state and is authorized to license marriages seeks
33 recusal from licensing legally valid marriages based upon or in
34 a manner consistent with a sincerely held religious belief or
35 moral conviction described in subsection 1. Any person making

1 such recusal shall provide prior written notice to the state
2 registrar of vital statistics who shall keep a record of such
3 recusal. The person providing such a recusal shall take all
4 necessary steps to ensure that the licensing of any legally
5 valid marriage is not impeded or delayed as a result of any
6 recusal.

7 (2) If the person is employed by or acting on behalf of
8 the state and is authorized to perform or solemnize marriages
9 including but not limited to judges, magistrates, justices of
10 the peace or their deputies, and seeks recusal from performing
11 or solemnizing lawful marriages based upon or in a manner
12 consistent with a sincerely held religious belief or moral
13 conviction described in subsection 1. Any person providing
14 such a recusal shall provide prior written notice to the state
15 court administrator. The state court administrator shall
16 take all necessary steps to ensure that the performance or
17 solemnization of any legally valid marriage is not impeded or
18 delayed as a result of any recusal.

19 *j.* Refuses to perform, assist, or participate in a medical
20 procedure which will result in an abortion in accordance
21 with chapter 146 based upon or in a manner consistent with a
22 sincerely held religious belief or moral conviction described
23 in subsection 1.

24 3. As used in this section, "*discriminatory or adverse*
25 *action*" means any action taken by the state against a person
26 described in subsection 2 that results in any of the following:

27 *a.* Altering in any way the tax treatment of, or causing
28 any tax, penalty, or payment to be assessed against, or
29 denying, delaying, revoking, or otherwise making unavailable
30 an exemption from taxation of such persons. To the extent
31 the state relies on the determination of a federal entity in
32 determining the tax treatment of a person, the determination
33 of the federal entity shall be imputed to the state under this
34 paragraph.

35 *b.* Applying or causing to be applied, a fine, penalty, fee,

1 or injunction against such person.

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

5 *d.* Withholding, reducing, excluding, terminating,
6 materially altering the terms or conditions of, or
7 otherwise making unavailable or denying any state grant,
8 contract, subcontract, cooperative agreement, guarantee,
9 loan, scholarship, diploma, grade, recognition, license,
10 certification, accreditation, custody award or agreement, or
11 other similar benefit, position, or status from or to such
12 person.

13 *e.* Withholding, reducing, excluding, terminating, or
14 otherwise making unavailable or denying any entitlement or
15 benefit under a state benefit program from or to such person.

16 *f.* Refusing to hire or promote, forcing to resign, firing,
17 demoting, sanctioning, disciplining, or materially altering the
18 terms or conditions of employment, or retaliating or taking any
19 other adverse employment action against a person employed or
20 commissioned by the state.

21 *g.* Withholding, reducing, excluding, terminating, or
22 otherwise making unavailable or denying access to or an
23 entitlement to state property, facilities, educational
24 institutions, speaking forums whether traditional, limited, or
25 nonpublic, or charitable fundraising campaigns from or to such
26 person.

27 *h.* Investigating or initiating an investigation, claim, or
28 administrative proceeding of such person, if that person would
29 not otherwise be subject to such action.

30 4. The state shall consider accredited, licensed, or
31 certified any person that would otherwise be accredited,
32 licensed, or certified, respectively, for any purposes under
33 state law but for a determination against such person wholly
34 or partially on the basis that the person believes, speaks, or
35 acts in accordance with a sincerely held religious belief or

1 moral conviction described in subsection 1.

2 **Sec. 4. NEW SECTION. 216F.4 Cause of action and relief —**
3 **standing — attorney fees and costs — state enforcement.**

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

11 2. A person may bring an action to assert a claim under this
12 chapter no later than two years after the date the person knew
13 or should have known that a discriminatory or adverse action
14 was taken against the person.

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

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

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

33 **Sec. 5. NEW SECTION. 216F.5 Rules of construction.**

34 1. This chapter shall be construed in favor of a broad
35 protection of free exercise of religious beliefs and moral

1 convictions, to the maximum extent permitted by the terms of
2 this chapter and the Constitution of the State of Iowa and the
3 Constitution of the United States.

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

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

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

27 5. This chapter applies to, and in case of conflict
28 supersedes, any state law that impinges on the free exercise
29 of sincerely held religious beliefs and moral convictions
30 protected by this chapter, unless a conflicting state law is
31 expressly made exempt from the application of this chapter.
32 This chapter also applies to, and in cases of conflict
33 supersedes, any ordinance, rule, regulation, order, opinion,
34 decision, practice or other exercise of state authority that
35 impinges on the free exercise of sincerely held religious

1 beliefs and moral convictions protected by this chapter.

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

3 If any provision of this chapter or the application
4 thereof to any person or circumstances is held invalid, the
5 invalidity shall not affect other provisions or applications
6 of this chapter which can be given effect without the invalid
7 provisions or application and, to this end, the provisions of
8 this chapter are severable.

9 Sec. 7. EFFECTIVE DATE. This Act takes effect thirty days
10 after enactment.

11 EXPLANATION

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

14 This bill establishes the "Protecting Freedom of Conscience
15 from Government Discrimination Act" and provides definitions.

16 The bill provides that the sincerely held religious beliefs
17 and moral convictions protected by the bill include: marriage
18 is or should be recognized as the union of one man and one
19 woman; the terms "male" and "female" refer to distinct and
20 immutable biological sexes that are determinable by anatomy
21 and genetics by the time of birth; and an unborn child is
22 recognized as fully human from the moment of conception and
23 life should be sacred and valued from the moment of conception.

24 The bill provides that notwithstanding any law to the
25 contrary, the state shall not take any discriminatory or
26 adverse action against a person, wholly or partially on the
27 basis that such person takes certain actions, as specified in
28 the bill, based upon the sincerely held religious beliefs and
29 moral convictions protected by the bill.

30 The bill specifies the discriminatory or adverse actions
31 prohibited by the state against a person protected under the
32 bill; and provides that a person may assert an actual or
33 threatened violation of the bill as a cause of action in any
34 judicial or administrative proceeding and obtain compensatory
35 damages, injunctive relief, declaratory relief, or any other

1 appropriate relief. A person may bring an action to assert a
2 claim under the bill no later than two years after the date
3 the person knew or should have known that a discriminatory
4 or adverse action was taken against the person. Standing
5 to assert a claim or defense under the bill is governed by
6 the general rules of standing under the laws of this state.
7 Notwithstanding any provision of law to the contrary, an
8 action under the bill may be commenced, and relief may be
9 granted, in a court of this state without regard to whether the
10 person commencing the action has sought or exhausted available
11 administrative remedies. A prevailing party in an action under
12 the bill who establishes a violation of the bill is entitled
13 to recover reasonable attorney fees and costs. The office of
14 the attorney general may also bring an action for injunctive
15 or declaratory relief against this state to enforce compliance
16 with the bill. The bill is not to be construed to deny, impair,
17 or otherwise affect any right or authority of the office of the
18 attorney general or the state, acting under any law other than
19 the bill, to institute or intervene in any proceeding.

20 The bill is to be construed in favor of a broad protection of
21 the free exercise of sincerely held religious beliefs and moral
22 convictions, to the maximum extent permitted by the terms of
23 the bill and the Constitutions of the State of Iowa and of the
24 United States. The bill is not to be construed to prevent the
25 state from providing any benefit or service authorized under
26 state law. The bill is also not to be construed to authorize a
27 medical provider, hospital, clinic, hospice program, or health
28 care facility to deny visitation, to refuse to recognize an
29 attorney in fact under a durable power of attorney for health
30 care pursuant to Code chapter 144B, or to refuse to provide
31 life-saving or emergency medical treatment necessary to cure
32 illness or disease. The protection of the free exercise of
33 sincerely held religious beliefs and moral convictions afforded
34 by the bill is in addition to the protections provided under
35 federal law, state law, and the Constitutions of the State

1 of Iowa and of the United States, and the bill is not to be
2 construed to preempt or repeal any state or local law that is
3 equally or more protective of the free exercise of sincerely
4 held religious beliefs or moral convictions or to narrow the
5 meaning or application of any state or local law protecting
6 the free exercise of sincerely held religious beliefs or moral
7 convictions. The bill applies to, and in case of conflict
8 supersedes, any state law that impinges on the free exercise
9 of sincerely held religious beliefs and moral convictions
10 protected by the bill, unless a conflicting state law is
11 expressly made exempt from the application of the bill. The
12 bill also applies to, and in cases of conflict supersedes,
13 any ordinance, rule, regulation, order, opinion, decision,
14 practice, or other exercise of state authority that impinges on
15 the free exercise of sincerely held religious beliefs and moral
16 convictions protected by the bill.

17 The provisions of the bill are severable. The bill takes
18 effect 30 days after enactment.