

**Senate File 2194 - Introduced**

SENATE FILE 2194

BY GUTH

**A BILL FOR**

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

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

1 Section 1. NEW SECTION. 272C.12 Title.

2 This subchapter shall be known and may be cited as the  
3 "*Protecting Professional Freedom of Conscience from Government*  
4 *Discrimination Act*".

5 Sec. 2. NEW SECTION. 272C.13 Definitions.

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

8 1. "*Person*" means an individual granted a license,  
9 certification, or registration by the state.

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

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

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

26 5. "*Unborn child*" means the same as defined in section  
27 146A.1.

28 Sec. 3. NEW SECTION. 272C.14 Protection of the free  
29 exercise of religious beliefs and moral convictions.

30 1. The sincerely held religious beliefs and moral  
31 convictions protected by this subchapter include all of the  
32 following:

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

35 b. The terms "*male*" and "*female*" refer to distinct and

1 immutable biological sexes that are determinable by anatomy and  
2 genetics by the time of birth.

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

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

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

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

23 *c.* Advertises, provides, or facilitates adoption or foster  
24 care, when the person has provided or declined to provide any  
25 adoption, foster care, or related service based upon or in a  
26 manner consistent with a sincerely held religious belief or  
27 moral conviction described in subsection 1.

28 *d.* Declines to participate in the provision of treatments,  
29 counseling, or surgeries related to sex reassignment or  
30 gender identity transitioning or declines to participate in  
31 the provision of psychological, counseling, or fertility  
32 services based upon a sincerely held religious belief or moral  
33 conviction described in subsection 1.

34 *e.* Establishes sex-specific standards or policies concerning  
35 employee or student dress or grooming, or concerning access to

1 restrooms, spas, baths, showers, dressing rooms, locker rooms,  
2 or other intimate facilities or settings, based upon or in a  
3 manner consistent with a sincerely held religious belief or  
4 moral conviction described in subsection 1.

5 *f.* If the person is a state employee, lawfully speaks  
6 or engages in expressive conduct based upon or in a manner  
7 consistent with a sincerely held religious belief or moral  
8 conviction described in subsection 1, if any of the following  
9 applies:

10 (1) The state employee's speech or expressive conduct  
11 occurs in the workplace, and the speech or expressive conduct  
12 is consistent with the time, place, manner and frequency of any  
13 other expression of a religious, political, or moral belief or  
14 conviction allowed.

15 (2) The state employee's speech or expressive conduct  
16 occurs outside the workplace, and the speech or expressive  
17 conduct is in the employee's personal capacity and outside the  
18 course of performing work duties.

19 *g.* (1) If the person is employed by or acting on behalf  
20 of the state and is authorized to license marriages and seeks  
21 recusal from licensing legally valid marriages based upon or in  
22 a manner consistent with a sincerely held religious belief or  
23 moral conviction described in subsection 1. Any person making  
24 such recusal shall provide prior written notice to the state  
25 registrar of vital statistics who shall keep a record of such  
26 recusal. The person providing such a recusal shall take all  
27 necessary steps to ensure that the licensing of any legally  
28 valid marriage is not impeded or delayed as a result of any  
29 recusal.

30 (2) If the person is employed by or acting on behalf of  
31 the state and is authorized to perform or solemnize marriages  
32 including but not limited to judges, magistrates, justices of  
33 the peace or their deputies, and seeks recusal from performing  
34 or solemnizing lawful marriages based upon or in a manner  
35 consistent with a sincerely held religious belief or moral

1 conviction described in subsection 1. Any person providing  
2 such a recusal shall provide prior written notice to the state  
3 court administrator. The state court administrator shall  
4 take all necessary steps to ensure that the performance or  
5 solemnization of any legally valid marriage is not impeded or  
6 delayed as a result of any recusal.

7 *h.* Refuses to perform, assist, or participate in a medical  
8 procedure which will result in an abortion in accordance  
9 with chapter 146 based upon or in a manner consistent with a  
10 sincerely held religious belief or moral conviction described  
11 in subsection 1.

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

15 *a.* Applying or causing to be applied, a fine, penalty, fee,  
16 or injunction against such person.

17 *b.* Withholding, reducing, excluding, terminating,  
18 materially altering the terms or conditions of, or otherwise  
19 making unavailable or denying any state license, certification,  
20 registration, accreditation, title protection, or other similar  
21 benefit, position, or status from or to such person.

22 *c.* Refusing to hire or promote, forcing to resign, firing,  
23 demoting, sanctioning, disciplining, or materially altering the  
24 terms or conditions of employment, or retaliating or taking any  
25 other adverse employment action against a person employed or  
26 commissioned by the state.

27 *d.* 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,  
31 registered, or certified any person that would otherwise be  
32 accredited, licensed, registered, or certified, respectively,  
33 for any purposes under state law but for a determination  
34 against such person wholly or partially on the basis that  
35 the person believes, speaks, or acts in accordance with a

1 sincerely held religious belief or moral conviction described  
2 in subsection 1.

3     **Sec. 4. NEW SECTION. 272C.15 Cause of action and relief —**  
4 **standing — attorney fees and costs — state enforcement.**

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

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

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

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

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

34     **Sec. 5. NEW SECTION. 272C.16 Rules of construction.**

35     1. This subchapter shall be construed in favor of a broad

1 protection of free exercise of religious beliefs and moral  
2 convictions, to the maximum extent permitted by the terms of  
3 this subchapter and the Constitution of the State of Iowa and  
4 the Constitution of the United States.

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

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

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

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



1 definitions.

2 The bill provides that the sincerely held religious beliefs  
3 and moral convictions protected by the bill include: marriage  
4 is or should be recognized as the union of one man and one  
5 woman; the terms "male" and "female" refer to distinct and  
6 immutable biological sexes that are determinable by anatomy  
7 and genetics by the time of birth; and an unborn child is  
8 recognized as fully human from the moment of conception and  
9 life should be sacred and valued from the moment of conception.

10 The bill provides that notwithstanding any law to the  
11 contrary, the state shall not take any discriminatory  
12 or adverse action against a person holding a license,  
13 certification, or registration granted by the state, wholly or  
14 partially on the basis that such person takes certain actions,  
15 as specified in the bill, based upon the sincerely held  
16 religious beliefs and moral convictions protected by the bill.

17 The bill specifies the discriminatory or adverse actions  
18 prohibited by the state against a person protected under  
19 the bill and 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. A person may bring an action to assert a  
24 claim under the bill no later than two years after the date  
25 the person knew or should have known that a discriminatory  
26 or adverse action was taken against the person. Standing  
27 to assert a claim or defense under the bill is governed by  
28 the general rules of standing under the laws of this state.  
29 Notwithstanding any provision of law to the contrary, an  
30 action under the bill may be commenced, and relief may be  
31 granted, in a court of this state without regard to whether the  
32 person commencing the action has sought or exhausted available  
33 administrative remedies. A prevailing party in an action under  
34 the bill who establishes a violation of the bill is entitled  
35 to recover reasonable attorney fees and costs. The office of

1 the attorney general may also bring an action for injunctive  
2 or declaratory relief against this state to enforce compliance  
3 with the bill. The bill is not to be construed to deny, impair,  
4 or otherwise affect any right or authority of the office of the  
5 attorney general or the state, acting under any law other than  
6 the bill, to institute or intervene in any proceeding.

7 The bill is to be construed in favor of a broad protection of  
8 the free exercise of sincerely held religious beliefs and moral  
9 convictions, to the maximum extent permitted by the terms of  
10 the bill and the Constitutions of the State of Iowa and of the  
11 United States. The bill is not to be construed to prevent the  
12 state from providing any benefit or service authorized under  
13 state law. The bill is also not to be construed to authorize a  
14 medical provider, hospital, clinic, hospice program, or health  
15 care facility to deny visitation, to refuse to recognize an  
16 attorney in fact under a durable power of attorney for health  
17 care pursuant to Code chapter 144B, or to refuse to provide  
18 lifesaving or emergency medical treatment necessary to cure  
19 illness or disease. The protection of the free exercise of  
20 sincerely held religious beliefs and moral convictions afforded  
21 by the bill is in addition to the protections provided under  
22 federal law, state law, and the Constitutions of the State  
23 of Iowa and of the United States, and the bill is not to be  
24 construed to preempt or repeal any state or local law that is  
25 equally or more protective of the free exercise of sincerely  
26 held religious beliefs or moral convictions or to narrow the  
27 meaning or application of any state or local law protecting  
28 the free exercise of sincerely held religious beliefs or moral  
29 convictions. The bill applies to, and in case of conflict  
30 supersedes, any state law that impinges on the free exercise  
31 of sincerely held religious beliefs and moral convictions  
32 protected by the bill, unless a conflicting state law is  
33 expressly made exempt from the application of the bill. The  
34 bill also applies to, and in cases of conflict supersedes,  
35 any ordinance, rule, regulation, order, opinion, decision,

1 practice, or other exercise of state authority that impinges on  
2 the free exercise of sincerely held religious beliefs and moral  
3 convictions protected by the bill.

4 The bill includes a Code editor directive to create  
5 subchapters in Code chapter 272C and make revisions in Code  
6 chapter 272C as a consequence of creating such subchapters.

7 The provisions of the bill are severable. The bill takes  
8 effect 30 days after enactment.