

**House File 170 - Introduced**

HOUSE FILE 170

BY SALMON

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

30     *d.* Guides, instructs, or raises a child, who has been  
31 placed in the care or custody of the person as a foster or  
32 adoptive child, based upon or in a manner consistent with a  
33 sincerely held religious belief or moral conviction described  
34 in subsection 1.

35     *e.* Declines to participate in the provision of treatments,

1 counseling, or surgeries related to sex reassignment or  
2 gender identity transitioning or declines to participate in  
3 the provision of psychological, counseling, or fertility  
4 services based upon a sincerely held religious belief or moral  
5 conviction described in subsection 1.

6 *f.* Establishes sex-specific standards or policies concerning  
7 employee or student dress or grooming, or concerning access to  
8 restrooms, spas, baths, showers, dressing rooms, locker rooms,  
9 or other intimate facilities or settings, based upon or in a  
10 manner consistent with a sincerely held religious belief or  
11 moral conviction described in subsection 1.

12 *g.* If the person is a state employee, lawfully speaks  
13 or engages in expressive conduct based upon or in a manner  
14 consistent with a sincerely held religious belief or moral  
15 conviction described in subsection 1, if any of the following  
16 applies:

17 (1) The state employee's speech or expressive conduct  
18 occurs in the workplace, and the speech or expressive conduct  
19 is consistent with the time, place, manner and frequency of any  
20 other expression of a religious, political, or moral belief or  
21 conviction allowed.

22 (2) The state employee's speech or expressive conduct  
23 occurs outside the workplace, and the speech or expressive  
24 conduct is in the employee's personal capacity and outside the  
25 course of performing work duties.

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

1 recusal.

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

14 *i.* Refuses to perform, assist, or participate in a medical  
15 procedure which will result in an abortion in accordance  
16 with chapter 146 based upon or in a manner consistent with a  
17 sincerely held religious belief or moral conviction described  
18 in subsection 1.

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

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

30 *b.* Applying or causing to be applied, a fine, penalty, fee,  
31 or injunction against such person.

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

35 *d.* Withholding, reducing, excluding, terminating,

1 materially altering the terms or conditions of, or  
2 otherwise making unavailable or denying any state grant,  
3 contract, subcontract, cooperative agreement, guarantee,  
4 loan, scholarship, diploma, grade, recognition, license,  
5 certification, accreditation, custody award or agreement, or  
6 other similar benefit, position, or status from or to such  
7 person.

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

11 *f.* Refusing to hire or promote, forcing to resign, firing,  
12 demoting, sanctioning, disciplining, or materially altering the  
13 terms or conditions of employment, or retaliating or taking any  
14 other adverse employment action against a person employed or  
15 commissioned by the state.

16 *g.* Withholding, reducing, excluding, terminating, or  
17 otherwise making unavailable or denying access to or an  
18 entitlement to state property, facilities, educational  
19 institutions, speaking forums whether traditional, limited, or  
20 nonpublic, or charitable fundraising campaigns from or to such  
21 person.

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

25 4. The state shall consider accredited, licensed, or  
26 certified any person that would otherwise be accredited,  
27 licensed, or certified, respectively, for any purposes under  
28 state law but for a determination against such person wholly  
29 or partially on the basis that the person believes, speaks, or  
30 acts in accordance with a sincerely held religious belief or  
31 moral conviction described in subsection 1.

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

34 1. A person may assert an actual or threatened violation  
35 of this chapter as a claim or defense in any judicial or

1 administrative proceeding and obtain compensatory damages,  
2 injunctive relief, declaratory relief, or any other appropriate  
3 relief. Standing to assert a claim or defense under this  
4 section shall be governed by the general rules of standing  
5 under the laws of this state.

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

10 3. Notwithstanding any provision of law to the contrary, an  
11 action under this section may be commenced, and relief may be  
12 granted, in a court of this state without regard to whether the  
13 person commencing the action has sought or exhausted available  
14 administrative remedies.

15 4. In any action or proceeding to enforce a provision of  
16 this chapter, a prevailing party who establishes a violation of  
17 this chapter shall be entitled to recover reasonable attorney  
18 fees and costs.

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

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

29 1. This chapter shall be construed in favor of a broad  
30 protection of free exercise of religious beliefs and moral  
31 convictions, to the maximum extent permitted by the terms of  
32 this chapter and the Constitution of the State of Iowa and the  
33 Constitution of the United States.

34 2. This chapter shall not be construed to prevent this state  
35 from providing, either directly or through an individual or

1 entity not seeking protection under this chapter, any benefit  
2 or service authorized under state law.

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

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

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

32 **Sec. 6. NEW SECTION. 216F.6 Severability.**

33 If any provision of this chapter or the application  
34 thereof to any person or circumstances is held invalid, the  
35 invalidity shall not affect other provisions or applications

1 of this chapter which can be given effect without the invalid  
2 provisions or application and, to this end, the provisions of  
3 this chapter are severable.

4 Sec. 7. EFFECTIVE DATE. This Act takes effect thirty days  
5 after enactment.

6

EXPLANATION

7

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

8

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

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

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

25 The bill specifies the discriminatory or adverse actions  
26 prohibited by the state against a person protected under the  
27 bill; and provides that a person may assert an actual or  
28 threatened violation of the bill as a cause of action in any  
29 judicial or administrative proceeding and obtain compensatory  
30 damages, injunctive relief, declaratory relief, or any other  
31 appropriate relief. A person may bring an action to assert a  
32 claim under the bill no later than two years after the date  
33 the person knew or should have known that a discriminatory  
34 or adverse action was taken against the person. Standing  
35 to assert a claim or defense under the bill is governed by

1 the general rules of standing under the laws of this state.  
2 Notwithstanding any provision of law to the contrary, an  
3 action under the bill may be commenced, and relief may be  
4 granted, in a court of this state without regard to whether the  
5 person commencing the action has sought or exhausted available  
6 administrative remedies. A prevailing party in an action under  
7 the bill who establishes a violation of the bill is entitled  
8 to recover reasonable attorney fees and costs. The office of  
9 the attorney general may also bring an action for injunctive  
10 or declaratory relief against this state to enforce compliance  
11 with the bill. The bill is not to be construed to deny, impair,  
12 or otherwise affect any right or authority of the office of the  
13 attorney general or the state, acting under any law other than  
14 the bill, to institute or intervene in any proceeding.

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

1 the free exercise of sincerely held religious beliefs or moral  
2 convictions. The bill applies to, and in case of conflict  
3 supersedes, any state law that impinges on the free exercise  
4 of sincerely held religious beliefs and moral convictions  
5 protected by the bill, unless a conflicting state law is  
6 expressly made exempt from the application of the bill. The  
7 bill also applies to, and in cases of conflict supersedes,  
8 any ordinance, rule, regulation, order, opinion, decision,  
9 practice, or other exercise of state authority that impinges on  
10 the free exercise of sincerely held religious beliefs and moral  
11 convictions protected by the bill.

12 The provisions of the bill are severable. The bill takes  
13 effect 30 days after enactment.