



WHY YOU SHOULD OPPOSE INDIANA-STYLE RFRA BILLS

The intent behind the federal RFRA and its early state counterparts was to protect religious exercise, especially by religious minorities. Today, however, state legislators are attempting to use these bills to override nondiscrimination laws and deny women healthcare—just like in Indiana in 2015. Those who support religious freedom should oppose bills that could be used to harm others in the name of religion.

THESE RFRAS DO NOT PROTECT TRUE RELIGIOUS FREEDOM. Freedom of religion is a fundamental American value that is protected by the First Amendment. It allows all of us the freedom to believe or not as we see fit, but it does not allow us to use religion as an excuse to harm or take away the rights of others. This also reflects a tenet of many different faith and secular traditions: We should treat others fairly, as we would like to be treated.

THESE RFRAS COULD ALLOW PEOPLE—AND EVEN FOR-PROFIT CORPORATIONS—TO USE RELIGION AS AN EXCUSE TO DISCRIMINATE AND VIOLATE OTHER IMPORTANT LAWS THAT PROTECT US FROM HARM. The language in these bills could open the door to harmful consequences, including undermining vital laws that prohibit discrimination and protect public safety and health.

THE BREADTH OF THESE RFRAS IS STAGGERING. They create a potential religious exception to every single existing and future state and local law, including laws against child abuse and domestic violence and laws protecting public health. This introduces uncertainty into and invites abuse of all of our laws. It also opens the door to costly lawsuits challenging any law.

THESE RFRAS COULD BE USED TO DENY PEOPLE ACCESS TO HEALTHCARE, SUCH AS EMERGENCY SERVICES, CONTRACEPTION, FERTILITY TREATMENTS, AND MENTAL HEALTH COUNSELING. When religion is used as a justification to deny healthcare, it puts patients' health and well-being in jeopardy, and can cause catastrophic harm to those who need urgent care. No one in need of emergency services should have to worry that she will be denied treatment based on someone else's religious beliefs. Yet many are advocating the passage of RFRAs as a way to deny Americans—most often women and LGBT Americans—access to healthcare and health insurance.

THESE RFRAS COULD BE USED TO TRUMP STATE AND LOCAL NONDISCRIMINATION LAWS. Across the country, we see government officials, businesses, and government-funded nonprofits claiming that RFRAs allow them to ignore nondiscrimination laws. This is already happening on the federal level, where RFRA is being used to trump laws that prohibit discrimination by recipients of some government grants.

THESE RFRAS COULD CAUSE UNIQUE PROBLEMS AT THE STATE LEVEL. The states have sole authority to pass laws in areas such as family law and licensing—areas where religious exemptions could be particularly troubling. The states also have the primary authority to pass criminal laws, another area where granting religious exemptions may be particularly dangerous.

WHEN CONGRESS PASSED THE FEDERAL RFRA MORE THAN 20 YEARS AGO, IT WAS INTENDED TO PROVIDE A SHIELD TO SAFEGUARD RELIGIOUS EXERCISE, NOT A SWORD TO HARM OTHERS. Passage of the federal RFRA seemed like a good idea at the time. But in recent years some have attempted (and too often succeeded) to use RFRA in ways its supporters and sponsors would never have imagined, such as trumping nondiscrimination, public health, and safety laws. Unfortunately, these are some of the very reasons people are now pushing these bills at the state level.

YEARS AGO, EVEN JUSTICE SCALIA WARNED THAT APPLYING A LAW LIKE RFRA COULD LEAD TO TROUBLING RESULTS. Writing for a majority of the Supreme Court, he warned that RFRA-like exemptions could trump “compulsory military service,” “manslaughter and child neglect laws,” “compulsory vaccination laws,” “drug laws,” “traffic laws,” “minimum wage laws,” “child labor laws,” “animal cruelty laws,” “environmental protection laws,” and “nondiscrimination laws.” He and the Court were not off base.

STATE RFRAS COULD ALLOW:

- An employer to fire a woman who remarried after a divorce or who got pregnant when she wasn't married
 - A pharmacist to refuse to provide a patient with HIV medication
 - A counselor to be exempted from state licensing requirements
 - A suicide hotline operator to deny help to someone in need of emergency counseling
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