

115TH CONGRESS
2D SESSION

S. 2918

To amend the Religious Freedom Restoration Act of 1993 to protect civil rights and otherwise prevent meaningful harm to third parties, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 22, 2018

Ms. HARRIS (for herself, Mr. LEAHY, Ms. HIRONO, Mrs. FEINSTEIN, Mr. DURBIN, Mr. MARKEY, Mr. WHITEHOUSE, Mr. SANDERS, Mr. MERKLEY, Mrs. GILLIBRAND, Ms. SMITH, Mr. WYDEN, and Ms. WARREN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Religious Freedom Restoration Act of 1993 to protect civil rights and otherwise prevent meaningful harm to third parties, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Do No Harm Act”.

5 **SEC. 2. SENSE OF CONGRESS.**

6 It is the sense of Congress that—

7 (1) the Religious Freedom Restoration Act of
8 1993 should not be interpreted to authorize an ex-

1 exemption from generally applicable law that imposes
 2 the religious views, habits, or practices of one party
 3 upon another;

4 (2) the Religious Freedom Restoration Act of
 5 1993 should not be interpreted to authorize an ex-
 6 emption from generally applicable law that imposes
 7 meaningful harm, including dignitary harm, on a
 8 third party; and

9 (3) the Religious Freedom Restoration Act of
 10 1993 should not be interpreted to authorize an ex-
 11 emption for one party that permits discrimination
 12 against others, including persons who do not belong
 13 to the religion or adhere to the beliefs of that party.

14 **SEC. 3. EXCEPTION FROM APPLICATION OF ACT WHERE**
 15 **FEDERAL LAW PREVENTS HARM TO OTHERS.**

16 Section 3 of the Religious Freedom Restoration Act
 17 of 1993 (42 U.S.C. 2000bb–1) is amended by adding at
 18 the end the following:

19 “(d) ADDITIONAL EXCEPTION FROM APPLICATION
 20 OF ACT WHERE FEDERAL LAW PREVENTS HARM TO
 21 OTHERS.—Subsection (a) shall not apply—

22 “(1) to any provision of law or its implementa-
 23 tion that provides for or requires—

24 “(A) a protection against discrimination or
 25 the promotion of equal opportunity, including

1 the Civil Rights Act of 1964 (42 U.S.C. 2000a
2 et seq.), the Americans with Disabilities Act of
3 1990 (42 U.S.C. 12101 et seq.), the Family
4 and Medical Leave Act of 1993 (29 U.S.C.
5 2601 et seq.), Executive Order 11246 (42
6 U.S.C. 2000e note; relating to equal oppor-
7 tunity in Federal employment), the Violence
8 Against Women Act of 1994 (42 U.S.C. 13925
9 et seq.), the final rule of the Department of
10 Housing and Urban Development entitled
11 ‘Equal Access to Housing in HUD Programs
12 Regardless of Sexual Orientation or Gender
13 Identity’ (77 Fed. Reg. 5661 (February 3,
14 2012)) (or any corresponding similar regulation
15 or ruling), or section 5.106 of title 24, Code of
16 Federal Regulations (or any corresponding
17 similar regulation or ruling);

18 “(B) an employer to provide a wage, other
19 compensation, or a benefit including leave, or a
20 standard protecting collective activity in the
21 workplace;

22 “(C) protection against child labor, child
23 abuse, or child exploitation; or

1 “(D) access to, information about, a refer-
 2 ral for, provision of, or coverage for, any health
 3 care item or service;

4 “(2) to any term, requiring a good, service,
 5 function, or activity to be performed or provided to
 6 a beneficiary, of a government contract, grant, coop-
 7 erative agreement, or other instrument for an award;
 8 or

9 “(3) to the extent that application would result
 10 in denying a person the full and equal enjoyment of
 11 a good, service, benefit, facility, privilege, advantage,
 12 or accommodation, provided by the government.”.

13 **SEC. 4. CLARIFICATION OF PRECLUSION OF LITIGATION**
 14 **BETWEEN PRIVATE PARTIES.**

15 (a) **PURPOSE.**—The purpose of the amendment made
 16 by subsection (b) is to clarify the applicability of the Reli-
 17 gious Freedom Restoration Act of 1993, as enacted.

18 (b) **PRECLUSION.**—Section 3(c) of the Religious
 19 Freedom Restoration Act of 1993 (42 U.S.C. 2000bb-
 20 1(c)) is amended, in the first sentence, by striking “judi-
 21 cial proceeding” and all that follows and inserting “judi-
 22 cial proceeding to which the government is a party and
 23 obtain appropriate relief against that government.”.

1 **SEC. 5. DEFINITIONS.**

2 Section 5 of the Religious Freedom Restoration Act
3 of 1993 (42 U.S.C. 2000bb–2) is amended—

4 (1) in paragraph (3), by striking “and” at the
5 end;

6 (2) in paragraph (4), by striking the period and
7 inserting “; and”; and

8 (3) by adding at the end the following:

9 “(5) the term ‘including’ means including, but
10 not limited to, consistent with the term’s standard
11 meaning in Federal law.”.

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