

FREEDOM FROM RELIGION *foundation*

P.O. BOX 750 • MADISON, WI 53701 • (608) 256-8900 • WWW.FFRF.ORG

March 31, 2015

SENT BY MAIL AND EMAIL TO: Governor.Malloy@po.state.ct.us

Governor Dannel Malloy
State of Connecticut
State Capitol
201 Capitol Ave.
Hartford, CT 06106

Re: Connecticut's RFRA Legislation

Dear Governor Malloy:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to thank you for publicly denouncing Indiana's passage of a so-called Religious Freedom Restoration Act. FFRF is a nationwide nonprofit organization with over 22,000 members across the country, including over 200 members in Connecticut. Our purpose is to protect the constitutional separation between church and state.

We applaud your decision to ban state-funded travel to Indiana after Gov. Pence signed a bill that effectively allows religious businesses and corporations to discriminate in the name of religion. We agree that "We cannot sit idly by and do nothing while laws are enacted that will turn back the clock" and that we should not "allow any of our citizens in Connecticut to face discrimination in other states, at least without a fight."¹ It is for this reason that we ask you to lead the charge in repealing Connecticut's RFRA, to ensure that citizens in Connecticut will not have to face discrimination in their own state.

Many may not be aware that in 1993, Connecticut adopted a RFRA law similarly worded to the law adopted in Indiana. This law is also vulnerable to exploitation by religious groups seeking to discriminate against minorities. Connecticut's version reads: "The state or any political subdivision of the state shall not burden a person's exercise of religion" unless "it demonstrates that application of the burden to the person (1) is in furtherance of a compelling governmental interest, and (2) is the least restrictive means of furthering that compelling governmental interest."² Indiana's new law is nearly identical.³

¹ NBC CONNECTICUT, *Malloy Bans State-Funded Travel to Indiana Amid "Religious Freedom" Law Backlash* (Mar. 30, 2015) available at www.nbcconnecticut.com/news/local/Malloy-to-Bar-State-Travel-to-Indiana-Amid-Religious-Freedom-Law-Backlash-298010911.html

² CONN. GEN. STAT. ANN. § 52-571b (a)-(b).

³ See IND. CODE ANN. § 34-13-9-9 ("a governmental entity may not substantially burden a person's exercise of religion, even if the burden results from a rule of general applicability. (b) A governmental entity may substantially burden a person's exercise of religion only if the governmental entity demonstrates that application of the burden to the person: (1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest.").

RFRA effectively allows religious individuals and for-profit businesses to discriminate against gay people, religious minorities and the nonreligious, and any other group that has traditionally been protected by civil rights laws, all in the name of “religious liberty.” But it also goes far beyond that, allowing any person (or corporation) free reign to break *any law* in the name of their personal religion, unless the government can meet an exacting standard.

In fact, the first RFRA—the federal version—was foisted on this nation because two religious practitioners serving as drug counselors were fired for their use of peyote. They claimed the drug was used for religious purposes and sought unemployment benefits. The Supreme Court upheld the denial of benefits to the ex-employees, because the law against drug use was not “prohibiting the exercise of religion;” the religious burden was “merely the incidental effect of a generally applicable and otherwise valid provision.”⁴

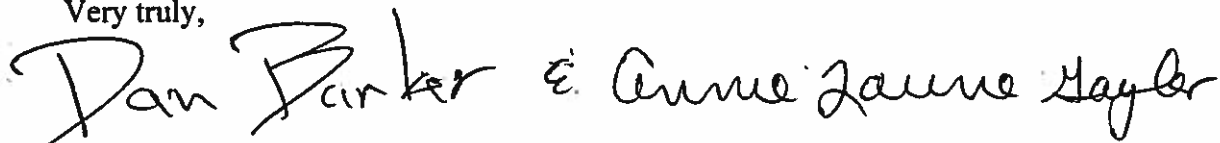
Congress responded rashly to the decision by adopting the federal RFRA, which was sold as a law to protect religious minorities from laws that may inadvertently lead to discrimination. No doubt Connecticut’s RFRA was passed with a similar understanding of its intended effects.

But in the wake of the Supreme Court’s Hobby Lobby decision, which allows for-profit corporations to exercise their so-called “religious conscience” in order to restrict employees’ access to contraceptives, RFRA has undergone a massive transformation. RFRA is no longer a shield, but a sword used by religious people and for-profit corporations to discriminate against minority groups. RFRA breaks from the tried-and-true default where everyone is required to follow the law, regardless of their personal objections.

The right to the free exercise of religion has been protected in this nation since the First Amendment was adopted. State and federal RFRA’s are not needed. RFRA’s instead elevate one individual’s personal religious beliefs above the law, effectively allowing “every citizen to become a law unto himself.”⁵

The purpose of Indiana’s RFRA law is to allow the religious to discriminate. Perhaps that was not the original purpose behind Connecticut’s version, but the risk of it being used that way is just as great. For this reason, we respectfully urge you to use your leadership to repeal Connecticut’s RFRA law.

Very truly,

Handwritten signatures of Dan Barker and Annie Laurie Gaylor in black ink. The signatures are written in a cursive style and are positioned above their printed names.

Dan Barker and Annie Laurie Gaylor
Co-Presidents
Freedom From Religion Foundation

ALG:stg

⁴ Emp’t Div., Dep’t of Human Res. v. Smith, 494 U.S. 872, 878 (1990).

⁵ *Id.* at 879.