

By: Bell

H.B. No. 3602

A BILL TO BE ENTITLED

AN ACT

relating to the religious freedom of a conscientious objector to act or fail to act with respect to certain issues of marriage, sexual relations, and gender.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. This Act shall be known as the Marriage and Religious Rights Ensured Act.

SECTION 2. Title 6, Civil Practice and Remedies Code, is amended by adding Chapter 150A to read as follows:

CHAPTER 150A. MARRIAGE AND RELATED RELIGIOUS RIGHTS OF CONSCIENCE

Sec. 150A.001. DEFINITIONS. In this chapter:

(1) "Adverse action" means any action that directly or indirectly adversely affects the person against whom the action was taken or that directly or indirectly places the person in a worse position than the person was in before the action was taken. The term includes:

(A) an employment discharge, termination, suspension, demotion, or reassignment;

(B) reduced responsibility in the person's employment;

(C) increased surveillance of the person;

(D) threats toward the person;

(E) fines or increased fees;

(F) negative evaluations or references;

1 (G) limited access to benefits;

2 (H) refusal to hire or contract with the person;

3 (I) refusal to service or conduct business with
4 the person;

5 (J) the denial or revocation of any exemption,
6 benefit, license, certification, clearance, accreditation, or
7 other position or status;

8 (K) discrimination against the person; or

9 (L) any other action that is likely to deter a
10 reasonable person from acting or refusing to act.

11 (2) "Government agency" means:

12 (A) this state or a municipality or other
13 political subdivision of this state; or

14 (B) any agency of this state or of a municipality
15 or other political subdivision of this state, including a
16 department, bureau, board, commission, office, agency, council,
17 court, or public institution of higher education.

18 (3) "Harassment" means unwelcome conduct that a
19 reasonable person would consider intimidating, hostile, or
20 abusive. Harassment includes offensive jokes, slurs, epithets,
21 name-calling, physical assaults or threats, intimidation,
22 ridicule, mockery, and insults. Harassment does not include
23 slights, annoyances, or isolated incidents.

24 Sec. 150A.002. CONSCIENTIOUS OBJECTOR. For purposes of
25 this chapter, a person is considered to be a conscientious objector
26 if the person has a sincerely held religious belief that:

27 (A) marriage is or should be recognized as only

1 the union of one man and one woman;

2 (B) sexual relations should be exclusively
3 reserved to a marriage of only one man and one woman; or

4 (C) gender or gender identity is or should be
5 determined by the predominant chromosomal sex.

6 Sec. 150A.003. RELIGIOUS CONSCIENCE PROTECTED. (a) A
7 conscientious objector may freely act or refuse to act in
8 accordance with a sincerely held religious belief described by
9 Section 150A.002.

10 (b) Notwithstanding any other law, a person or government
11 agency may not take any adverse action against any conscientious
12 objector wholly or partly on the basis that the conscientious
13 objector:

14 (1) identifies as a conscientious objector; or

15 (2) acts or refuses to act in accordance with
16 Subsection (a).

17 (c) This section does not apply to:

18 (1) an action by a government agency that burdens a
19 conscientious objector's right to act or fail to act under
20 Subsection (a) if the government agency action:

21 (A) is in furtherance of a compelling
22 governmental interest; and

23 (B) is the least restrictive means of furthering
24 that interest; or

25 (2) actions taken solely for purposes of harassment.

26 Sec. 150A.004. CLAIMS OR DEFENSES. A conscientious
27 objector may assert an actual or threatened violation of this

1 chapter as a claim or defense in a judicial or administrative
2 proceeding and obtain compensatory damages, injunctive relief,
3 declaratory relief, or any other appropriate relief.

4 Sec. 150A.005. REMEDIES. A conscientious objector who
5 successfully asserts a claim or defense under this chapter is
6 entitled to recover:

7 (1) declaratory relief;

8 (2) injunctive relief to prevent the threatened or
9 continued adverse action against the conscientious objector;

10 (3) compensatory damages for pecuniary and
11 nonpecuniary losses;

12 (4) punitive damages; and

13 (5) reasonable attorney's fees, court costs, and other
14 reasonable expenses.

15 Sec. 150A.006. TWO-YEAR LIMITATIONS PERIOD. A
16 conscientious objector may bring an action to assert a claim for
17 damages under this chapter not later than the second anniversary of
18 the date the person knew of the adverse action under this chapter.

19 Sec. 150A.007. IMMUNITY WAIVED. (a) Sovereign,
20 government, and qualified immunities to suit and from liability are
21 waived and abolished to the extent of liability created by this
22 chapter, and a claimant may sue a government agency or official for
23 damages allowed by this chapter.

24 (b) Notwithstanding Subsection (a), this chapter does not
25 waive or abolish sovereign immunity to suit and from liability
26 under the Eleventh Amendment to the United States Constitution.

27 Sec. 150A.008. EFFECT ON RIGHTS. (a) This chapter may not

1 be construed to authorize a government agency to burden a person's
2 free exercise of religion.

3 (b) The protections of speech and religious freedom
4 afforded by this chapter are in addition to any protections
5 provided under federal law, the laws of this state, the United
6 States Constitution, and the Texas Constitution.

7 (c) This chapter may not be construed to supersede any law
8 of this state that is equally as protective of religious beliefs as,
9 or more protective of religious beliefs than, this chapter.

10 (d) This chapter may not be considered to narrow the meaning
11 or application of any other law protecting religious beliefs.

12 Sec. 150A.009. INTERPRETATION. This chapter shall be
13 liberally construed to effectuate its remedial and deterrent
14 purposes.

15 SECTION 3. The severability provisions of Section 311.032,
16 Government Code, apply to this Act.

17 SECTION 4. This Act takes effect immediately if it receives
18 a vote of two-thirds of all the members elected to each house, as
19 provided by Section 39, Article III, Texas Constitution. If this
20 Act does not receive the vote necessary for immediate effect, this
21 Act takes effect September 1, 2015.