

# Real Harm to Real People

How Religious Refusal Laws Threaten Basic Liberties and the Rule of Law



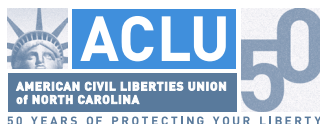
## What Do These Laws Do?

**T**he freedom of religion is one of our most fundamental rights. It's enshrined in our Constitution, reflected in laws across the land, and it's not up for debate. In fact, it's one of the many freedoms that allow each and every American to live their lives to the fullest and advance the common good. We have an absolute right to believe what we want about God, faith, and religion, and we have a right to act on those beliefs, unless those actions harm others.

But a new type of bill appearing in legislatures across the country, often called a "Religious Freedom Restoration Act" (RFRA), essentially allows individuals to use their

religious beliefs to harm others, paving the way for challenges to virtually any law designed to protect all of us from various forms of discrimination. These misnamed proposals undermine another important value we all cherish—treating others as we ourselves want to be treated. RFRA laws are vague and ripe for abuse. They could result in a troubling range of intended and unintended consequences, such as legalizing discrimination or ushering in legal chaos and frivolous lawsuits at great taxpayer expense.

Unfortunately, there are already many examples of how they cause real problems for people, governments, and businesses.



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## Real harm for real people

Freedom of religion is important—that’s why it’s protected in the First Amendment to the Constitution. But the rule of law is also important. We shouldn’t create sweeping exceptions that will allow people to pick and choose which laws they’re going to follow.

RFRA laws and similar proposals could excuse any person from any state or local law that they claim “burdens” their exercise of religion. This includes beliefs that do not stem from any established religion, meaning that any individual religious belief could determine which state and local laws a person chooses to honor. This has already happened in other states, with dire consequences:

- **Threatening Public Safety:** Police officers have used religious freedom as an excuse to refuse orders they claimed ran contrary to their personal religious views. For instance, a police officer in Oklahoma asserted a religious objection to attending a community relations event held at a mosque, claiming a “moral dilemma.”<sup>1</sup>
- **Endangering Child Safety and Welfare:** In New Mexico, a local religious leader cited the state’s RFRA when he appealed a conviction for sexually abusing two teenagers.<sup>2</sup> A federal judge recently held that the federal RFRA prevented the Department of Labor from fully investigating possible child labor law violations because the individual being investigated said that his religious beliefs forbade him from discussing such matters with the government.<sup>3</sup> And a Michigan law passed in June 2015 will allow religiously-affiliated foster agencies to discriminate against same-sex couples, religious minorities, single parents, and any other prospective parents who do not share the religious beliefs of the agency—making it harder for vulnerable children to be placed in loving homes.<sup>4</sup>

- **Denying Health Care:** Expanding religious exemptions could allow health care providers to deny patients the care they need. For example, a hospital could delay or refuse to provide appropriate care to a woman suffering a miscarriage who needed to end her pregnancy to protect her health. Pharmacists in many states, including Ohio, Texas, and Wisconsin, have used religious freedom as a defense for refusing to dispense contraception.<sup>5</sup>
- **Costly Lawsuits for Local Governments:** RFRA laws muddy the legal landscape and have already led to many costly lawsuits across the country, as local municipalities have been embroiled in lengthy litigation. In Arizona, it took one small town four years to settle a dispute where the plaintiff used RFRA as a basis for refusing to comply with an ordinance regulating sign postings.<sup>6</sup> The National League of Cities and National Association of Counties have both cautioned against such laws.

## Discrimination Against LGBT Americans

No matter how you feel about marriage for gay, lesbian, bisexual and transgender (LGBT) people, treating all people with respect is something we can all agree on. When a gay or transgender person walks into a business or government office, they shouldn’t have to worry if they will be turned away simply because of who they are or who they love. RFRA laws can undermine basic principles of fairness and equality by allowing businesses or even government officials to deny services to LGBT Americans if religious objections are cited.

In Georgia, for example, a graduate student training to be a school guidance counselor refused to work with a gay client because of the counselor’s religious beliefs, and sued her university when they asked her to work with all clients.<sup>7</sup>



Photo courtesy of Rev. Terence Leathers

“When public officials seek to deny services to members of the tax-paying public based on their religious beliefs, they’re not living up to their oath, and they’re not serving the common good. We believe in America that the government should treat everyone equally under the law and not discriminate.” – Rev. Terence Leathers of Clayton, testifying against North Carolina’s Senate Bill 2.<sup>9</sup>



Photos courtesy of the Persons

## Turned Away on their Wedding Day

In 1976, Carol Ann Figueroa and Thomas Person walked into a courthouse in Winston-Salem, North Carolina, and asked to be married. Both legally blind, the two had met in Raleigh years earlier and moved to Winston-Salem to work for the Industries for the Blind, where their friendship blossomed into love, and Thomas eventually proposed.

“I was so excited,” Carol Ann wrote years later. “People always say your wedding day is supposed to be one of the happiest days of your life, and I was expecting mine to be exactly that.”<sup>8</sup>

But when the couple asked to receive a marriage license, they were told that the magistrate on duty would not give them one. The reason, it turned out, was because Thomas was black and Carol Ann was white, and the magistrate said that marrying an interracial couple was against his religious beliefs. When they asked a second magistrate to marry them, he also refused, citing his religion. One of them took out a Bible and began to read to Thomas and Carol Ann passages that he believed justified their opposition to their marriage. This was

nine years after the U.S. Supreme Court struck down bans on interracial marriage as unconstitutional.

“I will never forget how painful it was to be told by government officials that they would not give Thomas and me a civil marriage license because of the color of our skin,” Carol Ann wrote. “It was supposed to be a happy day, but instead we were turned away because of somebody else’s religious views and treated like second-class citizens.”

The couple ended up returning to the courthouse with lawyers from Legal Aid, but it was not until years later that a judge ruled that the magistrates had violated their oath of office and the two were finally married. They still live in North Carolina today, happily married with grandchildren.

## North Carolina Senate Bill 2

Almost 40 years after Thomas and Carol Ann Person were turned away by magistrates on their wedding day, North Carolina in 2015 passed a law that allows magistrates and assistant registers of deeds who cite a “sincerely held religious objection” to refuse to perform civil marriages, essentially legalizing the discrimination that the Persons experienced in 1976.

SB2’s sponsors said the measure was a response to North Carolina recognizing the freedom to marry for same-sex couples, but the bill is so broad that it could be used to deny marriages services to virtually anyone. After widespread opposition from business, clergy, and civil rights groups, the bill was vetoed by Governor Pat McCrory, a Republican, who explained that “no

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public official who voluntarily swears to support and defend the Constitution and to discharge all duties of their office should be exempt from upholding that oath.” But lawmakers later narrowly overturned the governor’s veto and SB2 became law.

As of

September 2015,

nearly 5 percent of North Carolina’s 672 magistrates had opted out of conducting marriages, including all four magistrates in western McDowell County. Senate Bill 2 requires the state to make accommodations for those who opt out of performing civil marriages. If all magistrates in any particular county refuse to marry people, the chief district judge in that area of the state is required to ensure that a neighboring magistrate or judge is available to perform marriages at least 10 hours a week, placing an administrative burden on the state.

SB2 has set a dangerous precedent for North Carolina. Government officials who have sworn an oath to serve the public shouldn’t be able to pick and choose who they’re going to serve or which part of their job they will perform based on their religious beliefs.

## Open for business means open to all

Businesses that are open to the public should be open to everyone on the same terms, including to customers who are gay, lesbian, or transgender. Nobody should be turned away from a business, denied service in a restaurant, or evicted from an apartment simply because of who they are or who they love.

Providing commercial services doesn't mean a business owner is endorsing anyone's marriage, or agreeing with everything the customer believes. It simply means they are providing services to the public, and that they are open to everyone on the same terms.

RFRA laws could fundamentally hurt the economy and business environment in states. Increasingly, employers are looking to grow their organizations—small and large—in states with common-sense laws that make everyone feel protected and respected. If a business chooses

"We believe no individual should be refused service or employment because of gender identity or sexual orientation. Laws like this will harm the economies of the states in which they are enacted, and would ultimately be a step in the wrong direction for a society that seeks tolerance, peace and prosperity for all."<sup>10</sup> – **American Airlines spokeswoman Michelle Mohr, explaining the company's opposition to North Carolina's proposed RFRA.**

not to locate in a state with this type of harmful law on the books, the local economy sustains multiple losses—the loss of the new jobs the business would have brought to the area, and also the loss of increased economic activity and innovation that comes when you have a thriving community full of employed, engaged people.

That's why state Chambers of Commerce, professional sports teams, and businesses across America have spoken out against RFRA laws. When Indiana passed a RFRA law in 2015 that allowed businesses to discriminate and deny services to people based on religious beliefs, Salesforce, a \$4 billion company, cancelled all projects in the state and pledged to no longer do business there. Angie's List cancelled a \$40 million headquarter expansion. The NCAA even threatened to move its basketball tournament finals from Indianapolis.

When a RFRA law was proposed in the North Carolina General Assembly in 2015, major businesses including American Airlines, IBM, and Red Hat came out in opposition, and the bill did not advance in that year's session.

### Businesses that have opposed RFRA laws:

JPMorgan Chase, Wells Fargo & Company, Coca-Cola, American Express, GoDaddy.com, Delta Airlines, Arizona Super Bowl Host Committee, Apple, Marriott, Sprint, Facebook, Hilton Hotels, the National Football League, Major League Baseball, and more.  
– [competenorthcarolina.com](http://competenorthcarolina.com)

## The Golden Rule

As Americans, one of our most important values is treating others the way we want to be treated. Creating new laws that go against that principle hurts us all. Unlike our current constitutional protections for the freedom of religion, RFRA and similar laws put an individual's religious beliefs ahead of the common good.

<sup>1</sup> *Fields v. City of Tulsa*, 753 F.3d 1000 (10th Cir. 2014)

<sup>2</sup> *Religious Group Leader's Conviction for Sexual Contact with Minor Upheld*, Religion Clause (Sept. 18, 2013), available at <http://religionclause.blogspot.com/2013/08/religious-group-leaders-conviction-for.html>

<sup>3</sup> *Perez v. Paragon Contractors, Corp.* (Dist. Utah, Sept. 11, 2014)

<sup>4</sup> *ACLU of Michigan vows lawsuit against 'discriminatory' religious objection adoption law*, The Ann Arbor News (June 12, 2015), available at <http://www.mlive.com/lansing-news/index>

[ssf/2015/06/aclu\\_vows\\_lawsuit\\_against\\_disc.html](http://ssf/2015/06/aclu_vows_lawsuit_against_disc.html)

<sup>5</sup> Ron Stein, *Pharmacists' Rights at Front of New Debate*, Washington Post (Mar. 28, 2005), available at <http://www.washingtonpost.com/wp-dyn/articles/A5490-2005Mar27.html>

<sup>6</sup> Court strikes town sign ordinance in challenge brought by Arizona church, CNN.com (June 18, 2015), available at <http://www.cnn.com/2015/06/18/politics/supreme-court-arizona-church-free-speech/>

<sup>7</sup> *Keeton v. Anderson-Wiley*, 664 F.3d 865 (11th Cir. 2011)

<sup>8</sup> On Their Marriage Day, Turned Away by NC

Magistrates, *News & Observer* (June 2, 2015), available at <http://www.newsobserver.com/opinion/op-ed/article22949817.html>

<sup>9</sup> Public weighs in on magistrates bill, WRAL.com (March 4, 2015) available at <http://www.wral.com/public-weighs-in-on-magistrates-bill/14490952/>

<sup>10</sup> NC considers Indiana-like religious objection legislation, *The Charlotte Observer* (March 30, 2015), available at <http://www.charlotteobserver.com/news/politics-government/article16956950.html>

