

PASTOR BRIEF

Issue 3: A Constitutional Amendment to Create The Arkansas Religious Freedom Amendment

Summary: In 2021, the Arkansas Legislature referred the Arkansas Religious Freedom Amendment to be voted on statewide in November 2022. This proposed state constitutional amendment is patterned after a provision in the Alabama Constitution that protects religious freedom. The Arkansas Religious Freedom Amendment guarantees that state and local laws will not infringe religious liberty. If passed, it will establish needed protections for religious freedom in the Arkansas Constitution. It gives people recourse if the government infringes on their religious freedoms. It contains exceptions for situations when the government's compelling interests are at stake.

What the Arkansas Religious Freedom Amendment Says

The government shall not burden a person's freedom of religion unless there is a compelling reason to do so. If freedom of religion is burdened, it must be done in the least restrictive manner possible. If passed, no state in the nation will have more protections for religious freedom than Arkansas. The amendment applies to all state and local governments in Arkansas. A person whose religious freedom has been violated by the government can take the issue to court.

How the Arkansas Religious Freedom Amendment Strengthens Religious Freedom

- Under existing Arkansas law, the government cannot “substantially” burden a person's freedom of religion. This amendment protects religious freedom more by saying that the government cannot “burden” a person's freedom of religion. Courts recognize the difference between a “substantial burden” and a “burden.”
- Arkansas has a religious freedom law, but we have few protection for religious freedom in our state constitution. With religious freedom recognized as a state constitutional right, religious freedom will be protected in Arkansas more than just about any other state.
- For years the federal courts have treated religious freedom as a “second-class” right. This amendment makes a powerful statement that in Arkansas freedom of religion is just as important as free speech and the right to bear arms.

The Biblical Case For Religious Freedom

People have been trying to silence people of faith for thousands of years. Leftist groups like the ACLU have used the courts to purge faith from public life. Jesus said to go into all the world and make disciples. This command to engage in public ministry is a God-given commandment and right. This amendment helps people of faith spread the gospel and lead people to Christ.

More than any other book, the Bible has influenced our nation. A loss of religious freedom that purges its teachings and principles from public life and government will doom us to reap the same bitter harvest as other nations that have done the same.

Our nation is founded on religious freedom—the freedom of every person to believe as they choose and to live their life according to those beliefs. Without this, people are not free.



Questions and Answers

1. Why do we need this in our State Constitution? Don't we already have religious freedom guaranteed by the U.S. Constitution?

Answer: The U.S. Constitution protects religious freedom, but lately that's not enough. Religious freedom has been under attack for decades. This amendment clarifies that religious freedom will be protected by writing it into the Arkansas Constitution. With this amendment, citizens will have another weapon to use to prevent state or local governments from burdening religious liberty.

2. Will this amendment protect religious cults that practice polygamy or abuse their members?

Answer: No. Governments have the right to outlaw criminal behavior, and religious freedoms do not exempt a person from abiding by the law (see *Reynolds v U.S. 1878*). If the government did not have the right to prohibit theft, abuse, fraud, and other crimes, the courts would have proven it long ago. The Arkansas Religious Freedom Amendment does not change this.

3. Will this amendment prevent the government from closing churches during a pandemic?

Answer: Sometimes, but not always. This amendment offers much more protection than we currently have against State or local governments being able to close place of worship. The government would have to prove that there was a compelling reason and they would have to do it in the least restrictive means possible. This amendment is another tool that churches can use to fight back against government overreach.

4. Will this amendment allow parents to withhold medical treatment from a child or harm their child based on their religious beliefs?

Answer: No! Child welfare is a well-documented compelling governmental interest and this amendment will not affect any child abuse or neglect laws.

5. Will this amendment allow clergy to engage in sexual abuse?

Answer: Absolutely not! This amendment does not shield anyone who commits an illegal act of any kind.

6. Which religions does this amendment protect?

Answer: This amendment protects all religions equally. The amendment does not give preference to one religion over another. It protects everyone's God-given right to live according to their deeply-held religious convictions.

7. Will this allow Muslims to practice Sharia Law, or allow terrorists to plot attacks, or give more rights to Satan worshipers?

Answer: No. This amendment does not shield anyone from prosecution for illegal acts. Sharia Law and terrorist attacks are illegal, and people can already worship Satan or anything else.

8. Will this enable people to claim strange rights under religious freedom such as not paying taxes, using illegal drugs, killing endangered animals, or carrying banned weapons?

Answer: No. The amendment would not give anyone a free pass to violate criminal laws. Collecting taxes, protecting natural resources, banning drugs, and protecting people from violence are compelling government interests.

9. Will this amendment give additional grounds for a caterer or photographer to refuse to provide services at an event for gay or transgender persons or enable a church to fire an employee whose lifestyle violated church doctrine?

Answer: Yes. If decisions are being made based on a deeply held religious conviction or doctrine the amendment provides protection against criminal penalties for discrimination. However, it will not prevent people from filing a lawsuit against the church, the caterer, or photographer.

10. Will this amendment prevent an employer from being able to fire a person for religious reasons or prevent a religious person from practicing their religion at work?

Answer: Federal law already addresses these issues. This amendment will not affect employment law.

11. Will this amendment allow student prayer or Bible reading at school?

Answer: This amendment will not affect court rulings on school prayer and Bible reading.