



MICHIGAN RELIGIOUS FREEDOM RESTORATION ACT FACT VS. FICTION

The Michigan House of Representative passed the Religious Freedom Restoration Act (RFRA). With time running out, the proposed law is awaiting action in the Michigan Senate.

For the first 200 years in our country, our Courts gave the highest level of constitutional protection to religious freedom. The United States Supreme Court stripped away this protection in the 1990 case of *Employment Division v. Smith*.¹ In response, a bi-partisan United States Congress passed the federal RFRA, signed into law by President Bill Clinton in 1993. At the time, the bi-partisan bill was supported by the ACLU. Despite fear mongering by opponents, in over twenty-one years, none of the alleged problems with RFRA ever materialized.

The Federal RFRA restored the protections of religious freedom, but only as it applies to federal government actions. The Federal RFRA does not apply to state government action infringing upon religious freedom. Therefore, each state must pass its own RFRA.

This Fact Sheet responds to the numerous misrepresentations by opponents regarding the proposed Michigan RFRA.

1. RFRA IS NOT A “LICENSE TO DISCRIMINATE”

RFRA only provides a defense against government action infringing upon religious conscience. It does not apply to private actions by one citizen against another.

To claim RFRA is a license to discriminate is the same as saying the right to self-defense is a “license to murder.” Illogical arguments like this are thinly veiled attempts to bully and silence supporters of the Michigan RFRA.

2. RFRA WILL NOT PROTECT CHILD ABUSERS, WILL NOT ALLOW EMT WORKERS TO REFUSE TREATMENT, AND WILL NOT PROTECT TAX CHEATERS, ETC.

The Michigan RFRA does not grant any new rights or immunities. Someone cannot simply say the magic word “RFRA” and do whatever they please. All RFRA does is require the government to have a compelling interest and use the least restrictive means when infringing upon a person’s right to religious freedom.

RFRA simply restores the standard used by all 50 states and the federal government before the *Smith*

decision. We know opponent’s allegations are not true because no cases exist allowing child abuse on the basis of a RFRA defense. Indeed, government has always had a compelling interest in protecting children from abuse. Likewise, no cases exist allowing EMT workers to let people die. Indeed, federal law requires EMTs and hospitals to provide emergency care to everyone.

In all the years when the greater protection for religious freedom was in place prior to the 1990 *Smith* decision, child abusers were not permitted to abuse children, EMT workers had to provide emergency care, the DMV had to provide drivers licenses, and tax cheaters were not allowed to proliferate, etc. To claim that restoring the original protection of religious freedom through RFRA will permit this to occur is disingenuous and false.

3. RELIGION IS NO LONGER FULLY PROTECTED BY THE FIRST AMENDMENT

The *Smith* decision weakened religious freedoms to the lowest level of protection permitted by law. RFRA simply restores the protection of religious conscience to the same level of protection as freedom of speech and freedom of the press.

4. RFRA DOES NOT ALLOW LANDLORDS TO EVICT GAY PEOPLE.

Again, RFRA only protects people from government action. It cannot be used in any way by a private landlord attempting to evict someone. RFRA is not a license to do anything; it can only be used as a shield to government infringing on a person’s sincerely held religious conscience.

5. MICHIGAN’S RFRA IS NOT AN EXTREME LAW.

Michigan’s RFRA almost exactly duplicates the federal RFRA, now in place for over 21 years. The proposed Arizona RFRA, cited by opponents, was much broader than Michigan’s RFRA.

In conclusion, the wild accusations by opponents of RFRA are simply untrue. Those who support restoring protection for the free exercise of religious conscience must fully inform themselves of the truth, and then stand up and be heard.

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¹ *Employment Division v. Smith*, 494 U.S. 872 (1990)

