

Chairman Grassley and Ranking Member Leahy

ID: LFG-2016-0029

Senate Committee on the Judiciary

224 Dirksen Senate Office Building

Washington, D.C. 20510

Sent via: Mail

September 3<sup>rd</sup>, 2016

Re: The Do Not Harm Act

Chairman Grassley and Ranking Member Leahy,

My name is Isaiah X. Smith and I am sending you this letter for the purpose as to requesting all of you to support the Do Not Harm Act, a.k.a H.R. 5272, which has the purpose as to ensuring that the Religious Freedom Restoration Act is not used in ways that will result in harm.

As you may already know, religious freedom gives individuals the right to their conscience, but not to harm other individuals. The Do Not Harm Act has the purpose as to placing lawful limitations on the Religious Freedom Restoration Act so that it can be used as a shield for religious exercise but not as a weapon. The Do Not Harm Act has the purpose as to making sure that individuals cannot use the "RFRA" federal law to justify discrimination, deny individuals health care services or be involved in other harms as to an individual. Please note that the Establishment Clause of the First Amendment to the Constitution of the United States forbids religious exemptions that are harmful to third parties. See *Cutter v. Wilkinson*, 544 U.S. 709, 720 (2005) and *Estate of Thornton v. Caldor, Inc.*, 472 U.S. 703, 710 (1985).

I strongly believe that the Do Not Harm Act is greatly needed. One reason why I believe that is because some individuals working in their official government capacity have tried to use the federal Religious Freedom Restoration Act as their justification to discriminate and deny services to an individual in which I personally do not believe that is legal for them to do so while they are in their official government capacity. Here is why:

#### Federal Free Exercise Clause

Some individuals while they are in their official government capacity have tried to deny individuals in the United States of America their services due to those individuals being associated with the LGBT community or for them simply being in a same-sex relationship. Under the federal Free Exercise Clause, government employees have no right to deny citizens their service due to them being LGBT or because they are in a same-sex relationship. As seen in *Employment Division v. Smith*, 494 U.S. 872 (1990), the Free Exercise Clause "does not relieve an individual of the obligation to comply with a valid and neutral law of general applicability on the ground that the law proscribes (or prescribes) conduct that his religion prescribes (or proscribes)."

## Equal Protection and the Due Process Clause

Some clerks and judges in counties in the United States of America have tried to deny marriage certificates to individuals in the United States of America that are in the LGBT community due to their personal religious beliefs. However members of the LGBT community have a constitutional right, pursuant to the Equal Protection and the Due Process Clauses of the United States Constitution to marry the person who they are in love with "on the same terms and conditions as opposite-sex couples." *Obergefell v. Hodges*, 2015 WL 2473451, at \*19

Some individuals have tried to use the federal RFRA law to justify their refusal to serve individuals who are attracted to members of the same sex or individuals who are in a same-sex relationship. That type of refusal to serve individuals is harmful as to the customers and causes delay, time restraints and is a huge inconvenience for individuals that are trying to obtain service.

I believe that government officials that deny a person service due to their customer's LGBT status is per se associational discrimination and that it demeans an individual whose moral and sexual choices are protected by the Constitution of the United States of America. Further I believe that a denial of service is a particular type of special disfavoring treatment that is absolutely unconstitutional because under the law because all have a right to be treated equally. See *United States v. Windsor*, 133 S. Ct. 2675, 2694 (2013).

## The Establishment Clause

I believe that individuals who are in their official capacity as government officials cannot deny services to LGBT individuals because doing so would be harmful to the victims as to the discrimination. Religious exemption are forbidden when they are harmful to third parties. See *Cutter v. Wilkinson*, 544 U.S. 709, 720 (2005) and *Estate of Thornton v. Caldor, Inc.*, 472 U.S. 703, 710 (1985).

## Conclusion

In conclusion the approval as to the Do Not Harm Act is greatly needed. There is a huge misunderstanding that the federal RFRA law allows and permits unlawful forms of discriminatory treatment and harassment. The original intent for the federal Religious Freedom Restoration Act law was to protect religious exercises and providing a model for the states of the union as to looking to expand religious liberty protections without allowing "harm" to be committed against others.

The Do Not Harm Act intends to clarify as to when the RFRA law can be used in civil suits in which the government is a party and the propose bill identifies the circumstances in which the federal RFRA law cannot be invoked as a tool for harm. Some of the ways that the Do Not Harm Act intends to make sure that the federal RFRA law cannot be used as a weapon against the Civil Rights Act, the following:

- \* Nondiscrimination laws
- \* Workplace laws regarding wages and compensation

- \*Laws protecting children's welfare
- \*Laws ensuring access to healthcare
- \*Provision of goods and services under government grants and contracts
- \*Provision of government services
- \*The Civil Rights Act
- \* The Americans with Disabilities Act
- \*The Violence Against Women Act

The federal Religious Freedom Restoration Act law needs to be prevented from being used for the purposes as to imposing beliefs or causing harm. The Do Not Harm Act has the purposes as to helping ensure that lesbian, gay, bisexual, and transgender people; women; children; men; and other populations who are especially vulnerable to the abuse of religious liberty claims can live their lives without being in fear of harm, or being forced to follow the religious beliefs of others.

I urge you to fully support the Do Not Harm Act because not only is it needed, it is intending to progress and reform a law in the United States of America that needs to be reformed.

Acknowledgement letter

A response letter to my letter to you all would be greatly appreciated. You can send me correspondence as to my letter to you by email to: [iscampaign@usa.com](mailto:iscampaign@usa.com). You can also send me a letter to me by mail at the following mailing address:

Isaiah X. Smith  
Isaiah Smith Campaign  
P.O Box 163411  
Fort Worth, Texas, 76161

  
Respectfully,

Isaiah X. Smith

Isaiah Smith Campaign  
P.O Box 163411  
Fort Worth, Texas, 76161

[www.isaiahxsmith.com](http://www.isaiahxsmith.com)