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Testimony of
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Americans United for Separation of Church and State
regarding HB 707
before the
House Civil Law and Procedure Committee
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I am offering this testimony on behalf of the Louisiana members of Americans United for Separation of Church and State. HB 707, like recent legislation in Indiana and Arkansas, is an attempt to allow individuals and businesses to discriminate against others under the guise of religious freedom. HB 707 would sanction discrimination against same-sex couples as long as those actions are based on someone's religious beliefs or moral convictions about marriage. Although people may disagree about definitions of marriage, we can all agree that we should treat one another fairly and with respect and that it is unacceptable to allow wide-spread discrimination against individuals based on their sexual orientation. Americans United, therefore, opposes HB 707 as it serves only to sanction discrimination and could deny Louisianans their fundamental rights.

HB 707 Would Sanction Discrimination

HB 707 would force the state to sanction and even fund harmful discrimination in the name of religion by prohibiting the state from taking "any adverse action against a person, wholly or partially, on the basis that such person acts in accordance with a religious belief or moral conviction" related to marriage. The bill broadly defines "adverse action" to include: the denial or exclusion of a state grant, contract, loan or professional license; denying or withholding from such person any state benefit; and any other discrimination against or disadvantage to such person. Under HB 707 a homeless shelter or food bank that receives grants from the state could refuse to serve same-sex couples in need, and an adoption agency receiving state funds could be allowed to discriminate in the placement of a child, ignoring the best interest of the child. Religious freedom has long been protected in our Nation. However, it does not permit government employees and state contractors to refuse to do their jobs or provide services for which they have an obligation to provide to all Louisianans.

Additionally, HB 707 would allow individuals and private businesses to discriminate and refuse to serve Louisianans if that decision is based on a personal religious belief or moral conviction about marriage. Like the recent Religious Freedom Restoration Act (RFRA) bill in Indiana, HB 707 applies to all corporations, partnerships and organizations regardless of whether they have any religious affiliation. HB 707 actually goes much farther than the Indiana RFRA in that there is no requirement for courts to account for the government's compelling interest or ensure that the beliefs are sincerely held. HB 707 would be bad for Louisiana business and, more importantly, would treat same-sex couples as second-class citizens.

Furthermore, HB 707 threatens to nullify the LGBT-inclusive non-discrimination ordinances adopted by Louisiana municipalities¹ and trump any new protections the state or local governments in Louisiana wish to adopt.

HB 707 Would Violate Louisianans' Fundamental Rights

The Supreme Court has long held that marriage is a fundamental right.² Courts all over the country have also overwhelmingly recognized that the state lacks a legitimate justification for treating same-sex couples differently than opposite-sex couples in the issuance of marriage licenses.³ In allowing government employees to refuse to provide marriage certificates or solemnize weddings for some couples, this legislation would sanction government discrimination and violate the couples' equal protection rights, which would result in substantial practical and dignitary harms.

Finally, HB 707 runs afoul of the Establishment Clause in favoring one set of religious beliefs over others. Religious freedom means we can hold any belief we want – and at the same time, the government may not privilege one of those beliefs over any other. It is well known that different religious groups have different views on marriage and that even members of the same religious group can have views that differ significantly. Yet, this bill would codify a particular religious view of marriage to the exclusion of other religious views held by many Louisianans and thus, is contrary to the Constitution.

Conclusion

The Louisiana legislature should not support legislation that sanctions taxpayer-funded discrimination and infringes on the fundamental rights of Louisianans. For the reasons discussed, we urge you to oppose HB 707. Thank you for your consideration on this important matter.

¹Baton Rouge, Metairie, New Orleans, and Shreveport currently have such protections.

²*Loving v. Virginia*, 388 U.S. 1, 12 (1967) (“The freedom to marry has long been recognized as one of the vital personal rights essential to the orderly pursuit of happiness by free men.”).

³*Bostic v. Schaefer*, 760 F.3d 352 (4th Cir. 2014); *Baskin v. Bogan*, 766 F.3d 648 (7th Cir. 2014); *Latta v. Otter*, 2014 WL 4977682 (9th Cir. Oct. 7, 2014); *Kitchen v. Herbert*, 755 F.3d 1193 (10th Cir. 2014) (“[Such] differentiation demeans the [same-sex] couple, whose moral and sexual choices the Constitution protects, and whose relationship the State has sought to dignify.”); *United States v. Windsor*, 133 S. Ct. 2675, 2694 (2013) (citations omitted).