

116TH CONGRESS  
1ST SESSION

# S. 593

To amend the Religious Freedom Restoration Act of 1993 to protect civil rights and otherwise prevent meaningful harm to third parties, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 28, 2019

Ms. HARRIS (for herself, Ms. BALDWIN, Mr. BLUMENTHAL, Mr. BOOKER, Mr. BROWN, Mr. CARDIN, Mr. CARPER, Ms. CORTEZ MASTO, Ms. DUCKWORTH, Mr. DURBIN, Mrs. FEINSTEIN, Ms. HASSAN, Ms. HIRONO, Ms. KLOBUCHAR, Mr. LEAHY, Mr. MARKEY, Mr. MENENDEZ, Mr. MERKLEY, Mrs. MURRAY, Mr. MURPHY, Mr. REED, Ms. ROSEN, Ms. SMITH, Ms. WARREN, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend the Religious Freedom Restoration Act of 1993 to protect civil rights and otherwise prevent meaningful harm to third parties, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Do No Harm Act”.

5 **SEC. 2. SENSE OF CONGRESS.**

6 It is the sense of Congress that—

1           (1) the Religious Freedom Restoration Act of  
2           1993 should not be interpreted to authorize an ex-  
3           emption from generally applicable law that imposes  
4           the religious views, habits, or practices of one party  
5           upon another;

6           (2) the Religious Freedom Restoration Act of  
7           1993 should not be interpreted to authorize an ex-  
8           emption from generally applicable law that imposes  
9           meaningful harm, including dignitary harm, on a  
10          third party; and

11          (3) the Religious Freedom Restoration Act of  
12          1993 should not be interpreted to authorize an ex-  
13          emption for one party that permits discrimination  
14          against others, including persons who do not belong  
15          to the religion or adhere to the beliefs of that party.

16 **SEC. 3. EXCEPTION FROM APPLICATION OF ACT WHERE**  
17 **FEDERAL LAW PREVENTS HARM TO OTHERS.**

18          Section 3 of the Religious Freedom Restoration Act  
19 of 1993 (42 U.S.C. 2000bb–1) is amended by adding at  
20 the end the following:

21          “(d) **ADDITIONAL EXCEPTION FROM APPLICATION**  
22 **OF ACT WHERE FEDERAL LAW PREVENTS HARM TO**  
23 **OTHERS.**—Subsection (a) shall not apply—

24                 “(1) to any provision of law or its implementa-  
25                 tion that provides for or requires—

1           “(A) a protection against discrimination or  
2           the promotion of equal opportunity, including  
3           the Civil Rights Act of 1964 (42 U.S.C. 2000a  
4           et seq.), the Americans with Disabilities Act of  
5           1990 (42 U.S.C. 12101 et seq.), the Family  
6           and Medical Leave Act of 1993 (29 U.S.C.  
7           2601 et seq.), Executive Order 11246 (42  
8           U.S.C. 2000e note; relating to equal oppor-  
9           tunity in Federal employment), the Violence  
10          Against Women Act of 1994 (42 U.S.C. 13925  
11          et seq.), the final rule of the Department of  
12          Housing and Urban Development entitled  
13          ‘Equal Access to Housing in HUD Programs  
14          Regardless of Sexual Orientation or Gender  
15          Identity’ (77 Fed. Reg. 5661 (February 3,  
16          2012)) (or any corresponding similar regulation  
17          or ruling), or section 5.106 of title 24, Code of  
18          Federal Regulations (or any corresponding  
19          similar regulation or ruling);

20                 “(B) an employer to provide a wage, other  
21                 compensation, or a benefit including leave, or a  
22                 standard protecting collective activity in the  
23                 workplace;

24                 “(C) protection against child labor, child  
25                 abuse, or child exploitation; or

1           “(D) access to, information about, a refer-  
 2           ral for, provision of, or coverage for, any health  
 3           care item or service;

4           “(2) to any term, requiring a good, service,  
 5           function, or activity to be performed or provided to  
 6           a beneficiary, of a government contract, grant, coop-  
 7           erative agreement, or other instrument for an award;  
 8           or

9           “(3) to the extent that application would result  
 10          in denying a person the full and equal enjoyment of  
 11          a good, service, benefit, facility, privilege, advantage,  
 12          or accommodation, provided by the government.”.

13 **SEC. 4. CLARIFICATION OF PRECLUSION OF LITIGATION**  
 14                                   **BETWEEN PRIVATE PARTIES.**

15          (a) **PURPOSE.**—The purpose of the amendment made  
 16 by subsection (b) is to clarify the applicability of the Reli-  
 17 gious Freedom Restoration Act of 1993, as enacted.

18          (b) **PRECLUSION.**—Section 3(c) of the Religious  
 19 Freedom Restoration Act of 1993 (42 U.S.C. 2000bb-  
 20 1(c)) is amended, in the first sentence, by striking “judi-  
 21 cial proceeding” and all that follows and inserting “judi-  
 22 cial proceeding to which the government is a party and  
 23 obtain appropriate relief against that government.”.

1 **SEC. 5. DEFINITIONS.**

2 Section 5 of the Religious Freedom Restoration Act  
3 of 1993 (42 U.S.C. 2000bb–2) is amended—

4 (1) in paragraph (3), by striking “and” at the  
5 end;

6 (2) in paragraph (4), by striking the period and  
7 inserting “; and”; and

8 (3) by adding at the end the following:

9 “(5) the term ‘including’ means including, but  
10 not limited to, consistent with the term’s standard  
11 meaning in Federal law.”.

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