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.

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

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) the Religious Freedom Restoration Act of 1993 should not be interpreted to authorize an exemption from generally applicable law that imposes the religious views, habits, or practices of one party upon another;

(2) the Religious Freedom Restoration Act of 1993 should not be interpreted to authorize an exemption from generally applicable law that imposes meaningful harm, including dignitary harm, on a third party; and

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

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

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

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

“(1) to any provision of law or its implementation that provides for or requires—
“(A) a protection against discrimination or the promotion of equal opportunity, including the Civil Rights Act of 1964 (42 U.S.C. 2000a et seq.), the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.), Executive Order 11246 (42 U.S.C. 2000e note; relating to equal opportunity in Federal employment), the Violence Against Women Act of 1994 (42 U.S.C. 13925 et seq.), the final rule of the Department of Housing and Urban Development entitled ‘Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity’ (77 Fed. Reg. 5661 (February 3, 2012)) (or any corresponding similar regulation or ruling), or section 5.106 of title 24, Code of Federal Regulations (or any corresponding similar regulation or ruling);

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

“(C) protection against child labor, child abuse, or child exploitation; or
“(D) access to, information about, a referral for, provision of, or coverage for, any health care item or service;

“(2) to any term, requiring a good, service, function, or activity to be performed or provided to a beneficiary, of a government contract, grant, cooperative agreement, or other instrument for an award; or

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

SEC. 4. CLARIFICATION OF PRECLUSION OF LITIGATION BETWEEN PRIVATE PARTIES.

(a) PURPOSE.—The purpose of the amendment made by subsection (b) is to clarify the applicability of the Religious Freedom Restoration Act of 1993, as enacted.

(b) PRECLUSION.—Section 3(e) of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb–1(e)) is amended, in the first sentence, by striking “judicial proceeding” and all that follows and inserting “judicial proceeding to which the government is a party and obtain appropriate relief against that government.”.
SEC. 5. DEFINITIONS.


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

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

(3) by adding at the end the following:

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