S. 2752

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

SEPTEMBER 15, 2021

Mr. Booker (for himself, Mr. Whitehouse, Ms. Cortez Masto, Mr. Merkley, Ms. Klobuchar, Mrs. Feinstein, Mr. Blumenthal, Mrs. Gillibrand, Mr. Padilla, Mr. Murphy, Ms. Duckworth, Mrs. Shaheen, Ms. Smith, Ms. Hirono, Mr. Durbin, Mr. Van Hollen, Mr. Coons, Ms. Stabenow, Mr. Carper, Mr. Sanders, Ms. Cantwell, Mr. Brown, Mr. Menendez, Ms. Baldwin, Mr. Reed, Mr. Markey, Ms. Warren, Mr. Luján, Mrs. Murray, and Ms. Rosen) 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 Representatives 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 if the exemption would impose 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 if the exemption would impose 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 from generally applicable law if the exemption would permit 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 implementa-
tion 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 oppor-
tunity in Federal employment), the Violence
Against Women Act of 1994 (42 U.S.C. 13925
et seq.), the final rule, including any amend-
ment made by such 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. 5662 (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 of a government contract, grant, cooperative agreement, or other instrument for an award, that requires a good, service, function, or activity to be performed for or provided to a beneficiary of or participant in a program or activity funded by such 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(c) of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb–1(c)) 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.”.