



Indiana Catholic Conference

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Support SB 101 Religious Freedom Restoration Act

“The exercise of religion, of its very nature, consists before all else in those internal, voluntary and free acts whereby man sets the course of his life directly toward God.” (Dignitatis Humanae, No. 3.) Therefore, individuals are “not to be forced to act in manner contrary to [their] conscience” nor “restrained from acting in accordance with [their] conscience . . .” (Id.)

The Second Vatican Council explained in *Dignitatis Humanae* that the foundation of the principle of religious freedom is rooted in the dignity of the human person, who is endowed with reason and free will, and therefore able to take responsibility for his or her actions. Religious liberty is protected in the First Amendment to the U.S. Constitution and in federal and state laws. Religious liberty includes more than our ability to go to Mass on Sunday or pray the Rosary at home; it also encompasses our ability to contribute freely to the common good of all Americans.

Because religious traditions are not learned and practiced in the vacuum of a church community but are practiced in the secular world, it is important to recognize that the government has an obligation to accommodate religion and not be hostile to its presence. Faith, worship and membership in a religious community lies at the root of a purposeful life, and it is often through religion that one acquires the virtues associated with good citizenship that allows for productive participation in a secular society. Further, churches, as part of their ministry, provide important and necessary services to the public, such as health care and educational and social services, areas of overlapping and mutual concern of both churches and the modern secular state.

The First Amendment reflects a promise that a church may be distinctive; that a church may be different from secular entities and other churches; that the government may not impose upon a church criteria that define it; that a church may, free of government intrusion and interference, exercise and enjoy those characteristics that make it what it is—in short, a promise that *churches can be churches*.

While there is no exhaustive list of circumstances in which church autonomy is implicated, the concern here is more related to the pervasive government regulation in the United States, particularly in the expansion of jurisdiction through rule making and executive authority. These areas have exponentially broadened the potential for government encroachment upon church autonomy and following one’s conscience.

The government is expanding its regulatory powers to redefine and intrude into areas traditionally beyond the authority of the state. A key example is the effort in several states to insist that all employers who offer prescription drug coverage for their employees must include contraceptives and drugs that cause abortion. The dilemma is that Catholic institutions offer health insurance as an

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expression of what, in justice, we should provide for those who work for us. The provision of insurance is now the trigger for these new mandates. These mandates are coupled with something even more insidious – a so-called religious employer exemption crafted not to exempt religious institutions. These so called exemptions involve the government in classifying among religious ministries, labeling some religious and other secular, depending on what the government thinks is the function of religion.

According to the definition, a religious employer is restricted to a narrow form of religious work:

1. It must be engaged in inculcation of religion. Would Catholic ministries qualify when the service primarily provides food and other material resources to those in need?
2. A religious employer primarily hires its own members. Would Catholic parishes qualify when many non-Catholic persons are employed in various capacities, including parish secretaries?
3. A religious employer primarily serves its own members. Under this definition, Mother Teresa's Missionaries of Charity is a secular employer because it does not check religious affiliations of AIDs patients it serves.

Another example is licensure or accreditation. Requirements for licensure or accreditation should not include unnecessary rules that compel agencies to act against their religious beliefs. Adoption agencies have been forced out of existence as was the case in Illinois. Therapists and doctors could be forced to practice in ways antithetical to one's conscience and belief or lose one's ability to serve and earn a livelihood.

Until recently, it was simply unthinkable that one person would attempt to force another to act contrary to that person's religious conscience. While American law and culture reserved the right to act against religious practices when there was clear evidence that they directly endangered the public health and safety, it was simply not acceptable to force a person to choose between God and Government. Notwithstanding the Hobby Lobby decision, this has changed in many respects in many states' laws and regulations.

SB 101 Religious Freedom Restoration Act establishes a legal standard that protects state interests as well as individuals and religious institutions. When there is a compelling state interest in the law or regulation, it must be done in the least restrictive manner thus protecting both the common good while respecting the conscience and religious freedom of all affected.

Long ago, the people of this country settled the question that there should be a variety of institutions serving the public, including religious and Catholic agencies. We want to continue our public ministries and practice our faith which enrich our country and build up the common good. This law would provide assurance that only compelling laws and regulations, applied in a least restrictive manner, can interfere with religious practice. The Catholic Church supports SB 101 RFRA as a prudent way to ensure the religious freedom of Hoosier individuals and institutions.

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