

SECOND REGULAR SESSION

HOUSE JOINT RESOLUTION NO. 97

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CURTMAN.

6582H.011

D. ADAM CRUMBLISS, Chief Clerk

JOINT RESOLUTION

Submitting to the qualified voters of Missouri an amendment to article I of the Constitution of Missouri, by adding thereto one new section relating to the protection of certain religious organizations and individuals from being penalized by the state because of their sincere religious beliefs or practices concerning marriage between two persons of the same sex.

Be it resolved by the House of Representatives, the Senate concurring therein:

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2016, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article I of the Constitution of the state of Missouri:

Section A. Article I, Constitution of Missouri, is amended by adding thereto one new section, to be known as section 36, to read as follows:

Section 36. 1. (1) That the state shall not impose a penalty on a religious organization on the basis that the organization believes or acts in accordance with a sincere religious belief concerning marriage between two persons of the same sex;

(2) That the state shall not impose a penalty on any clergy or other religious leader on the basis that such cleric or leader declines to perform, solemnize, or facilitate a marriage or ceremony because of a sincere religious belief concerning marriage between two persons of the same sex, nor shall the state refuse to authorize any clergy or religious leader to conduct marriages recognized by the state because of a sincere religious belief concerning such a marriage;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

10 (3) That the state shall not impose a penalty on any church, synagogue, mosque,
11 temple, or other house of worship, denomination, or other religious organization on the
12 basis that such organization declines to make its buildings or other facilities and property
13 open or available to perform, solemnize, or facilitate a marriage or ceremony because of
14 a sincere religious belief concerning marriage between two persons of the same sex; and

15 (4) That the state shall not impose a penalty on an individual who declines either
16 to be a participant in a marriage or wedding ceremony or to provide goods or services of
17 expressional or artistic creation for such a marriage or ceremony or an ensuing celebration
18 thereof, because of a sincere religious belief concerning marriage between two persons of
19 the same sex.

20 2. As used in subsection 1 of this section, "penalty" means, but is not limited to, any
21 adverse action taken by the state to:

22 (1) Alter the tax treatment of, or cause any tax, fine, or payment to be assessed
23 against, to delay, revoke, or otherwise deny an exemption from taxation of, any religious
24 organization;

25 (2) Disallow or hinder a deduction for tax purposes of any charitable contribution
26 made to any religious organization;

27 (3) Withhold, reduce, exclude, terminate, or otherwise deny any accreditation,
28 license, certificate, contract, grant, loan, guarantee, or insurance from or to any religious
29 organization;

30 (4) Withhold, reduce, exclude, terminate, or otherwise deny any entitlement, social
31 service benefit, health care benefit, or to alter or deny a custody award, foster home
32 placement, or adoption from, to, or by any religious organization;

33 (5) Deny access to meeting space, channels of communication, or other resources
34 at an educational institution that is otherwise available to other student organizations,
35 participation in charitable fundraising campaigns that are otherwise available to other
36 charitable organizations, or access to minister at correctional institutions or other public
37 facilities and property as is otherwise available to other nongovernmental organizations,
38 to or by any religious organization; or

39 (6) Recognize or allow an administrative charge or civil claim against a religious
40 organization or individual.

41 3. The state shall consider accredited, licensed, or certified for purposes of state law
42 any religious organization that would be accredited, licensed, or certified, respectively, for
43 such purposes but for a determination that the organization believes or acts in accordance
44 with a sincere religious belief concerning marriage between two persons of the same sex.

45 **4. (1) Nothing in this section prevents the state from providing a license to marry**
46 **or providing any other marital entitlement, service, or benefits authorized by state law.**

47 **(2) Nothing in this section permits a hospital or other health care facility, or an**
48 **elder care facility or hospice, to refuse to treat a marriage as valid for purposes of a**
49 **spouse's right to visitation or to make surrogate health care decisions.**

50 **5. For purposes of this section, the following terms mean:**

51 **(1) "Acts", any action or failure to take action, including failure to participate in,**
52 **perform, encourage, service, solemnize, or facilitate, all without regard to whether**
53 **compelled by or central to a system of religious belief;**

54 **(2) "Individual", a natural person or a closely held commercial entity owned by a**
55 **natural person or persons;**

56 **(3) "Religious organization", an organization that is:**

57 **(a) A house of worship including, but not limited to, a church, diocese, conference,**
58 **convention, denomination, association, synagogue, mosque, or temple;**

59 **(b) A religious society, corporation, entity, partnership, order, preschool, school,**
60 **institution of higher education, ministry, charity, social service provider, children's home,**
61 **hospital or other health care facility, hospice, elder care facility, or crisis pregnancy center,**
62 **whether connected to or affiliated with a church, diocese, denomination, or other**
63 **organization of churches, where such organization holds itself out to the public in whole**
64 **or in part as religious and its purposes and activities are in whole or in part religious; or**

65 **(c) Any clergy, religious leader, minister, officer, manager, employee, member, or**
66 **volunteer of any entity described in paragraphs (a) or (b) of this subdivision, while acting**
67 **in the scope of his or her office, employment, or duties of position;**

68 **(4) "State", a governmental body or person that is:**

69 **(a) A department, commission, board, agency, office, committee, or court of this**
70 **state, and any agent of the state or an official acting under color of law of the state; or**

71 **(b) A municipality, county, school district, or other political subdivision in this**
72 **state, and any agent of such a body or official acting under color of law of a political**
73 **subdivision.**

74 **6. (1) A religious organization or individual may assert an actual or threatened**
75 **violation of this section as a claim or defense in a judicial or administrative proceeding, or**
76 **other hearing or dispute resolution process.**

77 **(2) A claim or defense under this section shall proceed without regard to whether**
78 **the state is a named party in the judicial or administrative proceeding, or other hearing or**
79 **dispute resolution process.**

80 **(3) A claim under this section may be commenced, and relief may be granted, in a**
81 **court of competent jurisdiction without regard to whether the religious organization or**
82 **individual commencing the claim has pursued or exhausted available administrative**
83 **remedies.**

84 **(4) The court may award compensatory damages, injunctive relief, declaratory**
85 **relief, or any other appropriate relief against the state, and the state waives any immunity**
86 **from liability in actions brought under this section.**

87 **7. Nothing in this section repeals or supersedes any state law that is equally or more**
88 **protective of religious beliefs or acts. Nothing in this section narrows the meaning or**
89 **application of any state law protecting religious beliefs or acts.**

90 **8. If any provision of this section or any application of such provision to any**
91 **religious organization or individual is held to be contrary to the United States Constitution**
92 **or otherwise in conflict with the laws of the United States, the remainder of this section and**
93 **the application of the provision to any other religious organizations or individuals shall not**
94 **be affected.**

 Section B. Under chapter 116, and other applicable constitutional provisions and laws
2 of this state allowing the general assembly to adopt ballot language for the submission of this
3 joint resolution to the voters of this state, the official summary statement of this resolution shall
4 be as follows:

5 "Shall the Missouri Constitution be amended to provide that the state shall not penalize
6 religious organizations and certain individuals for religious beliefs or acts concerning marriage
7 between two persons of the same sex, but the amendment does not prevent the provision of a
8 marriage license or other marital benefits to such persons?".

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