



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

SB2164

Introduced 7/28/2015, by Sen. Kyle McCarter

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Religious Freedom Defense Act. Prohibits the State and local governments from taking discriminatory action against a person if the person believes or acts under a religious belief or moral conviction that marriage is only between one man and one woman, or that sexual relations are properly reserved to such a marriage. Allows a person to assert a claim or defense under the Act in a judicial or administrative proceeding for damages, injunctive relief, declaratory relief, or other appropriate relief against the State or local government. Also allows the Attorney General to seek enforcement of the Act. Defines "discriminatory action", "person", "State benefit program", and "State".

LRB099 13183 MRW 37080 b

1 AN ACT concerning religious freedom.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Religious Freedom Defense Act.

6 Section 3. Findings.

7 The General Assembly finds the following:

8 (1) Leading legal scholars concur that conflicts  
9 between same-sex marriage and religious liberty are real  
10 and should be legislatively addressed.

11 (2) There are as President Obama stated in response to  
12 the decision of the United States Supreme Court on the  
13 Defense of Marriage Act in 2013, "Americans hold a wide  
14 range of views" on the issue of same-sex marriage, and  
15 "maintaining our Nation's commitment to religious freedom"  
16 is "vital".

17 (3) Nevertheless, in 2015, when asked whether a  
18 religious school could lose its tax-exempt status for  
19 opposing same-sex marriage, the Solicitor General of the  
20 United States represented to the United States Supreme  
21 Court that it is "certainly going to be an issue".

22 (4) Protecting religious freedom from government  
23 intrusion is a government interest of the highest order.

1           Legislatively enacted measures advance this interest by  
2           remedying, deterring, and preventing government  
3           interference with religious exercise in a way that  
4           complements the protections mandated by the First  
5           Amendment to the Constitution of the United States and  
6           Section 3 of Article I of the Illinois Constitution.

7           (5) Laws that protect the free exercise of religious  
8           beliefs and moral convictions about marriage will  
9           encourage private citizens and institutions to demonstrate  
10          tolerance for those beliefs and convictions and therefore  
11          contribute to a more respectful, diverse, and peaceful  
12          society.

13          Section 5. Definitions.

14          In this Act:

15                 "Discriminatory action" means any action taken by the  
16          State to:

17                         (1) alter in any way the State tax treatment of, or  
18                         cause any tax, penalty, or payment to be assessed  
19                         against, or deny, delay, or revoke an exemption from  
20                         taxation under any State law or ordinance of, any  
21                         person;

22                         (2) disallow a deduction for State tax purposes of  
23                         any charitable contribution made to or by any person;

24                         (3) withhold, reduce, exclude, terminate, or  
25                         otherwise deny any State grant, contract, subcontract,

1 cooperative agreement, loan, license, certification,  
2 accreditation, employment, or other similar position  
3 or status from or to any person;

4 (4) withhold, reduce, exclude, terminate, or  
5 otherwise deny any benefit under a State benefit  
6 program from or to any person; or

7 (5) otherwise discriminate against any person.

8 "Person" includes corporations, companies,  
9 associations, firms, partnerships, societies, and joint  
10 stock companies, as well as individuals and includes any  
11 person regardless of religious affiliation or lack  
12 thereof, and regardless of for-profit or nonprofit status.

13 "State benefit program" means any program administered  
14 or funded by the State, or by any agent on behalf of the  
15 State, providing cash or in-kind assistance in the form of  
16 payments, grants, loans, or loan guarantees to persons.

17 "State" means all officers, boards, commissions, and  
18 agencies created by the Illinois Constitution, whether in  
19 the executive, legislative, or judicial branch; all  
20 officers, departments, boards, commissions, agencies,  
21 institutions, authorities, universities, units of local  
22 government, bodies politic and corporate of the State; or  
23 administrative units or corporate outgrowths of the State  
24 which are created by or under statute or ordinance.

25 Section 10. Protection of the free exercise of religious

1 beliefs and moral convictions.

2 (a) Notwithstanding any other provision of law, the State  
3 shall not take any discriminatory action against a person,  
4 wholly or partially on the basis that the person believes or  
5 acts in accordance with a religious belief or moral conviction  
6 that marriage is or should be recognized as the union of one  
7 man and one woman, or that sexual relations are properly  
8 reserved to such a marriage.

9 (b) The State shall consider accredited, licensed, or  
10 certified for purposes of State law any person that would be  
11 accredited, licensed, or certified, respectively, for these  
12 purposes but for a determination against the person wholly or  
13 partially on the basis that the person believes or acts in  
14 accordance with a religious belief or moral conviction that  
15 marriage is or should be recognized as the union of one man and  
16 one woman, or that sexual relations are properly reserved to  
17 such a marriage.

18 Section 15. Judicial relief.

19 (a) A person may assert an actual or threatened violation  
20 of this Act as a claim or defense in a judicial or  
21 administrative proceeding and obtain compensatory damages,  
22 injunctive relief, declaratory relief, or any other  
23 appropriate relief against the State.

24 (b) Notwithstanding any other provision of law, an action  
25 under this Section may be commenced, and relief may be granted,

1 without regard to whether the person commencing the action has  
2 sought or exhausted available administrative remedies.

3 (c) If the person's claim or defense prevails, the person  
4 shall be awarded reasonable attorney's fees and costs.

5 (d) The Attorney General may bring an action for injunctive  
6 or declaratory relief to enforce compliance with this Act.  
7 Nothing in this subsection (d) shall be construed to deny,  
8 impair, or otherwise affect any right or authority of the  
9 Attorney General, the State, or any agency, officer, or  
10 employee of the State, acting under any law other than this  
11 subsection, to institute or intervene in any proceeding.

12 Section 20. Rules of construction.

13 (a) This Act shall be construed in favor of a broad  
14 protection of free exercise of religious beliefs and moral  
15 convictions, to the maximum extent permitted by the terms of  
16 this Act and the federal and State Constitution.

17 (b) Nothing in this Act shall be construed to preempt State  
18 law, that is equally or more protective of free exercise of  
19 religious beliefs and moral convictions. Nothing in this Act  
20 shall be construed to narrow the meaning or application of any  
21 State or federal law protecting free exercise of religious  
22 beliefs and moral convictions. Nothing in this Act shall be  
23 construed to prevent the State from providing, either directly  
24 or through a person not seeking protection under this Act, any  
25 benefit or service authorized under State law.