

**Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 18-0730.02 Esther van Mourik x4215

**HOUSE BILL 18-1206**

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**HOUSE SPONSORSHIP**

**Humphrey**, Everett, Neville P., Ransom, Leonard, Lewis, Van Winkle, Becker J., Lundeen, Saine, Sandridge, Willett, Williams D.

**SENATE SPONSORSHIP**

**Lundberg**, Marble, Baumgardner, Holbert, Lambert, Neville T., Priola, Sonnenberg

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**House Committees**  
Judiciary

**Senate Committees**

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**A BILL FOR AN ACT**

101      **CONCERNING THE ESTABLISHMENT OF THE "LIVE AND LET LIVE ACT"**  
102      **IN COLORADO.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill establishes the "Live and Let Live Act" in the state.

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1      *Be it enacted by the General Assembly of the State of Colorado:*

2            **SECTION 1.** In Colorado Revised Statutes, **add** part 10 to article

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

1 34 of title 24 as follows:

2

PART 10

3

LIVE AND LET LIVE ACT

4

**24-34-1001. Short title.** THE SHORT TITLE OF THIS PART 10 IS THE

5

"LIVE AND LET LIVE ACT".

6

**24-34-1002. Legislative declaration.** (1) THE GENERAL

7

ASSEMBLY HEREBY FINDS AND DECLARES THAT:

8

(a) LEADING LEGAL SCHOLARS CONCUR THAT CONFLICTS BETWEEN

9

SAME-SEX MARRIAGE AND RELIGIOUS LIBERTY ARE REAL AND SHOULD BE

10

ADDRESSED THROUGH LEGISLATION;

11

(b) AFTER LEGALIZATION OF SAME-SEX MARRIAGE, RELIGIOUS

12

ADOPTION AND FOSTER-CARE AGENCIES IN MASSACHUSETTS, ILLINOIS,

13

AND THE DISTRICT OF COLUMBIA WERE FORCED TO CLOSE BECAUSE OF

14

THEIR SINCERELY HELD RELIGIOUS BELIEFS ABOUT MARRIAGE. ALSO, A

15

RELIGIOUS EDUCATIONAL INSTITUTION IN MASSACHUSETTS WAS

16

THREATENED BY THE GOVERNMENT WITH LOSS OF ITS ACCREDITATION

17

BECAUSE OF ITS SINCERELY HELD RELIGIOUS BELIEFS ABOUT MARRIAGE.

18

SMALL FAMILY-OWNED WEDDING BUSINESSES IN COLORADO, OREGON,

19

WASHINGTON, IOWA, NEW YORK, AND ELSEWHERE HAVE ENDURED FINES

20

OR FINANCIAL PENALTIES OR BEEN FORCED TO CLOSE BECAUSE THEY

21

OPERATED CONSISTENT WITH THEIR SINCERELY HELD RELIGIOUS BELIEFS

22

ABOUT MARRIAGE. IN COLORADO, A CAKE BAKER WHO WILLINGLY SERVED

23

CUSTOMERS FROM EVERY WALK OF LIFE WAS FORCED TO SHUT DOWN AN

24

ENTIRE FACET OF HIS BUSINESS, FORCED TO UNDERGO GOVERNMENT

25

"REEDUCATION", AND REQUIRED TO FILE CONSTANT COMPLIANCE REPORTS

26

WHEN HE DECLINED TO ADD HIS ARTISTIC TALENTS TO THE CREATION OF

27

A WEDDING CAKE THAT WOULD HAVE CELEBRATED A MARRIAGE HIS

1 CONSCIENCE REQUIRED HIM NOT TO PARTICIPATE IN. OF THE STATE'S  
2 ACTIONS IN THIS CASE, UNITED STATES SUPREME COURT JUSTICE  
3 ANTHONY KENNEDY STATED, "IT SEEMS TO ME THE STATE HAS BEEN  
4 NEITHER TOLERANT NOR RESPECTFUL." IN AN EQUAL SOCIETY, TOLERANCE  
5 MUST BE MUTUAL.

6 (c) CITIZENS OF THE STATE HOLD A WIDE RANGE OF REASONABLE  
7 VIEWS ON THE ISSUE OF SAME-SEX MARRIAGE, AND MAINTAINING THE  
8 STATE'S COMMITMENT TO RELIGIOUS FREEDOM WHEN FACED WITH THESE  
9 GOOD-FAITH DIFFERENCES OF OPINION IS VITAL;

10 (d) OUR NATION HAS A LONG AND HONORABLE HISTORY OF  
11 RESPECTING AND ACCOMMODATING THE RELIGIOUS FREEDOM RIGHTS OF  
12 ITS PEOPLE, DATING FROM BEFORE THE AMERICAN REVOLUTION TO THE  
13 PRESENT. FOR EXAMPLE, LAWS HAVE PROTECTED THE RIGHT OF QUAKERS  
14 AND OTHER PACIFISTS TO SERVE THE NATION AS NONCOMBATANTS IN  
15 TIMES OF WAR, THE RIGHT OF JEWS AND OTHER SABBATH OBSERVERS TO  
16 DEDICATE THEIR TIME TO GOD AND FAMILY INSTEAD OF WORK ON THEIR  
17 SABBATH, AND THE RIGHT OF RELIGIOUS ORGANIZATIONS TO PROVIDE  
18 CHARITABLE SERVICES TO THE PUBLIC CONSISTENT WITH THEIR BELIEFS BY  
19 HIRING INDIVIDUALS WHO SHARE THE SAME BELIEFS. RELIGIOUS FREEDOM  
20 RIGHTS AND THE RIGHT TO CONSCIENCE HAVE, FOR DECADES, BEEN  
21 ESTABLISHED AS A NONCONTROVERSIAL FOUNDATION OF AMERICAN  
22 SOCIETY. THE UNITED STATES DOES NOT USE DISAGREEMENTS ABOUT  
23 RELIGION OR CONSCIENCE AS AN EXCUSE TO BANISH RELIGIOUS OR  
24 CONSCIENTIOUS ACTIVITY FROM THE VIEW OF THOSE IT MIGHT OFFEND.

25 (e) PROTECTING RELIGIOUS FREEDOM FROM GOVERNMENT  
26 INTRUSION IS A STATE INTEREST OF THE HIGHEST ORDER. LEGISLATION  
27 ADVANCES THIS INTEREST BY REMEDYING, DETERRING, AND PREVENTING

1 GOVERNMENT INTERFERENCE WITH RELIGIOUS EXERCISE IN A WAY THAT  
2 COMPLEMENTS THE PROTECTIONS MANDATED BY THE STATE AND FEDERAL  
3 CONSTITUTIONS.

4 (f) PROTECTING THE RELIGIOUS FREEDOM OF FAITH-BASED  
5 CHARITIES AND EDUCATIONAL INSTITUTIONS SERVES THE STATE'S  
6 COMPELLING INTEREST IN PROVIDING ESSENTIAL SOCIAL SERVICES TO THE  
7 POOR AND EDUCATIONAL OPPORTUNITIES TO THE NEXT GENERATION. THIS  
8 IS ALSO CONSISTENT WITH THE STATE'S LONG TRADITION OF COOPERATING  
9 WITH RELIGIOUS ORGANIZATIONS WHEN PROVIDING THESE CRITICAL  
10 SERVICES.

11 (g) LAWS AND GOVERNMENT ACTIONS THAT PROTECT THE FREE  
12 EXERCISE OF RELIGIOUS BELIEFS AND MORAL CONVICTIONS ABOUT  
13 MARRIAGE AND HUMAN SEXUALITY WILL ENCOURAGE PRIVATE CITIZENS  
14 AND INSTITUTIONS TO DEMONSTRATE TOLERANCE FOR THOSE BELIEFS AND  
15 CONVICTIONS AND THEREFORE CONTRIBUTE TO A MORE RESPECTFUL,  
16 DIVERSE, AND PEACEFUL SOCIETY; AND

17 (h) IN A PLURALISTIC SOCIETY, IN WHICH PEOPLE OF GOOD FAITH  
18 HOLD MORE THAN ONE VIEW OF MARRIAGE, IT IS POSSIBLE FOR THE  
19 GOVERNMENT TO RECOGNIZE SAME-SEX MARRIAGE WITHOUT FORCING  
20 PERSONS WITH SINCERELY HELD RELIGIOUS BELIEFS OR MORAL  
21 CONVICTIONS TO CONFORM.

22 **24-34-1003. Definitions.** AS USED IN THIS PART 10, UNLESS THE  
23 CONTEXT OTHERWISE REQUIRES:

24 (1) "ADOPTION OR FOSTER CARE" OR "ADOPTION OR FOSTER CARE  
25 SERVICE" MEANS SOCIAL SERVICES PROVIDED TO OR ON BEHALF OF  
26 CHILDREN, INCLUDING:

27 (a) ASSISTING ABUSED OR NEGLECTED CHILDREN;

- 1 (b) TEACHING CHILDREN AND PARENTS OCCUPATIONAL,  
2 HOMEMAKING, AND OTHER DOMESTIC SKILLS;
- 3 (c) PROMOTING FOSTER PARENTING;
- 4 (d) PROVIDING FOSTER HOMES, RESIDENTIAL CARE, GROUP HOMES,  
5 OR TEMPORARY GROUP SHELTERS FOR CHILDREN;
- 6 (e) RECRUITING FOSTER PARENTS;
- 7 (f) PLACING CHILDREN IN FOSTER HOMES;
- 8 (g) LICENSING FOSTER HOMES;
- 9 (h) PROMOTING ADOPTION OR RECRUITING ADOPTIVE PARENTS;
- 10 (i) ASSISTING ADOPTIONS OR SUPPORTING ADOPTIVE FAMILIES;
- 11 (j) PERFORMING OR ASSISTING HOME STUDIES;
- 12 (k) ASSISTING KINSHIP GUARDIANSHIPS OR KINSHIP CAREGIVERS;
- 13 (l) PROVIDING FAMILY PRESERVATION SERVICES;
- 14 (m) PROVIDING FAMILY SUPPORT SERVICES; AND
- 15 (n) PROVIDING TEMPORARY FAMILY REUNIFICATION SERVICES.

16 (2) "DISCRIMINATORY ACTION" MEANS AND INCLUDES ANY ACTION  
17 TAKEN BY THE STATE GOVERNMENT TO:

- 18 (a) ALTER IN ANY WAY THE TAX TREATMENT OF, OR CAUSE ANY  
19 TAX, PENALTY, OR PAYMENT TO BE ASSESSED AGAINST, OR DENY, DELAY,  
20 REVOKE, OR OTHERWISE MAKE UNAVAILABLE AN EXEMPTION FROM  
21 TAXATION OF ANY PERSON REFERRED TO IN SECTION 24-34-1005;
- 22 (b) DISALLOW, DENY, OR OTHERWISE MAKE UNAVAILABLE A  
23 DEDUCTION FOR STATE TAX PURPOSES OF ANY CHARITABLE CONTRIBUTION  
24 MADE TO OR BY ANY PERSON REFERRED TO IN SECTION 24-34-1005;
- 25 (c) WITHHOLD, REDUCE, EXCLUDE, TERMINATE, MATERIALLY  
26 ALTER THE TERMS OR CONDITIONS OF, OR OTHERWISE MAKE UNAVAILABLE  
27 OR DENY ANY STATE GRANT, CONTRACT, SUBCONTRACT, COOPERATIVE

1 AGREEMENT, GUARANTEE, LOAN, SCHOLARSHIP, OR OTHER SIMILAR  
2 BENEFIT FROM OR TO ANY PERSON REFERRED TO IN SECTION 24-34-1005;

3 (d) WITHHOLD, REDUCE, EXCLUDE, TERMINATE, MATERIALLY  
4 ALTER THE TERMS OR CONDITIONS OF, OR OTHERWISE MAKE UNAVAILABLE  
5 OR DENY ANY ENTITLEMENT OR BENEFIT UNDER A STATE BENEFIT  
6 PROGRAM FROM OR TO ANY PERSON REFERRED TO IN SECTION 24-34-1005;

7 (e) IMPOSE, LEVY, OR ASSESS A MONETARY FINE, FEE, PENALTY,  
8 DAMAGES AWARD, OR INJUNCTION ON ANY PERSON REFERRED TO IN  
9 SECTION 24-34-1005;

10 (f) WITHHOLD, REDUCE, EXCLUDE, TERMINATE, MATERIALLY  
11 ALTER THE TERMS OR CONDITIONS OF, OR OTHERWISE MAKE UNAVAILABLE  
12 OR DENY ANY LICENSE, CERTIFICATION, ACCREDITATION, CUSTODY AWARD  
13 OR AGREEMENT, DIPLOMA, GRADE, RECOGNITION, OR OTHER SIMILAR  
14 BENEFIT, POSITION, OR STATUS FROM OR TO ANY PERSON REFERRED TO IN  
15 SECTION 24-34-1005; OR

16 (g) REFUSE TO HIRE OR PROMOTE, FORCE TO RESIGN, FIRE,  
17 DEMOTE, SANCTION, DISCIPLINE, MATERIALLY ALTER THE TERMS OR  
18 CONDITIONS OF EMPLOYMENT, OR RETALIATE OR TAKE OTHER ADVERSE  
19 EMPLOYMENT ACTION AGAINST ANY PERSON REFERRED TO IN SECTION  
20 24-34-1005 WHO IS EMPLOYED OR COMMISSIONED BY THE STATE  
21 GOVERNMENT.

22 (3) "PERSON" MEANS:

23 (a) A NATURAL PERSON, IN HIS OR HER INDIVIDUAL CAPACITY,  
24 REGARDLESS OF RELIGIOUS AFFILIATION OR LACK THEREOF, OR IN HIS OR  
25 HER CAPACITY AS A MEMBER, OFFICER, OWNER, VOLUNTEER, EMPLOYEE,  
26 MANAGER, RELIGIOUS LEADER, CLERGY, OR MINISTER OF ANY ENTITY  
27 DESCRIBED IN THIS PART 10;

- 1 (b) A RELIGIOUS ORGANIZATION;
- 2 (c) A SOLE PROPRIETORSHIP, PARTNERSHIP, TRUST, CLOSELY HELD  
3 CORPORATION, OR OTHER CLOSELY HELD ENTITY OPERATING WITH A  
4 SINCERELY HELD RELIGIOUS BELIEF OR MORAL CONVICTION DESCRIBED IN  
5 SECTION 24-34-1004; OR
- 6 (d) COOPERATIVES, VENTURES, OR ENTERPRISES COMPRISED OF  
7 TWO OR MORE INDIVIDUALS OR ENTITIES DESCRIBED IN THIS SUBSECTION  
8 (3) REGARDLESS OF NONPROFIT OR FOR-PROFIT STATUS.
- 9 (4) "RELIGIOUS ORGANIZATION" MEANS:
- 10 (a) A HOUSE OF WORSHIP, INCLUDING BUT NOT LIMITED TO  
11 CHURCHES, SYNAGOGUES, SHRINES, MOSQUES, AND TEMPLES;
- 12 (b) A RELIGIOUS GROUP, CORPORATION, ASSOCIATION, SCHOOL OR  
13 EDUCATIONAL INSTITUTION, MINISTRY, ORDER, SOCIETY, OR SIMILAR  
14 ENTITY, REGARDLESS OF WHETHER IT IS INTEGRATED OR AFFILIATED WITH  
15 A CHURCH OR OTHER HOUSE OF WORSHIP; AND
- 16 (c) AN OFFICER, OWNER, EMPLOYEE, MANAGER, RELIGIOUS  
17 LEADER, CLERGY, OR MINISTER OF AN ENTITY OR ORGANIZATION  
18 DESCRIBED IN THIS SUBSECTION (4).
- 19 (5) "STATE BENEFIT PROGRAM" MEANS ANY PROGRAM  
20 ADMINISTERED OR FUNDED BY THE STATE, OR BY ANY AGENT ON BEHALF  
21 OF THE STATE, PROVIDING CASH, PAYMENTS, GRANTS, CONTRACTS, LOANS,  
22 OR IN-KIND ASSISTANCE.
- 23 (6) "STATE GOVERNMENT" MEANS:
- 24 (a) THE STATE OR A POLITICAL SUBDIVISION OF THE STATE;
- 25 (b) ANY AGENCY OF THE STATE OR OF A POLITICAL SUBDIVISION OF  
26 THE STATE, INCLUDING A DEPARTMENT, BUREAU, BOARD, COMMISSION,  
27 COUNCIL, COURT, OR PUBLIC INSTITUTION OF HIGHER EDUCATION;

- 1 (c) ANY PERSON ACTING UNDER COLOR OF STATE LAW; AND  
2 (d) ANY PRIVATE PERSON SUING UNDER OR ATTEMPTING TO  
3 ENFORCE A LAW, RULE, OR REGULATION ADOPTED BY THE STATE OR A  
4 POLITICAL SUBDIVISION OF THE STATE.

5 **24-34-1004. Protected religious beliefs and moral convictions.**

6 (1) THE SINCERELY HELD RELIGIOUS BELIEFS OR MORAL CONVICTIONS  
7 PROTECTED BY THIS PART 10 ARE THE BELIEFS OR CONVICTIONS:

8 (a) REGARDING THE SEX OF THE TWO INDIVIDUALS WHO MAY  
9 ENTER INTO A MARRIAGE;

10 (b) THAT MALE (MAN) OR FEMALE (WOMAN) REFER TO AN  
11 INDIVIDUAL'S IMMUTABLE BIOLOGICAL SEX AS OBJECTIVELY DETERMINED  
12 BY ANATOMY AND GENETICS BY THE TIME OF BIRTH.

13 **24-34-1005. Protections for persons, religious organizations,**

14 **and private associations.** (1) NOTWITHSTANDING ANY LAW TO THE  
15 CONTRARY, THE STATE GOVERNMENT SHALL NOT TAKE ANY  
16 DISCRIMINATORY ACTION AGAINST A RELIGIOUS ORGANIZATION WHOLLY  
17 OR PARTIALLY ON THE BASIS THAT SUCH ORGANIZATION:

18 (a) SOLEMNIZES OR DECLINES TO SOLEMNIZE ANY MARRIAGE, OR  
19 PROVIDES OR DECLINES TO PROVIDE SERVICES, ACCOMMODATIONS,  
20 FACILITIES, GOODS, OR PRIVILEGES FOR A PURPOSE RELATED TO THE  
21 SOLEMNIZATION, FORMATION, CELEBRATION, OR RECOGNITION OF ANY  
22 MARRIAGE, BASED UPON OR IN A MANNER CONSISTENT WITH A SINCERELY  
23 HELD RELIGIOUS BELIEF OR MORAL CONVICTION DESCRIBED IN SECTION  
24 24-34-1004;

25 (b) MAKES ANY EMPLOYMENT-RELATED DECISION, INCLUDING BUT  
26 NOT LIMITED TO THE DECISION WHETHER OR NOT TO HIRE, TERMINATE, OR  
27 DISCIPLINE AN INDIVIDUAL WHOSE CONDUCT OR RELIGIOUS BELIEFS ARE



1 INCONSISTENT WITH THOSE OF THE RELIGIOUS ORGANIZATION, BASED  
2 UPON OR IN A MANNER CONSISTENT WITH A SINCERELY HELD RELIGIOUS  
3 BELIEF OR MORAL CONVICTION DESCRIBED IN SECTION 24-34-1004; OR

4 (c) MAKES ANY DECISION CONCERNING THE SALE, RENTAL,  
5 OCCUPANCY OF, OR TERMS AND CONDITIONS OF OCCUPYING A DWELLING  
6 OR OTHER HOUSING UNDER ITS CONTROL BASED UPON OR IN A MANNER  
7 CONSISTENT WITH A SINCERELY HELD RELIGIOUS BELIEF OR MORAL  
8 CONVICTION DESCRIBED IN SECTION 24-34-1004.

9 (2) THE STATE GOVERNMENT SHALL NOT TAKE ANY  
10 DISCRIMINATORY ACTION AGAINST A RELIGIOUS ORGANIZATION THAT  
11 ADVERTISES, PROVIDES, OR FACILITATES ADOPTION OR FOSTER CARE,  
12 WHOLLY OR PARTIALLY ON THE BASIS THAT SUCH ORGANIZATION HAS  
13 PROVIDED OR DECLINED TO PROVIDE ANY ADOPTION OR FOSTER CARE  
14 SERVICE, OR RELATED SERVICE, BASED UPON OR IN A MANNER CONSISTENT  
15 WITH A SINCERELY HELD RELIGIOUS BELIEF OR MORAL CONVICTION  
16 DESCRIBED IN SECTION 24-34-1004.

17 (3) THE STATE GOVERNMENT SHALL NOT TAKE ANY  
18 DISCRIMINATORY ACTION AGAINST A PERSON WHO THE STATE GRANTS  
19 CUSTODY OF A FOSTER OR ADOPTIVE CHILD, OR WHO SEEKS FROM THE  
20 STATE CUSTODY OF A FOSTER OR ADOPTIVE CHILD, WHOLLY OR PARTIALLY  
21 ON THE BASIS THAT THE PERSON GUIDES, INSTRUCTS, OR RAISES A CHILD,  
22 OR INTENDS TO GUIDE, INSTRUCT, OR RAISE A CHILD, BASED UPON OR IN A  
23 MANNER CONSISTENT WITH A SINCERELY HELD RELIGIOUS BELIEF OR  
24 MORAL CONVICTION DESCRIBED IN SECTION 24-34-1004.

25 (4) THE STATE GOVERNMENT SHALL NOT TAKE ANY  
26 DISCRIMINATORY ACTION AGAINST A PERSON WHOLLY OR PARTIALLY ON  
27 THE BASIS THAT THE PERSON DECLINES TO PARTICIPATE IN THE PROVISION

1 OF TREATMENTS, COUNSELING, OR SURGERIES RELATED TO SEX  
2 REASSIGNMENT OR GENDER IDENTITY TRANSITIONING OR DECLINES TO  
3 PARTICIPATE IN THE PROVISION OF PSYCHOLOGICAL, COUNSELING, OR  
4 FERTILITY SERVICES BASED UPON A SINCERELY HELD RELIGIOUS BELIEF OR  
5 MORAL CONVICTION DESCRIBED IN SECTION 24-34-1004. THIS SUBSECTION  
6 (4) MAY NOT BE CONSTRUED TO ALLOW ANY PERSON TO DENY VISITATION,  
7 RECOGNITION OF A DESIGNATED REPRESENTATIVE FOR HEALTH CARE  
8 DECISION-MAKING, OR EMERGENCY MEDICAL TREATMENT NECESSARY TO  
9 CURE AN ILLNESS OR INJURY AS REQUIRED BY LAW.

10 (5) THE STATE GOVERNMENT SHALL NOT TAKE ANY  
11 DISCRIMINATORY ACTION AGAINST A PERSON WHOLLY OR PARTIALLY ON  
12 THE BASIS THAT THE PERSON HAS PROVIDED OR DECLINED TO PROVIDE THE  
13 FOLLOWING SERVICES, ACCOMMODATIONS, FACILITIES, GOODS, OR  
14 PRIVILEGES FOR A PURPOSE RELATED TO THE SOLEMNIZATION, FORMATION,  
15 CELEBRATION, OR RECOGNITION OF ANY MARRIAGE, BASED UPON OR IN A  
16 MANNER CONSISTENT WITH A SINCERELY HELD RELIGIOUS BELIEF OR  
17 MORAL CONVICTION DESCRIBED IN SECTION 24-34-1004:

18 (a) PHOTOGRAPHY, POETRY, VIDEOGRAPHY, DISC-JOCKEY  
19 SERVICES, WEDDING PLANNING, PRINTING, PUBLISHING, COUNSELING, OR  
20 SIMILAR MARRIAGE-RELATED GOODS OR SERVICES; OR

21 (b) FLORAL ARRANGEMENTS, DRESS MAKING, CAKE OR PASTRY  
22 ARTISTRY, ASSEMBLY-HALL OR OTHER WEDDING-VENUE RENTALS,  
23 LIMOUSINE OR OTHER CAR-SERVICE RENTALS, JEWELRY SALES AND  
24 SERVICES, OR SIMILAR MARRIAGE-RELATED SERVICES, ACCOMMODATIONS,  
25 FACILITIES, OR GOODS.

26 (6) THE STATE GOVERNMENT SHALL NOT TAKE ANY  
27 DISCRIMINATORY ACTION AGAINST A PERSON WHOLLY OR PARTIALLY ON

1 THE BASIS THAT THE PERSON ESTABLISHES SEX-SPECIFIC STANDARDS OR  
2 POLICIES CONCERNING EMPLOYEE OR STUDENT DRESS OR GROOMING, OR  
3 CONCERNING ACCESS TO RESTROOMS, SPAS, BATHS, SHOWERS, DRESSING  
4 ROOMS, LOCKER ROOMS, OR OTHER INTIMATE FACILITIES OR SETTINGS,  
5 BASED UPON OR IN A MANNER CONSISTENT WITH A SINCERELY HELD  
6 RELIGIOUS BELIEF OR MORAL CONVICTION DESCRIBED IN SECTION  
7 24-34-1004.

8 (7) THE STATE GOVERNMENT SHALL NOT TAKE ANY  
9 DISCRIMINATORY ACTION AGAINST A STATE EMPLOYEE WHOLLY OR  
10 PARTIALLY ON THE BASIS THAT SUCH EMPLOYEE LAWFULLY SPEAKS OR  
11 ENGAGES IN EXPRESSIVE CONDUCT BASED UPON OR IN A MANNER  
12 CONSISTENT WITH A SINCERELY HELD RELIGIOUS BELIEF OR MORAL  
13 CONVICTION DESCRIBED IN SECTION 24-34-1004, SO LONG AS:

14 (a) IF THE EMPLOYEE'S SPEECH OR EXPRESSIVE CONDUCT OCCURS  
15 IN THE WORKPLACE, THAT SPEECH OR EXPRESSIVE CONDUCT IS  
16 CONSISTENT WITH THE TIME, PLACE, MANNER, AND FREQUENCY OF ANY  
17 OTHER EXPRESSION OF A RELIGIOUS, POLITICAL, OR MORAL BELIEF OR  
18 CONVICTION ALLOWED; OR

19 (b) IF THE EMPLOYEE'S SPEECH OR EXPRESSIVE CONDUCT OCCURS  
20 OUTSIDE THE WORKPLACE, THAT SPEECH OR EXPRESSIVE CONDUCT IS IN  
21 THE EMPLOYEE'S PERSONAL CAPACITY AND OUTSIDE THE COURSE OF  
22 PERFORMING WORK DUTIES.

23 (8) (a) ANY PERSON EMPLOYED BY OR ACTING ON BEHALF OF THE  
24 STATE GOVERNMENT WHO HAS AUTHORITY TO AUTHORIZE OR LICENSE  
25 MARRIAGES, INCLUDING BUT NOT LIMITED TO COUNTY CLERKS OR THEIR  
26 DEPUTIES, MAY SEEK RECUSAL FROM AUTHORIZING OR LICENSING LAWFUL  
27 MARRIAGES BASED UPON OR IN A MANNER CONSISTENT WITH A SINCERELY

1 HELD RELIGIOUS BELIEF OR MORAL CONVICTION DESCRIBED IN SECTION  
2 24-34-1004. ANY PERSON MAKING SUCH RECUSAL SHALL PROVIDE PRIOR  
3 WRITTEN NOTICE TO THE SECRETARY OF STATE, AND THE STATE  
4 GOVERNMENT SHALL NOT TAKE ANY DISCRIMINATORY ACTION AGAINST  
5 THAT PERSON WHOLLY OR PARTIALLY ON THE BASIS OF SUCH RECUSAL.  
6 THE SECRETARY OF STATE SHALL TAKE ALL NECESSARY STEPS TO ENSURE  
7 THAT THE AUTHORIZATION AND LICENSING OF ANY LEGALLY VALID  
8 MARRIAGE IS NOT IMPEDED OR DELAYED AS A RESULT OF ANY RECUSAL.

9 (b) ANY PERSON EMPLOYED OR ACTING ON BEHALF OF THE STATE  
10 GOVERNMENT WHO HAS AUTHORITY TO PERFORM OR SOLEMNIZE  
11 MARRIAGES, INCLUDING BUT NOT LIMITED TO JUDGES, MAGISTRATES,  
12 JUSTICES OF THE PEACE, OR THEIR DEPUTIES, MAY SEEK RECUSAL FROM  
13 PERFORMING OR SOLEMNIZING LAWFUL MARRIAGES BASED UPON OR IN A  
14 MANNER CONSISTENT WITH A SINCERELY HELD RELIGIOUS BELIEF OR  
15 MORAL CONVICTION DESCRIBED IN SECTION 24-34-1004. ANY PERSON  
16 MAKING SUCH RECUSAL SHALL PROVIDE PRIOR WRITTEN NOTICE TO THE  
17 SECRETARY OF STATE, AND THE STATE GOVERNMENT SHALL NOT TAKE  
18 ANY DISCRIMINATORY ACTION AGAINST THAT PERSON WHOLLY OR  
19 PARTIALLY ON THE BASIS OF SUCH RECUSAL. THE SECRETARY OF STATE  
20 SHALL TAKE ALL NECESSARY STEPS TO ENSURE THAT THE PERFORMANCE  
21 OR SOLEMNIZATION OF ANY LEGALLY VALID MARRIAGE IS NOT IMPEDED OR  
22 DELAYED AS A RESULT OF ANY RECUSAL.

23 (9) THE STATE GOVERNMENT SHALL CONSIDER ACCREDITED,  
24 LICENSED, OR CERTIFIED ANY PERSON THAT WOULD OTHERWISE BE  
25 ACCREDITED, LICENSED, OR CERTIFIED, RESPECTIVELY, FOR ANY PURPOSES  
26 UNDER STATE LAW BUT FOR A DETERMINATION AGAINST SUCH PERSON  
27 WHOLLY OR PARTIALLY ON THE BASIS THAT THE PERSON BELIEVES,

1 SPEAKS, OR ACTS IN ACCORDANCE WITH A SINCERELY HELD RELIGIOUS  
2 BELIEF OR MORAL CONVICTION DESCRIBED IN SECTION 24-34-1004.

3 **24-34-1006. Claim or defense against state action. (1) Cause**  
4 **of action and defense.** A PERSON MAY ASSERT A VIOLATION OF THIS PART  
5 10 AS A CLAIM AGAINST THE STATE GOVERNMENT IN ANY JUDICIAL OR  
6 ADMINISTRATIVE PROCEEDING OR AS A DEFENSE IN ANY JUDICIAL OR  
7 ADMINISTRATIVE PROCEEDING WITHOUT REGARD TO WHETHER THE  
8 PROCEEDING IS BROUGHT BY OR IN THE NAME OF THE STATE GOVERNMENT,  
9 ANY PRIVATE PERSON, OR ANY OTHER PARTY.

10 (2) **Administrative remedies not required.** NOTWITHSTANDING  
11 ANY OTHER PROVISION OF LAW TO THE CONTRARY, AN ACTION UNDER  
12 PART 10 MAY BE COMMENCED, AND RELIEF MAY BE GRANTED, IN A COURT  
13 OF THE STATE WITHOUT REGARD TO WHETHER THE PERSON COMMENCING  
14 THE ACTION HAS SOUGHT OR EXHAUSTED AVAILABLE ADMINISTRATIVE  
15 REMEDIES.

16 **24-34-1007. Remedies.** (1) (a) EXCEPT AS PROVIDED IN  
17 SUBSECTION (1)(b) OF THIS SECTION, ANY PERSON WHO SUCCESSFULLY  
18 ASSERTS A CLAIM OR DEFENSE UNDER THIS PART 10 MAY RECOVER:

- 19 (I) DECLARATORY RELIEF;
- 20 (II) INJUNCTIVE RELIEF TO PREVENT OR REMEDY A VIOLATION OF  
21 THIS PART 10 OR THE EFFECTS OF SUCH A VIOLATION;
- 22 (III) COMPENSATORY DAMAGES FOR PECUNIARY AND  
23 NONPECUNIARY LOSSES;
- 24 (IV) REASONABLE ATTORNEYS' FEES AND COSTS; AND
- 25 (V) ANY OTHER APPROPRIATE RELIEF.

26 (b) ONLY DECLARATORY RELIEF AND INJUNCTIVE RELIEF SHALL BE  
27 AVAILABLE AGAINST A PRIVATE PERSON NOT ACTING UNDER COLOR OF

1 STATE LAW UPON A SUCCESSFUL ASSERTION OF A DEFENSE UNDER THIS  
2 PART 10.

3 **24-34-1008. Immunity waived.** (1) NOTWITHSTANDING ANY  
4 LAW TO THE CONTRARY, SOVEREIGN, GOVERNMENTAL, AND QUALIFIED  
5 IMMUNITIES TO SUIT AND FROM LIABILITY ARE WAIVED AND ABOLISHED TO  
6 THE EXTENT OF LIABILITY CREATED BY THIS PART 10, AND A PERSON MAY  
7 SUE THE STATE GOVERNMENT, EXCEPT STATE COURTS, FOR DAMAGES  
8 ALLOWED BY THIS PART 10.

9 (2) NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION, THIS  
10 PART 10 DOES NOT WAIVE OR ABOLISH SOVEREIGN IMMUNITY TO SUIT AND  
11 FROM LIABILITY UNDER THE ELEVENTH AMENDMENT TO THE UNITED  
12 STATES CONSTITUTION.

13 **24-34-1009. Two-year limitation period.** A PERSON MUST BRING  
14 AN ACTION TO ASSERT A CLAIM UNDER THIS PART 10 NOT LATER THAN TWO  
15 YEARS AFTER THE DATE THAT THE PERSON KNEW OR SHOULD HAVE  
16 KNOWN THAT A DISCRIMINATORY ACTION WAS TAKEN AGAINST THAT  
17 PERSON.

18 **24-34-1010. Rules of construction.** (1) **Broad construction.**  
19 THIS PART 10 MUST BE CONSTRUED IN FAVOR OF A BROAD PROTECTION OF  
20 FREE EXERCISE OF RELIGIOUS BELIEFS AND MORAL CONVICTIONS, TO THE  
21 MAXIMUM EXTENT PERMITTED BY THE STATE AND FEDERAL  
22 CONSTITUTIONS.

23 (2) **No preemption, repeal, or narrow construction.** THE  
24 PROTECTION OF FREE EXERCISE OF RELIGIOUS BELIEFS AND MORAL  
25 CONVICTIONS AFFORDED BY THIS PART 10 ARE IN ADDITION TO THE  
26 PROTECTIONS PROVIDED UNDER FEDERAL LAW, STATE LAW, AND THE  
27 STATE AND FEDERAL CONSTITUTIONS. NOTHING IN THIS PART 10 MAY BE

1 CONSTRUED TO PREEMPT OR REPEAL ANY STATE OR LOCAL LAW THAT IS  
2 EQUALLY OR MORE PROTECTIVE OF FREE EXERCISE OF RELIGIOUS BELIEFS  
3 OR MORAL CONVICTIONS. NOTHING IN THIS PART 10 MAY BE CONSTRUED  
4 TO NARROW THE MEANING OR APPLICATION OF ANY STATE OR LOCAL LAW  
5 PROTECTING FREE EXERCISE OF RELIGIOUS BELIEFS OR MORAL  
6 CONVICTIONS. NOTHING IN THIS PART 10 MAY BE CONSTRUED TO PREVENT  
7 THE STATE GOVERNMENT FROM PROVIDING, EITHER DIRECTLY OR  
8 THROUGH AN INDIVIDUAL OR ENTITY NOT SEEKING PROTECTION UNDER  
9 THIS PART 10, ANY BENEFIT OR SERVICE AUTHORIZED UNDER STATE LAW.

10 (3) **Supersede other state law.** THIS PART 10 APPLIES TO, AND IN  
11 CASES OF CONFLICT SUPERSEDES, EACH STATUTE OF THE STATE THAT  
12 IMPINGES UPON THE FREE EXERCISE OF RELIGIOUS BELIEFS AND MORAL  
13 CONVICTIONS PROTECTED BY THIS PART 10, UNLESS A CONFLICTING  
14 STATUTE IS EXPRESSLY MADE EXEMPT FROM THE APPLICATION OF THIS  
15 PART 10. THIS PART 10 ALSO APPLIES TO, AND IN CASES OF CONFLICT  
16 SUPERSEDES, ANY ORDINANCE, RULE, REGULATION, ORDER, OPINION,  
17 DECISION, PRACTICE, OR OTHER EXERCISE OF THE STATE GOVERNMENT'S  
18 AUTHORITY THAT IMPINGES UPON THE FREE EXERCISE OF RELIGIOUS  
19 BELIEFS AND MORAL CONVICTIONS PROTECTED BY THIS PART 10.

20 (4) **Severability.** IF ANY PROVISION OF THIS PART 10 OR ANY  
21 APPLICATION OF SUCH PROVISION TO ANY PARTICULAR PERSON OR  
22 CIRCUMSTANCE IS HELD TO BE INVALID UNDER LAW, THE REMAINDER OF  
23 THIS PART 10 AND THE APPLICATION OF ITS PROVISIONS TO ANY OTHER  
24 PERSON OR CIRCUMSTANCE IS NOT AFFECTED.

25 **SECTION 2. Act subject to petition - effective date.** This act  
26 takes effect at 12:01 a.m. on the day following the expiration of the  
27 ninety-day period after final adjournment of the general assembly (August

1 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a  
2 referendum petition is filed pursuant to section 1 (3) of article V of the  
3 state constitution against this act or an item, section, or part of this act  
4 within such period, then the act, item, section, or part will not take effect  
5 unless approved by the people at the general election to be held in  
6 November 2018 and, in such case, will take effect on the date of the  
7 official declaration of the vote thereon by the governor.