

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 19-0049.01 Jacob Baus x2173

HOUSE BILL 19-1140

HOUSE SPONSORSHIP

Humphrey, Williams D., Lewis, Buck, Neville, Sandridge, Saine, Pelton, Beckman, Landgraf, Baisley, McKean, Catlin, Ransom, Van Winkle

SENATE SPONSORSHIP

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House Committees

State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

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

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 Colorado.

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 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 THAT THE STATE WAS "NEITHER TOLERANT
4 NOR RESPECTFUL." IN AN EQUAL SOCIETY, TOLERANCE MUST BE MUTUAL.

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

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

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

1 COMPLEMENTS THE PROTECTIONS MANDATED BY THE STATE AND FEDERAL
2 CONSTITUTIONS.

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

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

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

21 **24-34-1003. Definitions.** AS USED IN THIS PART 10, UNLESS THE
22 CONTEXT OTHERWISE REQUIRES:

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

26 (a) ASSISTING ABUSED OR NEGLECTED CHILDREN;

27 (b) TEACHING CHILDREN AND PARENTS OCCUPATIONAL,

- 1 HOMEMAKING, AND OTHER DOMESTIC SKILLS;
- 2 (c) PROMOTING FOSTER PARENTING;
- 3 (d) PROVIDING FOSTER HOMES, RESIDENTIAL CARE, GROUP HOMES,
- 4 OR TEMPORARY GROUP SHELTERS FOR CHILDREN;
- 5 (e) RECRUITING FOSTER PARENTS;
- 6 (f) PLACING CHILDREN IN FOSTER HOMES;
- 7 (g) LICENSING FOSTER HOMES;
- 8 (h) PROMOTING ADOPTION OR RECRUITING ADOPTIVE PARENTS;
- 9 (i) ASSISTING ADOPTIONS OR SUPPORTING ADOPTIVE FAMILIES;
- 10 (j) PERFORMING OR ASSISTING HOME STUDIES;
- 11 (k) ASSISTING KINSHIP GUARDIANSHIPS OR KINSHIP CAREGIVERS;
- 12 (l) PROVIDING FAMILY PRESERVATION SERVICES;
- 13 (m) PROVIDING FAMILY SUPPORT SERVICES; AND
- 14 (n) PROVIDING TEMPORARY FAMILY REUNIFICATION SERVICES.
- 15 (2) "DISCRIMINATORY ACTION" MEANS AND INCLUDES ANY ACTION
- 16 TAKEN BY THE STATE GOVERNMENT TO:
- 17 (a) ALTER IN ANY WAY THE TAX TREATMENT OF, OR CAUSE ANY
- 18 TAX, PENALTY, OR PAYMENT TO BE ASSESSED AGAINST, OR DENY, DELAY,
- 19 REVOKE, OR OTHERWISE MAKE UNAVAILABLE AN EXEMPTION FROM
- 20 TAXATION OF ANY PERSON REFERRED TO IN SECTION 24-34-1005;
- 21 (b) DISALLOW, DENY, OR OTHERWISE MAKE UNAVAILABLE A
- 22 DEDUCTION FOR STATE TAX PURPOSES OF ANY CHARITABLE CONTRIBUTION
- 23 MADE TO OR BY ANY PERSON REFERRED TO IN SECTION 24-34-1005;
- 24 (c) WITHHOLD, REDUCE, EXCLUDE, TERMINATE, MATERIALLY
- 25 ALTER THE TERMS OR CONDITIONS OF, OR OTHERWISE MAKE UNAVAILABLE
- 26 OR DENY ANY STATE GRANT, CONTRACT, SUBCONTRACT, COOPERATIVE
- 27 AGREEMENT, GUARANTEE, LOAN, SCHOLARSHIP, OR OTHER SIMILAR

1 BENEFIT FROM OR TO ANY PERSON REFERRED TO IN SECTION 24-34-1005;

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

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

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

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

21 (3) "PERSON" MEANS:

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

27 (b) A RELIGIOUS ORGANIZATION;

1 (c) A SOLE PROPRIETORSHIP, PARTNERSHIP, TRUST, CLOSELY HELD
2 CORPORATION, OR OTHER CLOSELY HELD ENTITY OPERATING WITH A
3 SINCERELY HELD RELIGIOUS BELIEF OR MORAL CONVICTION DESCRIBED IN
4 SECTION 24-34-1004; OR

5 (d) A COOPERATIVE, VENTURE, OR ENTERPRISE COMPRISED OF TWO
6 OR MORE INDIVIDUALS OR ENTITIES DESCRIBED IN THIS SUBSECTION (3),
7 REGARDLESS OF NONPROFIT OR FOR-PROFIT STATUS.

8 (4) "RELIGIOUS ORGANIZATION" MEANS:

9 (a) A HOUSE OF WORSHIP, INCLUDING BUT NOT LIMITED TO
10 CHURCHES, SYNAGOGUES, SHRINES, MOSQUES, AND TEMPLES;

11 (b) A RELIGIOUS GROUP, CORPORATION, ASSOCIATION, SCHOOL OR
12 EDUCATIONAL INSTITUTION, MINISTRY, ORDER, SOCIETY, OR SIMILAR
13 ENTITY, REGARDLESS OF WHETHER IT IS INTEGRATED OR AFFILIATED WITH
14 A CHURCH OR OTHER HOUSE OF WORSHIP; OR

15 (c) AN OFFICER, OWNER, EMPLOYEE, MANAGER, RELIGIOUS
16 LEADER, CLERGY, OR MINISTER OF AN ENTITY OR ORGANIZATION
17 DESCRIBED IN THIS SUBSECTION (4).

18 (5) "STATE BENEFIT PROGRAM" MEANS ANY PROGRAM
19 ADMINISTERED OR FUNDED BY THE STATE, OR BY ANY AGENT ON BEHALF
20 OF THE STATE, PROVIDING CASH, PAYMENTS, GRANTS, CONTRACTS, LOANS,
21 OR IN-KIND ASSISTANCE.

22 (6) "STATE GOVERNMENT" MEANS:

23 (a) THE STATE OR A POLITICAL SUBDIVISION OF THE STATE;

24 (b) ANY AGENCY OF THE STATE OR OF A POLITICAL SUBDIVISION OF
25 THE STATE, INCLUDING A DEPARTMENT, BUREAU, BOARD, COMMISSION,
26 COUNCIL, COURT, OR PUBLIC INSTITUTION OF HIGHER EDUCATION;

27 (c) ANY PERSON ACTING UNDER COLOR OF STATE LAW; OR

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

4 **24-34-1004. Protected religious beliefs and moral convictions.**

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

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

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

12 **24-34-1005. Protections for persons, religious organizations,**

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

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

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

1 UPON OR IN A MANNER CONSISTENT WITH A SINCERELY HELD RELIGIOUS
2 BELIEF OR MORAL CONVICTION DESCRIBED IN SECTION 24-34-1004; OR

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

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

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

24 (4) (a) THE STATE GOVERNMENT SHALL NOT TAKE ANY
25 DISCRIMINATORY ACTION AGAINST A PERSON WHOLLY OR PARTIALLY ON
26 THE BASIS THAT THE PERSON DECLINES TO PARTICIPATE IN THE PROVISION
27 OF TREATMENTS, COUNSELING, OR SURGERIES RELATED TO SEX

1 REASSIGNMENT OR GENDER IDENTITY TRANSITIONING OR DECLINES TO
2 PARTICIPATE IN THE PROVISION OF PSYCHOLOGICAL, COUNSELING, OR
3 FERTILITY SERVICES BASED UPON A SINCERELY HELD RELIGIOUS BELIEF OR
4 MORAL CONVICTION DESCRIBED IN SECTION 24-34-1004.

5 (b) THIS SUBSECTION (4) MAY NOT BE CONSTRUED TO ALLOW ANY
6 PERSON TO DENY VISITATION, RECOGNITION OF A DESIGNATED
7 REPRESENTATIVE FOR HEALTH CARE DECISION-MAKING, OR EMERGENCY
8 MEDICAL TREATMENT NECESSARY TO CURE AN ILLNESS OR INJURY AS
9 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.

3 (b) ANY PERSON EMPLOYED OR ACTING ON BEHALF OF THE STATE
4 GOVERNMENT WHO HAS AUTHORITY TO PERFORM OR SOLEMNIZE
5 MARRIAGES, INCLUDING BUT NOT LIMITED TO JUDGES, MAGISTRATES,
6 JUSTICES OF THE PEACE, OR THEIR DEPUTIES, MAY SEEK RECUSAL FROM
7 PERFORMING OR SOLEMNIZING LAWFUL MARRIAGES BASED UPON OR IN A
8 MANNER CONSISTENT WITH A SINCERELY HELD RELIGIOUS BELIEF OR
9 MORAL CONVICTION DESCRIBED IN SECTION 24-34-1004.

10 (c) ANY PERSON MAKING A RECUSAL PURSUANT TO THIS
11 SUBSECTION (8) SHALL PROVIDE PRIOR WRITTEN NOTICE TO THE
12 SECRETARY OF STATE, AND THE STATE GOVERNMENT SHALL NOT TAKE
13 ANY DISCRIMINATORY ACTION AGAINST THAT PERSON WHOLLY OR
14 PARTIALLY ON THE BASIS OF SUCH RECUSAL.

15 (d) THE SECRETARY OF STATE SHALL TAKE ALL NECESSARY STEPS
16 TO ENSURE THAT THE PERFORMANCE OR SOLEMNIZATION OF ANY LEGALLY
17 VALID MARRIAGE IS NOT IMPEDED OR DELAYED AS A RESULT OF ANY
18 RECUSAL TAKEN PURSUANT TO THIS SUBSECTION (8).

19 (9) THE STATE GOVERNMENT SHALL CONSIDER ACCREDITED,
20 LICENSED, OR CERTIFIED ANY PERSON THAT WOULD OTHERWISE BE
21 ACCREDITED, LICENSED, OR CERTIFIED, RESPECTIVELY, FOR ANY PURPOSES
22 UNDER STATE LAW BUT FOR A DETERMINATION AGAINST SUCH PERSON
23 WHOLLY OR PARTIALLY ON THE BASIS THAT THE PERSON BELIEVES,
24 SPEAKS, OR ACTS IN ACCORDANCE WITH A SINCERELY HELD RELIGIOUS
25 BELIEF OR MORAL CONVICTION DESCRIBED IN SECTION 24-34-1004.

26 **24-34-1006. Claim or defense against state action. (1) Cause**
27 **of action and defense.** A PERSON MAY ASSERT A VIOLATION OF THIS PART

1 10 AS A CLAIM AGAINST THE STATE GOVERNMENT IN ANY JUDICIAL OR
2 ADMINISTRATIVE PROCEEDING OR AS A DEFENSE IN ANY JUDICIAL OR
3 ADMINISTRATIVE PROCEEDING WITHOUT REGARD TO WHETHER THE
4 PROCEEDING IS BROUGHT BY OR IN THE NAME OF THE STATE GOVERNMENT,
5 ANY PRIVATE PERSON, OR ANY OTHER PARTY.

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

12 **24-34-1007. Remedies.** (1) EXCEPT AS PROVIDED IN SUBSECTION
13 (2) OF THIS SECTION, ANY PERSON WHO SUCCESSFULLY ASSERTS A CLAIM
14 OR DEFENSE UNDER THIS PART 10 MAY RECOVER:

- 15 (a) DECLARATORY RELIEF;
- 16 (b) INJUNCTIVE RELIEF TO PREVENT OR REMEDY A VIOLATION OF
17 THIS PART 10 OR THE EFFECTS OF SUCH A VIOLATION;
- 18 (c) COMPENSATORY DAMAGES FOR PECUNIARY AND
19 NONPECUNIARY LOSSES;
- 20 (d) REASONABLE ATTORNEY FEES AND COSTS; AND
- 21 (e) ANY OTHER APPROPRIATE RELIEF.

22 (2) ONLY DECLARATORY RELIEF AND INJUNCTIVE RELIEF ARE
23 AVAILABLE AGAINST A PRIVATE PERSON NOT ACTING UNDER COLOR OF
24 STATE LAW UPON A SUCCESSFUL ASSERTION OF A DEFENSE UNDER THIS
25 PART 10.

26 **24-34-1008. Immunity waived.** (1) NOTWITHSTANDING ANY
27 LAW TO THE CONTRARY, SOVEREIGN, GOVERNMENTAL, AND QUALIFIED

1 IMMUNITIES TO SUIT AND FROM LIABILITY ARE WAIVED AND ABOLISHED TO
2 THE EXTENT OF LIABILITY CREATED BY THIS PART 10, AND A PERSON MAY
3 SUE THE STATE GOVERNMENT, EXCEPT STATE COURTS, FOR DAMAGES
4 ALLOWED BY THIS PART 10.

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

9 **24-34-1009. Two-year limitation period.** A PERSON MUST BRING
10 AN ACTION TO ASSERT A CLAIM UNDER THIS PART 10 NO LATER THAN TWO
11 YEARS AFTER THE DATE THAT THE PERSON KNEW OR SHOULD HAVE
12 KNOWN THAT A DISCRIMINATORY ACTION WAS TAKEN AGAINST THAT
13 PERSON.

14 **24-34-1010. Rules of construction. (1) Broad construction.**
15 THIS PART 10 MUST BE CONSTRUED IN FAVOR OF A BROAD PROTECTION OF
16 FREE EXERCISE OF RELIGIOUS BELIEFS AND MORAL CONVICTIONS TO THE
17 MAXIMUM EXTENT PERMITTED BY THE STATE AND FEDERAL
18 CONSTITUTIONS.

19 (2) **No preemption, repeal, or narrow construction.** THE
20 PROTECTION OF FREE EXERCISE OF RELIGIOUS BELIEFS AND MORAL
21 CONVICTIONS AFFORDED BY THIS PART 10 ARE IN ADDITION TO THE
22 PROTECTIONS PROVIDED UNDER FEDERAL LAW, STATE LAW, AND THE
23 STATE AND FEDERAL CONSTITUTIONS. NOTHING IN THIS PART 10 MAY BE
24 CONSTRUED TO PREEMPT OR REPEAL ANY STATE OR LOCAL LAW THAT IS
25 EQUALLY OR MORE PROTECTIVE OF FREE EXERCISE OF RELIGIOUS BELIEFS
26 OR MORAL CONVICTIONS. NOTHING IN THIS PART 10 MAY BE CONSTRUED
27 TO NARROW THE MEANING OR APPLICATION OF ANY STATE OR LOCAL LAW

1 PROTECTING FREE EXERCISE OF RELIGIOUS BELIEFS OR MORAL
2 CONVICTIONS. NOTHING IN THIS PART 10 MAY BE CONSTRUED TO PREVENT
3 THE STATE GOVERNMENT FROM PROVIDING, EITHER DIRECTLY OR
4 THROUGH AN INDIVIDUAL OR ENTITY NOT SEEKING PROTECTION UNDER
5 THIS PART 10, ANY BENEFIT OR SERVICE AUTHORIZED UNDER STATE LAW.

6 (3) **Supersede other state law.** THIS PART 10 APPLIES TO, AND IN
7 CASES OF CONFLICT SUPERSEDES, EACH STATUTE OF THE STATE THAT
8 IMPINGES UPON THE FREE EXERCISE OF PROTECTED RELIGIOUS BELIEFS AND
9 MORAL CONVICTIONS AS DESCRIBED IN SECTION 24-34-1004 UNLESS A
10 CONFLICTING STATUTE IS EXPRESSLY MADE EXEMPT FROM THE
11 APPLICATION OF THIS PART 10. THIS PART 10 ALSO APPLIES TO, AND IN
12 CASES OF CONFLICT SUPERSEDES, ANY ORDINANCE, RULE, REGULATION,
13 ORDER, OPINION, DECISION, PRACTICE, OR OTHER EXERCISE OF THE STATE
14 GOVERNMENT'S AUTHORITY THAT IMPINGES UPON THE FREE EXERCISE OF
15 PROTECTED RELIGIOUS BELIEFS AND MORAL CONVICTIONS AS DESCRIBED
16 IN SECTION 24-34-1004.

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

22 **SECTION 2. Act subject to petition - effective date.** This act
23 takes effect at 12:01 a.m. on the day following the expiration of the
24 ninety-day period after final adjournment of the general assembly (August
25 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
26 referendum petition is filed pursuant to section 1 (3) of article V of the
27 state constitution against this act or an item, section, or part of this act

1 within such period, then the act, item, section, or part will not take effect
2 unless approved by the people at the general election to be held in
3 November 2020 and, in such case, will take effect on the date of the
4 official declaration of the vote thereon by the governor.