

As Amended by House Committee

Session of 2014

HOUSE BILL No. 2453

By Committee on Federal and State Affairs

1-16

1 AN ACT concerning religious freedoms with respect to marriage.

2

3 *Be it enacted by the Legislature of the State of Kansas:*

4 Section 1. Notwithstanding any other provision of law, no individual
5 or religious entity shall be required by any governmental entity to do any
6 of the following, if it would be contrary to the sincerely held religious
7 beliefs of the individual or religious entity regarding sex or gender:

8 (a) Provide any services, accommodations, advantages, facilities,
9 goods, or privileges; provide counseling, adoption, foster care and other
10 social services; or provide employment or employment benefits, related to,
11 or related to the celebration of, any marriage, domestic partnership, civil
12 union or similar arrangement;

13 (b) solemnize any marriage, domestic partnership, civil union or
14 similar arrangement; or

15 (c) treat any marriage, domestic partnership, civil union or similar
16 arrangement as valid.

17 Sec. 2. (a) Notwithstanding any other provision of law, no refusal by
18 an individual or religious entity to engage in any activity described in
19 section 1, and amendments thereto, shall result in:

20 (1) A civil claim or cause of action under state or local law based
21 upon such refusal; or

22 (2) an action by any governmental entity to penalize, withhold
23 benefits from, discriminate against or otherwise disadvantage any
24 protected individual or religious entity, under any state or local law.

25 (b) Any individual or religious entity named in or subject to a civil
26 action, an administrative action or any action by a governmental entity
27 may immediately assert the protections provided by section 1, and
28 amendments thereto, or this section, as a defense by moving to dismiss
29 such action. If the motion to dismiss is filed in an action before an
30 administrative tribunal, within 15 days after the filing of such motion any
31 party to such action may elect to transfer jurisdiction of such action to a
32 district court with proper venue. Within 60 days after such transfer of
33 jurisdiction, the district court shall decide whether the claimed protection
34 applies. The district court shall not permit any additional discovery or fact-
35 finding prior to making its decision.

36 (c) If a governmental entity, or any person asserts a claim or cause of

1 action, or takes any adverse action against an individual or religious entity
2 in violation of subsection (a), such individual or religious entity shall be
3 entitled upon request to recover all reasonable attorney fees, costs and
4 damages such individual or religious entity incurred as a result of such
5 violation.

6 (d) If an individual employed by a governmental entity or other non-
7 religious entity invokes any of the protections provided by section 1, and
8 amendments thereto, as a basis for declining to provide a lawful service
9 that is otherwise consistent with the entity's duties or policies, the
10 individual's employer, **in directing the performance of such service,**
11 shall either promptly provide another employee to provide such service, or
12 shall otherwise ensure that the requested service is provided, if it can be
13 done without undue hardship to the employer.

14 Sec. 3. As used in sections 1 through 4, and amendments thereto:

15 (a) "Religious entity" means an organization, regardless of its non-
16 profit or for-profit status, and regardless of whether its activities are
17 deemed wholly or partly religious, that is:

18 (1) A religious corporation, association, educational institution or
19 society;

20 (2) an entity operated, supervised or controlled by, or connected with,
21 a religious corporation, association, educational institution or society; or

22 (3) a privately-held business operating consistently with its sincerely
23 held religious beliefs, with regard to any activity described in section 1,
24 and amendments thereto.

25 (b) ~~"Governmental entity" means any state office or officer,~~
26 ~~department, board, commission, institution, bureau or any agency, division~~
27 ~~or unit within any office, department, board, commission or other state~~
28 ~~authority, and any political or taxing subdivision of this state constituted~~
29 ~~under or acting under the authority of the laws of this state, including, but~~
30 ~~not limited to, any county, city, municipality, township, district,~~
31 ~~postsecondary educational institution, as defined by K.S.A. 74-3201b, and~~
32 ~~amendments thereto, or quasi-public corporation or other quasi-public~~
33 **entity the executive, legislative and judicial branches and any and all**
34 **agencies, boards, commissions, departments, districts, authorities or**
35 **other entities, subdivisions or parts whatsoever of state and local**
36 **government, as well as any person acting under color of law.**

37 Sec. 4. (a) If any word, phrase, clause or provision of sections 1
38 through 4, and amendments thereto, or the application of any such word,
39 phrase, clause or provision to any person or circumstance is held invalid,
40 the remaining provisions shall be given effect without the invalid portion
41 and to this end the provisions of sections 1 through 4, and amendments
42 thereto, are severable.

43 (b) Nothing in sections 1 through 4, and amendments thereto, shall be

1 construed to allow any individual or entity, acting under color of state law
2 to perform any marriage prohibited by state law, including, but not limited
3 to, laws relating to plural marriage, incest, consanguinity and marriageable
4 age.

5 (c) Nothing in sections 1 through 4, and amendments thereto, shall be
6 construed to authorize any governmental discrimination or penalty against
7 any individual or religious entity based upon its performance, facilitation
8 or support of any celebrations of same-gender unions or relationships.

9 (d) The provisions of sections 1 through 4, and amendments thereto,
10 shall be construed in favor of a broad protection of religious exercise, to
11 the maximum extent permitted by their terms and by the constitutions of
12 this state and the United States of America.

13 Sec. 5. This act shall take effect and be in force from and after its
14 publication in the statute book.