

SECOND REGULAR SESSION

SENATE JOINT RESOLUTION NO. 39

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR ONDER.

Read 1st time February 17, 2016, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5268S.101

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 Senate, the House of Representatives concurring therein:

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

Section A. Article I, Constitution of Missouri, is amended by adding
2 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
2 religious organization on the basis that the organization believes or
3 acts in accordance with a sincere religious belief concerning marriage
4 between two persons of the same sex;**

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

**(3) That the state shall not impose a penalty on any church,
13 synagogue, mosque, temple, or other house of worship, denomination,**

14 or other religious organization on the basis that such organization
15 declines to make its buildings or other facilities and property open or
16 available to perform, solemnize, or facilitate a marriage or ceremony
17 because of a sincere religious belief concerning marriage between two
18 persons of the same sex; and

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

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

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

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

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

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

39 (5) Deny access to meeting space, channels of communication, or
40 other resources at an educational institution that is otherwise available
41 to other student organizations, participation in charitable fundraising
42 campaigns that are otherwise available to other charitable
43 organizations, or access to minister at correctional institutions or other
44 public facilities and property as is otherwise available to other
45 nongovernmental organizations, to or by any religious organization; or

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

48 3. The state shall consider accredited, licensed, or certified for
49 purposes of state law any religious organization that would be
50 accredited, licensed, or certified, respectively, for such purposes but for

51 a determination that the organization believes or acts in accordance
52 with a sincere religious belief concerning marriage between two
53 persons of the same sex.

54 4. (1) Nothing in this section prevents the state from providing
55 a license to marry or providing any other marital entitlement, service,
56 or benefits authorized by state law.

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

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

62 (1) "Acts", any action or failure to take action, including failure
63 to participate in, perform, encourage, service, solemnize, or facilitate,
64 all without regard to whether or not compelled by or central to a
65 system of religious belief;

66 (2) "Individual", a natural person or a closely held commercial
67 entity owned by a natural person or persons;

68 (3) "Religious organization", an organization that is:

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

72 (b) A religious society, corporation, entity, partnership, order,
73 preschool, school, institution of higher education, ministry, charity,
74 social service provider, children's home, hospital or other health care
75 facility, hospice, elder care facility, or crisis pregnancy center, whether
76 or not connected to or affiliated with a church, diocese, denomination,
77 or other organization of churches, where said organization holds itself
78 out to the public in whole or in part as religious and its purposes and
79 activities are in whole or in part religious; or

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

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

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

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

91 **6. (1) A religious organization or individual may assert an actual**
92 **or threatened violation of this section as a claim or defense in a**
93 **judicial or administrative proceeding, or other hearing or dispute**
94 **resolution process.**

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

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

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

107 **7. Nothing in this section repeals or supersedes any state law**
108 **that is equally or more protective of religious beliefs or acts. Nothing**
109 **in this section narrows the meaning or application of any state law**
110 **protecting religious beliefs or acts.**

111 **8. If any provision of this section or any application of such**
112 **provision to any religious organization or individual is held to be**
113 **contrary to the United States Constitution or otherwise in conflict with**
114 **the laws of the United States, the remainder of this section and the**
115 **application of the provision to any other religious organizations or**
116 **individuals shall not be affected.**

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

5 "Shall the Missouri Constitution be amended to provide that the
6 state shall not penalize religious organizations and certain
7 individuals for religious beliefs or acts concerning marriage
8 between two persons of the same sex, but the amendment does not

9 prevent the provision of a marriage license or other marital
10 benefits to such persons?"

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Bill

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