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THURSDAY, APRIL 9, 2015

### My view: The ACLU of Indiana's next steps on RFRA

Posted By **Jane Henegar** on Thu, Apr 9, 2015 at 11:30 AM

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What a difference a week makes. Last week, we and others were engaged in negotiations to "fix" Indiana's just-passed Religious Freedom Restoration Act, or RFRA. Today, we can say that while the situation in our state is far from perfect, we ended up in a place that is both historic and significant.

We are grateful to the corporate community, which was instrumental in rolling back some damaging components of RFRA, and which has stated its commitment to statewide protections for gay and transgender people.

For the first time in our history, Indiana now recognizes protections based on sexual orientation and gender identity—even if they currently exist in only a few local human rights ordinances. And the passage of RFRA here, and the resulting backlash, has brought about a startling transformation that has advanced the cause of LGBT equality all across the country. This tipping point has helped defeat similar proposals in Georgia and Nevada, pared back the legislation in Arkansas, and dimmed prospects for passage of RFRA in North Carolina and Michigan. Further, it has opened up the door for introducing LGBT non-discrimination protections not only in Indiana, but in Arizona, Florida, Ohio and Pennsylvania.



Though we have made a major step forward, we have more work to do. The ACLU of Indiana, along with our partners, is working diligently to change the status quo for all gay and transgender people in Indiana. We will push for legislation that extends statewide protections against discrimination on the basis of sexual orientation and gender identity—one of the common-sense provisions we requested, but did not receive, in the Fairness for all Hoosiers Act that we proposed last week.

The ACLU believes that ending discrimination against gay and transgender people is a "compelling government interest." But RFRA could force the courts to weigh in on whether individuals who feel their religious liberty is "burdened" by serving a member of the LGBT community trumps the rights of others to be free from discrimination. Only time will tell the full impact of this law.

Regardless of whether any individual or business in Indiana ever invokes a RFRA claim to protect their religious liberty from being "burdened" by serving a member of the LGBT community, the law could embolden such discrimination. Gay and transgender people who live in communities that lack human rights ordinances that provide enforceable protections against discrimination are particularly vulnerable.

Indiana is a great state. Hoosiers are great people. We said from the beginning that we are better than this, that surely most people would not tolerate Jim Crow era discrimination against any class of citizens.

Religious freedom is one of our founding principles as a nation, and no one would argue that it

should be limited. That does not mean, however, that it should be used as a weapon against others. As Americans, we are strong because we embrace many faiths and protect every individual's right to worship. Faith, however, is not a weapon. It is a thread that can strengthen the diverse fabric of our state and nation. Freedom of religion already is enshrined in the U.S. Constitution, and is a fundamental right to be cherished.

Get the facts on Indiana's RFRA on our website, [www.aclu-in.org](http://www.aclu-in.org). Please know that despite what you may have heard, the state of Indiana and city of Indianapolis indeed welcome all, and we will not rest until our laws match the true meaning of Hoosier Hospitality.

Jane Henegar is the Executive Director of the ACLU of Indiana.

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