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Georgia's new, narrower, more cautious religious-liberty bill

By Kyle Wingfield (http://kylewingfield.blog.myajc.com/author/kylewingfield/)
March 16, 2016

(https://cmgajckylewingfield.files.wordpress.com/2015/01/gavel.png)

After much delay, the state House is about to move forward with a rewrite of **House Bill 757 (http://legislativenavigator.myajc.com/#bills/HB/757)**, the religious-liberty bill that bounced between the chambers earlier in this session.

I am sure lawyers on both sides of the issue will delve [illegible] over the next few days, but here is an overview of an[illegible] the bill (which you can read **here (http://politics.blog.ajc.com/2016/03/16/your-copy-[illegible]hb-757-the-religious-liberty-bill/)**):

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- Section 2 of the bill protects clergy members' right t[illegible] solemnize any marriage, perform any rite, or administ[illegible] does not define marriage, including the number of pe[illegible] or relationships with one another. It's not clear to me [illegible] definitions of, and restrictions on, marriage would app[illegible] about religious ceremonies, not state recognition of s[illegible]
- The same section states: "All individuals shall be free to attend or not attend, at their discretion, the solemnization of any marriage …." That appears to be an effort to exempt sole proprietors from participating in a ceremony to which they object, but not businesses any larger than that.
- Section 3 says businesses cannot be required by government to be open on either Saturday or Sunday. This was part of HB 757, a.k.a. the Pastor Protection Act, when it passed out of the House the first time.
- Section 4 says a "faith based organization" — defined as an exempt religious organization under Section 501(c)(3) of the Internal Revenue Code, which means it's a non-profit — is not required "to rent, lease, or otherwise grant permission for property to be used by another person for an event which is objectionable" to that organization. This was also part of HB 757 when the House passed it 161-0.
- The same section says a faith-based organization cannot be forced "to provide social, educational, or charitable services" that violate its "sincerely held religious belief." This does not, however, get such an organization out of a voluntary contract with government.
- Section 5 says a faith-based organization has the right to fire or not hire a person "whose religious beliefs or practices or lack of either" violate the

organization's sincerely held religious beliefs.

- Section 6 includes the text of the federal Religious Freedom Restoration Act of 1993 (RFRA), the law that sets the strict scrutiny standard for free-exercise cases involving the government. It also includes a non-discrimination clause "with respect to interactions which affect the rights or interests of third persons" — which would include a discrimination claim by an individual against a business. The clause prohibits "invidious discrimination on any grounds prohibited by federal or state law." That would seem to include sex-based discrimination under Title VII of the federal Civil Rights Act, which the federal EEOC **has interpreted (http://www.eeoc.gov/laws/types/sex.cfm)** to include discrimination based on gender identity and sexual orientation. So, while local non-discrimination ordinances such as Atlanta's which include LGBT persons are not specifically mentioned, the federal law might cover them anyway.

So, what's the bottom line?

This is a narrower bill than the Senate passed when it attached the so-called **First Amendment Defense Act (http://kylewingfield.blog.myajc.com/2016/02/25/why-fada-isnt-the-carefully-balanced-law-georgia-needs/)** to HB 757, particularly the language limiting its effects to wedding ceremonies and religious organizations. It includes the kind of non-discrimination clause discussed for RFRA, although I have yet to hear from LGBT advocates as to whether it's enough of a protection in their eyes. House members speaking in opposition to the bill suggested they don't think it is. (Of course, RFRA supporters, including myself, have always maintained that no court has ever cited the law as a justification for discrimination anyway.)

The language regarding faith-based organizations does give them some narrow allowances that some people will no doubt describe as "state-sanctioned discrimination." The questions for them should be:

Would you require pastors to perform weddings to which they object?

Would you force churches (or synagogues, or mosques) to let others use their private property for weddings and other events to which they object?

Would you force an individual to attend a wedding or other religious ceremony to which he or she objects?

Would you require a religious school to hire or retain a person whose personal religious beliefs clash with that of the school?

And so on. After all, the opposite of giving people freedom not to do these things is requiring them to do so. The entire debate has been about how to protect one person while not trampling on another person's rights. That is a careful balance to strike, a difficult one to strike, but it is the proper role of the legislature, rather than courts, to strike that balance.

g.myajc.com/2016/03/17/face-
trump-has-already-cost-you-
s-election/)

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stevenmia 10 hours ago

() So Georgia House Bill 757 passed after weeks of work by the super majority Republican members. It basically protects church leaders from being sued when they choose to discriminate. The bill reads like an insurance policy. It allows exclusion / discrimination for religious purposes all the while non members of these institutions must make up tax revenue lost from religious institutions as they dispense their discrimination . That is law.

But since certain institutions and legislators are so hung up on writing such detailed religious economic protections beyond federal protections then maybe it is time for local government, on behalf of the non church going majority, to start charging all exempt institutions for police and fire protection they currently enjoy. There are jurisdictions around the US that do legitimately charge for these public services. I don't yet see that exemption loop hole detailed in HB757.

Steve Hagen, Tucker

2 () Reply

() Like

Pickle7 11 hours ago

()

Sorry gay youth, you can seek shelter at the homeless shelter down the street.

Sorry child of gay parents, you can go to school down the street.

Sorry gay music director, you're fired.

This is not freedom to practice personal religious beliefs, it is a state sanctioned license to discriminate.

1 Reply

() Like

Lil_Barry_Bailout 10 hours ago

()

The weird thing is that leftists are just fine with folks losing their jobs or getting kicked out of a school because of their beliefs.

Like Reply

Visual_Cortex 10 hours ago

@Lil_Barry_Bailout

()

I believe I'm entitled to most of that money in the cash register.

I believe I'm allowed to cheat off the kid next to me.

1 Reply

() Like

Hedley_Lammar 11 hours ago

Liberals have perverted it to be freedom from religion.

()

That is what it was always meant to be.

Yes they came here to exercise their religion. So long as that did not interfere with someone else's interpretation of God etc.

They had enough of that with the Church of England.

We are a secular nation and I am free from your Religion whether you like it or not. In now way does that keep you from believing whatever you want to believe.

1 Reply

Lil_Barry_Bailout 11 hours ago

() Most religiophobes think they have a right to not hear people pray or otherwise be made aware of the beliefs of others. They are mistaken.

Go cower in your safe space, intolerant bigots.

Like Reply

Hedley_Lammar 10 hours ago

() **@Lil_Barry_Bailout** *Most religiophobes think they have a right to not hear people pray or otherwise be made aware of the beliefs of others. They are mistaken.*

No they are not. You don't get to force your religion on me.

Sorry. This is America.

Like Reply

Lil_Barry_Bailout 10 hours ago

() Praying out loud, wearing a yarmulke, wishing you a Merry Christmas--all just part of living in a civil society.

Deal with it, intolerant bigot.

Like Reply

Visual_Cortex 10 hours ago

@Lil_Barry_Bailout

() *religiophobes*

oh look--it made up a new word!

Like Reply

dhjm 12 hours ago

This is a bad "solution" in search of a problem.

()

3 () () Reply

() Like

Jefferson1776 12 hours ago

Watch the money and greed trump (no pun) this...

()

Like Reply

DebbieDoRight 12 hours ago

We already have a "religious bill". Its in the Bill of Rights.

()

4 () () () Reply

() Like

McGarnagle 13 hours ago

Section 5 says a faith-based organization has the right to fire or not hire a person “whose religious beliefs or practices or lack of either” violate the organization’s sincerely held religious beliefs

()

Can anyone clarify this one? Sounds like if you are homosexual then you are in violation of "christian" beliefs and so can fire or not hire you based solely on that. Sounds like discrimination to me.

4 () () () Reply

() Like

Hedley_Lammar 12 hours ago

@McGarnagle This whole thing is a huge can of worms that did not need opening.

()

3 () () Reply

() Like

Lil_Barry_Bailout 12 hours ago

Is homosexuality a "religious belief or practice"? No. Teaching that it's acceptable might violate that section though.

()

Like Reply

McGarnagle 11 hours ago

@Lil_Barry_Bailout

()

Does homosexuality "violate the organization's sincerely held religious beliefs"? YES. Thats the whole point of this bill. Keep them gay folks away from me right? You should hear segregationist from back in days. They wanted to protect their "freedoms" as well from government intervention. Well good thing we did intervene.

1 Reply

() Like

Hedley_Lammar 11 hours ago

@Lil_Barry_Bailout *Is homosexuality a "religious belief or practice"?*

()

Anything under the sun could fall into that category.

Like Reply

Caius 12 hours ago

@McGarnagle The SCOTUS as held over and over that no government or government agency can tell a church what it must practice, who it must hire and what it must believe and teach. Read the first Amendment - the SCOTUS has enforced it to the letter.

()

2 () Reply

() Like

Hedley_Lammar 13 hours ago

Welcome to Sharia law in georgia

()

Christian style !!!

Maybe in a few years we can go further. Welcome to the caliphate of Georgia !!! Would make nice welcome signs on the interstates

3 () () Reply

() Like

lvg 13 hours ago

Glad to See Legislature dealing with real crucial issues and not stupid stuff like gridlock in Atlanta highways, hospitals closing, kids dying in state custody or rampant crime due to proliferation of guns.

()

8 () () () Reply

Hedley_Lammar 13 hours ago

@lvg I agree

()

Stay on the important stuff guys. Like Religious liberty in Georgia and college kids carrying guns. That is the stuff that matters.

4 () () () Reply

() Like

Jefferson1776 14 hours ago

What if a preacher wants to marry anyone, will that be outlawed next ?

()

Like Reply

Visual_Cortex 14 hours ago

Section 3 says businesses cannot be required by government to be open on either Saturday or Sunday.

hmm. How about Friday after sundown?

4 () () () Reply

() Like

LikeMadison 14 hours ago

Like much of our legislature's creations, this is more show than substance. As long as a business can be sued and forced to provide support for a religious service they don't believe in they haven't accomplished much.

Like Reply

Lil_Barry_Bailout 14 hours ago

@LikeMadison

There's that "force" word again.

Leftists sure do like using it against people who aren't like them, and to impose their beliefs on others.

Like Reply

Hedley_Lammar 13 hours ago

@Lil_Barry_Bailout @LikeMadison Please

()

The South has been FORCED to end slavery and segregation. You think they just went along with not

discriminating against gay people ? No they were FORCED to do so.

Many times in our history the South has been FORCED to not treat other people inhumanly. Sometimes at the end of a US Soldiers bayonet.

So yes sometimes we liberals have to FORCE Southern Conservatives to not keep people in chains.

4 () () () Reply

() Like

Visual_Cortex 14 hours ago

Would you require pastors to perform weddings to which they object?

()

Have they ever? I mean, EVER, in their own houses of worship?

I bring this up all the time, but--divorce has been legal in all the states of the Union for many, many years. Yet Roman Catholic priests will not perform marriage ceremonies involving divorced men or women who've not previously sought and received an annulment.

I know of nobody who has even tried to force priests to behave otherwise. Anywhere. On any legal grounds.

Why, pray tell, would LGBT activists have any legal leg to stand on were they to attempt to force (say) an Assembly of God minister to bless a same-sex union?

Why is this even a thing, Kyle?

4 () () () Reply

() Like

Lil_Barry_Bailout 14 hours ago

@Visual_Cortex

()

Because pastor protection is just one aspect of the bill. There are other important protections of free exercise as well.

Like Reply

Visual_Cortex 14 hours ago

@Lil_Barry_Bailout @Visual_Cortex

()

Why do they need "protecting" from something that doesn't exist?

2 () Reply

() Like

Lil_Barry_Bailout 14 hours ago

@Visual_Cortex @Lil_Barry_Bailout

()

What "they" are you talking about?

Like Reply

Visual_Cortex 14 hours ago

@Lil_Barry_Bailout @Visual_Cortex

()

Pastors.

Like Reply

Lil_Barry_Bailout 14 hours ago

@Visual_Cortex @Lil_Barry_Bailout

The law isn't limited to pastors.

()

Like Reply

xxxzzz 12 hours ago

@Visual_Cortex @Lil_Barry_Bailout You could ask the same thing about actions that people are forced to do that would have been unimaginable 20 years ago.
A disturbing number of people don't believe in the Bill of Rights anymore and want the government to use its power to enforce their views.

()

Like Reply

Jefferson1776 14 hours ago

@Lil_Barry_Bailout @Visual_Cortex None of it is important at all.

()

1 Reply

() Like

Boscaverde 15 hours ago

Why is it that an organization that doesn't pay taxes gets more "freedom" than one that does? Doesn't it seem like it should be the other way around?

()

Actually, a better question is...why don't these organizations have to pay taxes in the first place?

And just parroting "separation of church and state" is no answer. These organizations get the benefits that tax-paying organizations

do, but get it for free. Why?

3 () () Reply

() Like

Lil_Barry_Bailout 15 hours ago

@Boscaverde

()

That you don't like an answer doesn't mean it isn't the answer.

Like Reply

Boscaverde 14 hours ago

@Lil_Barry_Bailout @Boscaverde Actually, this is

() the country and all of its citizens paying for the church.

But if there is some reasonable person who can give me a well thought out answer, then I would appreciate it.

Many others can discuss it better than I, but the Constitution actually says that the government will make no law respecting an establishment of religion or prohibiting the free exercise thereof." It does not say that religious organizations get to be tax-free. So, I'm trying to figure out why that is the case.

(And, that will be my last response to you, because from your other comments I can tell there just isn't any point getting into a conversation.)

1 Reply

Lil_Barry_Bailout 14 hours ago

@Boscaverde @Lil_Barry_Bailout

()

Nor does the Constitution say that football coaches can't pray with team members on the field. Shall we read the Constitution the way you do above?

Like Reply

John A. Jenkins 23 hours ago

Some of these considerations are ridiculous. As a minister of 44 years, no law can compel me to perform anyone's marriage. That is a private service and decision that no government makes for me. I have declined many in my ministry, and will any that mocks or undermines God's standard.

()

2 () Reply

Lil_Barry_Bailout 17 hours ago

It's good that you aren't forced to participate in ceremonies that violate your beliefs and that your free exercise rights are protected as a minister. The bill would merely extend those protections to others in your ministry.

()

Like Reply

Visual_Cortex 14 hours ago

@Lil_Barry_Bailout

()

yeah, well, see above.

I don't really expect consistency from "conservatives" nowadays, but I will just say this--passing frivolous legislation designed solely to make you feel good, is about as un-conservative a thing to do as I can imagine.

1 Reply

() Like

ATLAquarius 1 day ago

() So this and other social issues always trump economic issues in the Legislature...wake me up when they get around to reform that tax code...I know I know slow and steady...like realization of north Fulton that MARTA isn't going anywhere so kudos to Jan Jones for shepherding SB 369 though

Like Reply

RoadScholar 13 hours ago

() **@ATLAquarius** She should reduce the Fulton tax rate to .5% also. Level the playing field and leave another 0.5% on the table once they come to their senses about MARTA expansion, which is needed.

1 Reply

() Like

ATLAquarius 9 hours ago

() **@RoadScholar @ATLAquarius** She seems to think there's alot more road building to go....granted the arterials in N Fulton suck but that's because the growth wasn't planned and all the new neighborhoods were seen as entities in a vacuum but short of expanding 120 across the Hooch and adding longer turn lanes and roundabouts here and

there there's nothing that will fundamentally change SR9 south, 400 south and 141 south in the mornings....in either case let your constituents decide and as lawmakers actually own MARTA or more to the point alternate transportation and impose conditions based fiscal standards or security or whatever non demographic issue is bothering them but don't put your head in the sand...

Like Reply

JamVet 1 day ago

Jesus hated h()m()s.

()

I think it's in two Corinthians...

Like Reply

JKToole 1 day ago

@JamVet Nope. Jesus never mentions Homosexuality.

() Corinthians is the Apostle Paul - and he isn't quoting anyone.

Like Reply

Wascatlady 13 hours ago

@JKToole @JamVet Went "straight" over his head.

()

2 () Reply

() Like

FIGMO2 1 day ago

I have yet to hear from LGBT advocates as to whether it's enough of a protection in their eyes.

()

I sure hope it is. Their incessant whining and hysteria has worn thin even for me and I've NEVER had a problem with gays getting married.

They fought for it and won.

Move on already. Enjoy the fruits (not intended as a gay slur) of your labor.

1 Reply

() Like

RoadScholar 13 hours ago

@FIGMO2 Same as repubs on.....everything!

()

1 Reply

() Like

FIGMO2 10 hours ago

@RoadScholar @FIGMO2

()

Have the "repubs" won a monumental SC case that changed their lives for the better?

Like Reply

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About the Author

Kyle Wingfield is the AJC's conservative columnist. He joined the AJC in 2009 after writing for the WallStreet Journal, based in Brussels, and the Associated Press, based in Atlanta and Montgomery, Ala. He is a native of Dalton and a graduate of the University of

Georgia.

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