

Separate myth from fact in religious freedom act

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(Photo: Chris Farina / The Detroit News)

A lot of misconceptions — and outright lies — have been flying around about the recent passage of a Religious Freedom Restoration Act (RFRA) by the Michigan House. This is disturbing because RFRA is an incredibly important tool to protect religious people by motivating the government to find ways to achieve its goals while respecting religious beliefs.

RFRA allows people of faith to go to the court system and say, “Obeying this law would force me to disobey the commands of my religion and so I want an exception to it.”

Once people have shown that the law “substantially burdens” their religious liberty, the government can agree and grant an exception, or show that (1) it has a really good goal (a “compelling interest,” in legal terms) for the law and (2) there’s no other way that it can accomplish that goal (the law is the “least restrictive means”).

What do RFRA *not* do? They do not give people a license to do whatever they want and hold up a magical shield of “religion” to get away with it. Rather, RFRA creates a balancing test that weighs how society and government can operate at peak efficiency while also protecting individuals’ religious liberties.

In light of that, let’s look at three of the most common myths about Michigan’s RFRA.

Myth 1. It allows EMTs to refuse to treat homosexuals in life-threatening situations. The most heinous lie being spread about this bill claims this is not just a potential outcome, but rather the very purpose of the bill.

That’s just plain ludicrous.

The bill doesn’t even mention medical professionals or homosexuality at all. It simply imposes a legal test to be applied in court when government action burdens religion.

For the sake of argument, let’s assume there was some religion out there that required its adherents to deny medical care to any particular class of people (I’ve never heard of one). The application of RFRA would clearly require EMTs of that faith to do their jobs and treat all patients equally.

The government absolutely has a compelling interest to ensure people in emergency situations get medical treatment without regard to who they are, what they look like, if they have money to pay, or with whom they engage in hanky-panky.

Myth 2. It allows a man to get off scot-free for beating his wife by saying “my religion allows me to do it.” The first problem with this myth is that merely being “allowed” by your religion to do something is not enough to trigger RFRA, because “allowed” means either choice is acceptable. If my religion “allows” me to dance naked in the rain, I still have no protection under RFRA from public indecency laws — because I can just as easily obey my religion while dancing clothed. Until someone is forced to choose between religion and the law, his religious freedom isn’t “substantially burdened” and RFRA won’t apply.

Myth 3. It allows Catholic hospitals to refuse abortions to women who miscarry. This is honestly the most baffling myth I’ve seen. Yes, Catholic hospitals refuse to offer abortions. But a variety of federal laws already protect medical professionals from being forced to participate in abortions (for example, 1973’s Public Health Service Act and 2004’s Hyde/Weldon Conscience Protection Amendment).

Many pieces I’ve read on Michigan’s RFRA claim that religious liberty has lost in the court of public opinion, referencing recent public pressure against similar bills in other states. I say that the only reason religious liberty has been losing is that the truth has been drowned out by the myths. When people know the facts, religious liberty will remain a winner.

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