

Wall of Separation

(Un)Fantastic Five: AU's Protect Thy Neighbor Project Announces New Tool To Track Faux 'Religious Freedom' Bills

Jan 12, 2016 by [Maggie Garrett](#) in [Wall of Separation](#)

Americans United's Protect Thy Neighbor project has a new tool you can use to monitor dangerous legislation at the state and federal levels.

As state legislatures gather across the country to start their 2016 legislative sessions, Americans United's Protect Thy Neighbor (PTN) project is gearing up to monitor and fight legislation that would allow individuals, businesses and government employees to harm others in the name of religion.

Now you can follow along by using PTN's new [legislative tracking page](#). Keep up with the latest news, bill information, and ways to take action in the [states](#) and on the [federal level](#). We will update the status of the bills in our [state tracker](#) every Tuesday and Friday, and will also continue to provide you with [latest legislative news](#) as it occurs.

Over the next few weeks, the [PTN blog "The Shield"](#) will highlight and explain many of the bills that have already been filed in the states. We begin today by presenting "The Five Worst State Legislative Ideas of the Year – So Far."

Georgia Lawmakers Look to Pass RFRA and FADA: Georgia could be ground zero in the fight over so-called "religious freedom" bills this session. First, three Religious Freedom Restoration Act (RFRA) bills (**[HB 29](#)**, **[HB 218](#)**, and **[SB 129](#)**) will carry over from the 2015 session. RFRA's authorize religious exemptions to each and every state law on the books. If any state law or policy is deemed to place a "substantial burden" on the religious beliefs of a person – or even a for-profit corporation – the state must show that it has a "compelling interest" and that the law is "narrowly tailored" to fulfilling that interest. Although RFRA's were originally intended to protect genuine religious freedom, many states are now adopting RFRA's in order to override non-discrimination laws and deny women reproductive healthcare.

RFRA bill SB 129 passed the Senate last year but [stalled](#) in the House Judiciary Committee after the bill was amended to prohibit it from being used to trump non-discrimination laws. Republicans who opposed to this amendment tabled their own bill. But Senator Josh McKoon has [vowed](#) to continue to push for his RFRA bill this year. He says that he wants to amend his bill so that it mirrors the federal RFRA, but we all know that the [federal RFRA is now also being used](#) to justify discrimination and to deny access to healthcare. [Other members of the Georgia General Assembly](#) and the [Georgia business community](#) don't seem quite as excited about the bill or optimistic about its prospects.

In addition, [lawmakers](#) in Georgia want to adopt a state version of the federal "First Amendment Defense Act" (FADA). Georgia's FADA is a copy of a federal bill that would explicitly allow private businesses, federal contractors and grantees, and even government employees to discriminate against same-sex couples, unmarried

couples, married couples in which one person had been married before, single mothers, individuals who have had sex outside of marriage and others. Sen. Greg Kirk, who plans to introduce the bill, claims that FADA is more “palatable” than the state RFRA bill, but in reality, it is far more extreme.

Indiana RFRA Redux: Last year, Indiana ignited a national firestorm when it adopted its state RFRA. Inexplicably, Indiana legislators are eager to relive that experience this year. Sen. R. Michael Young wants to rewrite the state RFRA, but not in a good way. His bill (SB 66) would ensure that the state treat “the right to worship” and “the right to freedom of religion” (among other things) “with the greatest deference.” What does that mean and how would this RFRA differ from the controversial one passed last session? That language is so broad and vague, it is unlikely anyone knows what it means. But it is clear that, at a minimum, the bill would serve to strip out language in the current RFRA law that prevents it from being used to trump some state nondiscrimination protections.

Florida RFRA on Steroids: Florida already has a RFRA, but lawmakers in the Sunshine State want to add language to that RFRA to provide *blanket* religious exemptions to businesses, health care providers and child placement agencies. If passed, HB 401 would allow adoption agencies to refuse to place children with loving parents; businesses could refuse service and health-care providers could deny medically necessary procedures, information, products and referrals. The only way the state government could deny a religious exemption? Prove it will cause death or serious bodily injury.

Kentucky Marriage Bills: In what appears to be a reaction to Kentucky County Clerk Kim Davis’s refusal to allow anyone in her office to provide a marriage certificate to same-sex couples, the Kentucky legislature has already introduced four marriage related bills (HB 14, HB 17, HB 28, and HB 31). These bills would allow government employees and officials to deny marriage licenses or refuse to solemnize marriages if they object to the marriages on the basis of religion. Each bill differs slightly, but all seek to deny LGBT couples the same access to marriage as other couples. The end result? Some couples could be welcomed into the local courthouse to get married, while others would be turned away.

New Mexico RFRA Expansion: New Mexico also already has a RFRA. HB 55 would make it worse by (1) allowing for-profit companies to use the RFRA to obtain religious exemptions and (2) permitting people and corporations to use RFRA against private parties rather than just the government. Both of these changes would broaden the scope of the state RFRA and increase the ways in which RFRA will likely be used to discriminate against or otherwise harm the people of New Mexico.

Why would New Mexico lawmakers want to do that? The New Mexico Human Rights Act (NMHRA) provides LGBT non-discrimination protections. When Elane Photography, a local business, refused to photograph a wedding for a same-sex couple in violation of the NMHRA, that business argued that the New Mexico RFRA trumped those protections. But the New Mexico Supreme Court ruled that Elane Photography couldn’t use RFRA as a defense to violating provisions in the NMHRA, in part because the government was not a party to the lawsuit. Passage of this bill would overturn that decision, allowing Elane Photography and other for-profit businesses in New Mexico to use RFRA as a defense against nondiscrimination laws.

It was hard to limit our list of terrible ideas to just five. There are so many other bills that we are already tracking, and we expect many more as the state sessions proceed. We promise to continue to fight these and other bills in the state legislature. We hope you will stay tuned to PTN and check in regularly to our tracker for up-to-date information and news.

Tags:

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Issues:

Religious Refusals and RFRA, Descriptions and Activities of Religious Right Groups

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