

First Amendment Defense Act

1. What would the First Amendment Defense Act do?

The First Amendment Defense Act (H.R. 2802, S. 1598) would bar the federal government from discriminating against individuals and organizations based upon their religious beliefs or moral convictions that marriage is the union of one man and one woman or that sexual relations are properly reserved to such a marriage. The Act provides broad protections against adverse federal actions directed toward individuals and organizations that act on such beliefs.

2. What are some examples of how such individuals and organizations would be protected?

The Act would prohibit the federal government from denying or revoking a nonprofit entity's tax-exempt status. It would also prohibit the federal government from denying or excluding an individual or organization from a federal grant, contract, or employment. Indeed, the Act would bar any discrimination by the federal government against individuals or organizations based upon their religious belief or moral convictions that marriage is the union of one man and one woman or that sexual relations are properly reserved to such a marriage. The Act would also require the federal government to consider accredited any entity that failed to be accredited because of a religious belief or moral conviction that marriage is the union of one man and one woman or that sexual relations are properly reserved to such a marriage.

3. Who would the Act protect?

Importantly, the First Amendment Defense Act would protect a wide array of persons, including individuals and organizations – both for-profits and non-profits – regardless of whether or not they are religiously affiliated. Thus, business owners as well as faith communities would be protected.

4. Why is the First Amendment Defense Act needed?

The Act is needed because of growing intolerance toward religiously-minded individuals and organizations who want to live by their conviction that marriage is the union of one man and one woman or that sexual relations are properly reserved to such a marriage. There are increasing reports of individuals and organizations holding such beliefs being targeted for discrimination by state governments. This bill would prevent the federal government from engaging in similar discrimination.

5. What states have attempted this discrimination?

There are many examples. Recently, in Idaho, two ministers – a husband and wife – were threatened with criminal prosecution for not officiating at same-sex “weddings.” In California, a bill was introduced in the California legislature to strip the Boy Scouts of their state tax exemption based on the Scouts' decision not to have adults who publically identify as homosexual serve as Scout leaders. The bill would also have revoked the tax-exempt status of other youth organizations that hold to an authentic sexual morality, including organizations affiliated with Catholic schools. In New Mexico, the State Supreme Court ruled that a husband and wife who own and operate a photography studio must act against their religious beliefs and take photographs of a same-sex commitment ceremony, if they want to do business in the state. One of the judges wrote that violating one's religious beliefs was “the price of citizenship.”

In light of these and many other cases involving government action against those who believe that marriage is the union of one man and one woman or that sexual relations are properly reserved to such a marriage, it is vital that Congress act now to prevent similar intolerance at the federal level.

6. Does the First Amendment Defense Act have any effect on states or state law?

No. It only affects the federal government.