

117TH CONGRESS  
1ST SESSION

# S. 2752

To amend the Religious Freedom Restoration Act of 1993 to protect civil rights and otherwise prevent meaningful harm to third parties, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 15, 2021

Mr. BOOKER (for himself, Mr. WHITEHOUSE, Ms. CORTEZ MASTO, Mr. MERKLEY, Ms. KLOBUCHAR, Mrs. FEINSTEIN, Mr. BLUMENTHAL, Mrs. GILLIBRAND, Mr. PADILLA, Mr. MURPHY, Ms. DUCKWORTH, Mrs. SHAHEEN, Ms. SMITH, Ms. HIRONO, Mr. DURBIN, Mr. VAN HOLLEN, Mr. COONS, Ms. STABENOW, Mr. CARPER, Mr. SANDERS, Ms. CANTWELL, Mr. BROWN, Mr. MENENDEZ, Ms. BALDWIN, Mr. REED, Mr. MARKEY, Ms. WARREN, Mr. LUJÁN, Mrs. MURRAY, and Ms. ROSEN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend the Religious Freedom Restoration Act of 1993 to protect civil rights and otherwise prevent meaningful harm to third parties, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Do No Harm Act”.

5 **SEC. 2. SENSE OF CONGRESS.**

6 It is the sense of Congress that—

1           (1) the Religious Freedom Restoration Act of  
 2           1993 should not be interpreted to authorize an ex-  
 3           emption from generally applicable law if the exemp-  
 4           tion would impose the religious views, habits, or  
 5           practices of one party upon another;

6           (2) the Religious Freedom Restoration Act of  
 7           1993 should not be interpreted to authorize an ex-  
 8           emption from generally applicable law if the exemp-  
 9           tion would impose meaningful harm, including dig-  
 10          nitary harm, on a third party; and

11          (3) the Religious Freedom Restoration Act of  
 12          1993 should not be interpreted to authorize an ex-  
 13          emption for one party from generally applicable law  
 14          if the exemption would permit discrimination against  
 15          others, including persons who do not belong to the  
 16          religion or adhere to the beliefs of that party.

17 **SEC. 3. EXCEPTION FROM APPLICATION OF ACT WHERE**  
 18 **FEDERAL LAW PREVENTS HARM TO OTHERS.**

19          Section 3 of the Religious Freedom Restoration Act  
 20          of 1993 (42 U.S.C. 2000bb–1) is amended by adding at  
 21          the end the following:

22          “(d) ADDITIONAL EXCEPTION FROM APPLICATION  
 23          OF ACT WHERE FEDERAL LAW PREVENTS HARM TO  
 24          OTHERS.—Subsection (a) shall not apply—

1 “(1) to any provision of law or its implementa-  
2 tion that provides for or requires—

3 “(A) a protection against discrimination or  
4 the promotion of equal opportunity, including  
5 the Civil Rights Act of 1964 (42 U.S.C. 2000a  
6 et seq.), the Americans with Disabilities Act of  
7 1990 (42 U.S.C. 12101 et seq.), the Family  
8 and Medical Leave Act of 1993 (29 U.S.C.  
9 2601 et seq.), Executive Order 11246 (42  
10 U.S.C. 2000e note; relating to equal oppor-  
11 tunity in Federal employment), the Violence  
12 Against Women Act of 1994 (42 U.S.C. 13925  
13 et seq.), the final rule, including any amend-  
14 ment made by such rule, of the Department of  
15 Housing and Urban Development entitled  
16 ‘Equal Access to Housing in HUD Programs  
17 Regardless of Sexual Orientation or Gender  
18 Identity’ (77 Fed. Reg. 5662 (February 3,  
19 2012)) (or any corresponding similar regulation  
20 or ruling), or section 5.106 of title 24, Code of  
21 Federal Regulations (or any corresponding  
22 similar regulation or ruling);

23 “(B) an employer to provide a wage, other  
24 compensation, or a benefit including leave, or a

1 standard protecting collective activity in the  
2 workplace;

3 “(C) protection against child labor, child  
4 abuse, or child exploitation; or

5 “(D) access to, information about, a refer-  
6 ral for, provision of, or coverage for, any health  
7 care item or service;

8 “(2) to any term of a government contract,  
9 grant, cooperative agreement, or other instrument  
10 for an award, that requires a good, service, function,  
11 or activity to be performed for or provided to a bene-  
12 ficiary of or participant in a program or activity  
13 funded by such a government contract, grant, coop-  
14 erative agreement, or other instrument for an award;  
15 or

16 “(3) to the extent that application would result  
17 in denying a person the full and equal enjoyment of  
18 a good, service, benefit, facility, privilege, advantage,  
19 or accommodation provided by the government.”.

20 **SEC. 4. CLARIFICATION OF PRECLUSION OF LITIGATION**  
21 **BETWEEN PRIVATE PARTIES.**

22 (a) PURPOSE.—The purpose of the amendment made  
23 by subsection (b) is to clarify the applicability of the Reli-  
24 gious Freedom Restoration Act of 1993, as enacted.

1       (b) PRECLUSION.—Section 3(c) of the Religious  
2 Freedom Restoration Act of 1993 (42 U.S.C. 2000bb–  
3 1(c)) is amended, in the first sentence, by striking “judi-  
4 cial proceeding” and all that follows and inserting “judi-  
5 cial proceeding to which the government is a party and  
6 obtain appropriate relief against that government.”.

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