

EXECUTIVE ORDER 15-05

Preservation and Protection of Religious Freedom

WHEREAS, the protection of religious liberty from government infringement is a constitutional and fundamental state interest, and government is obligated to take measures that advance this interest by preventing government interference with religious exercise in a way that complements the protections mandated by the First Amendment of the United States Constitution, which provides:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof

and Section Seven of the Bill of Rights of the Kansas Constitution, which provides:

The right to worship God according to the dictates of conscience shall never be infringed; nor shall any person be compelled to attend or support any form of worship; nor shall any control of or interference with the rights of conscience be permitted, nor any preference be given by law to any religious establishment or mode of worship.

; and

WHEREAS, Kansas has a tradition of cooperating with charitable, religious, and private organizations in providing social services. Religious organizations and individuals have a long and distinguished history, which predates the State's involvement, of providing critical social services. Religious organizations have a unique capacity to provide these services and thus deliver substantial benefits to the residents of this State; and

WHEREAS, on April 10, 2013, I signed H.B. 2203, enacting the Kansas Preservation of Religious Freedom Act, K.S.A. 60-5303, which makes clear that state government shall not "substantially burden a person's civil right to exercise of religion even if the burden results from a rule of general applicability, unless such government demonstrates, by clear and convincing evidence, that application of the burden to the person: (1) Is in furtherance of a compelling government interest; and (2) is the least restrictive means of furthering that compelling government interest"; and

WHEREAS, the recent imposition of same sex marriage by the United States Supreme Court poses potential infringements on the civil right of religious liberty; and

WHEREAS, government actions and laws that protect the free exercise of religious beliefs about marriage will encourage private citizens and institutions to demonstrate tolerance for those beliefs and convictions and therefore contribute to a more respectful, diverse, and peaceful society.

NOW THEREFORE, pursuant to the authority vested in me as Governor of the State of Kansas, I hereby order and direct as follows:

1. General protection of the free exercise of religious beliefs and moral convictions

The State Government is prohibited from taking any action inconsistent with the restrictions placed upon the State Government by the United States Constitution, or the Kansas Constitution, or the Kansas Preservation of Religious Freedom Act, against any individual clergy, religious leader, or religious organization on the basis that such person or organization believes or sincerely acts in accordance with a religious belief or moral conviction that marriage is or should be recognized as the union of one man and one woman.

2. Specific protections for persons and religious organizations

(a) The State Government shall not take any discriminatory action against any individual clergy or religious leader on the basis that such individual declines or will decline to perform, solemnize, or facilitate any marriage, based upon or consistent with the individual's sincerely held religious belief or moral conviction described in Section 1.

(b) The State Government shall not take any discriminatory action against a religious organization, including those providing social services, wholly or partially on the basis that such organization declines or will decline to solemnize any marriage or to provide services, accommodations, facilities, goods, or privileges for a purpose related to the solemnization, formation, celebration or recognition of any marriage, based upon or consistent with a sincerely held religious belief or moral conviction described in Section 1.

(c) The State Government shall not take any discriminatory action against a religious organization that provides social services or charitable services, which acts or intends to act upon sincerely held religious belief or moral conviction described in Section 1.

3. Definitions

(a) As used in this Order, State Government means all departments, commissions, boards, agencies, and political subdivisions of the State of Kansas.

(b) As used in this Order, discriminatory action means any action taken by the State Government including, but not limited to:

(1) negatively alter the tax treatment of, or cause any tax, penalty, or payment to be assessed against, delay, revoke, or otherwise make unavailable or deny, an exemption from taxation of, any person;

(2) disallow or otherwise make unavailable or deny a deduction for state tax purposes of any charitable contribution made to or by such person;

(3) withhold, reduce, exclude, terminate, materially alter the terms or conditions of, or otherwise make unavailable or deny, any state grant, contract, subcontract, cooperative agreement, or loan from or to any person;

(4) withhold, reduce, exclude, terminate, materially alter the terms or conditions of, or otherwise make unavailable or deny, any accreditation, licensing, custody award or agreement, recognition, or certification from or to any person.

(c) Nothing in this Order shall be construed to prevent the State Government from providing, either directly or indirectly, any benefit or service authorized under State law.

This document shall be filed with the Secretary of State as Executive Order 15-05 and shall become effective immediately.

THE GOVERNOR'S OFFICE

BY THE GOVERNOR



DATED

July 7, 2015

Kris W. Kobach

Secretary of State

Bryan A. Casper

Asst. Secretary of State

