



Kansas Family Policy Council
2250 N. Rock Road #118-250
Wichita, KS 67226
316-993-3900

Testimony supporting HB 2203 – Kansas Preservation of Religious Freedom Act
Robert Noland - Executive Director
Kansas Family Policy Council
February 18, 2013

The very first settlements in this nation were made up of people who came to our shores in a quest to secure the liberty to worship and express their faith as they saw fit. Escaping from the culture in their homelands they set out to establish societies and communities in America as a statement that their religious freedom was important. It was so important that they made the harrowing journey across uncharted waters to stand for what they believed hoping to shake off the shackles of the burdensome government directing or interfering with their religious practices and their faith.

James Madison, who drafted the Bill of Rights to our Constitution, is quoted as saying “Religion must be left to the conviction and conscience of every man; and it is the right of every man to exercise it as these may dictate. This right is in its nature an unalienable right.”

In America today we see the government seeking to interfere in the expression of faith and the exercise of religion. Whether it is through legal precedent, education policy, federal law, local ordinances or intrusive regulation, the free expression of and practice of religion has come under attack in the United States. The examples are numerous and varied in their scope, however all of them bear similarity in that they attempt to hamper the Constitutional right to expression of religion. The message is always the same in these cases; religious views must be

HOUSE JUDICIARY

DATE: 2/18/13

ATTACHMENT 8

compromised or forfeited in order to exist with more progressive laws, rules or legal precedents. It is ironic that the very freedoms that established this nation and set aside the protections afforded to religion somehow seem to be marginalized and deemed too old-fashioned to exist in what the culture is now telling us is a post-modern society. It would seem that our culture is content telling people of faith that their beliefs are unacceptable and unnecessary lest anyone be offended or inconvenienced by their practice.

Kansas has a rich tradition of protecting and preserving religious liberties and that should continue. Our concern is that recent federal court rulings have sought to reduced our First Amendment freedom of religion to what many consider a mere “freedom to worship” – a distinction that vastly alters our historic understanding of this basic freedom. This is a trend that causes concern among those who value the freedom of religion and it is because of that concern that we seek passage of HB 2203 which would legislatively define a strict scrutiny test for cases in Kansas courts where religious liberties are challenged. We believe this to be a prudent step to safeguard against any detrimental changes to the legal status of religious liberty in Kansas. At this time Kansas courts generally accept and employ a strict scrutiny test in cases regarding religious liberty; however there is no guarantee that the strict scrutiny test will remain in place without some form of legislative action as we see proposed in HB 2203.

The issue of religious liberty is one that has garnered more attention and concern among Americans in recent years, most notably due to legal challenges to certain aspects of national healthcare which are still moving through the system and have yet to be resolved. We believe that those cases have done much to raise the awareness of people from all walks of life and all religions to the fact that our courts appear to be willing to redefine religious liberty at least at the federal level – those legal precedents could have long lasting and far reaching consequences.

In a national survey, the Barna group has recently identified a number of interesting viewpoints on religious liberties. In their research, Barna found that slightly over half of adults say they are concerned or somewhat concerned that religious freedom in the US will become more restricted over the next 5 years. One-third of adults believe that religious freedoms have

deteriorated over the last decade. Interestingly, the same research found that 90% agreed that “True religious freedom means that all citizens must have freedom of conscience which means being able to believe and practice the core commitments and values of your faith.”

In Kansas just this past year we saw two examples which could have posed challenges to religious liberty. Ordinances were passed in Hutchinson and Salina which would have mandated individuals, landlords, churches and businesses comply with progressive new policies granting special rights in the areas of housing, employment and public accommodation based on sexual orientation and gender identity. These were ultimately repealed however, they could have posed significant legal challenges to deeply held views regarding how residents in those towns worshipped, conducted business and lived their lives. A second example concerns a school teacher who voiced his support of traditional marriage on the internet. Although his employment was ultimately not terminated, we believe that the provisions in HB 2203 would have provided protection for his religious views and supplied him with a statutorily defined defense of his religious liberty should legal action have ensued.

The Kansas Family Policy Council strongly encourages this committee to favorably approve HB 2203. The movement nationally seems to be one toward a culture that seeks to impose radical viewpoints on all citizens regardless of deeply held religious convictions. The message is that people of faith should become accepting of and indeed complicit in agendas that run counter to their beliefs, the timeliest example being current efforts to mandate abortion and abortion services in healthcare plans. Consequences of clinging to religious tenets in this example, and others, can be costly legal action, punitive damages and even loss of livelihood. All of which are essentially attempts to force individuals to violate their deeply held religious views. As policies that open the door to legal claims undermining religious liberties seem to emerge somewhere in our nation every day, it would be prudent to act now to enact provisions to define statutorily the standard to be used in Kansas courts in religious liberty cases.

In 1997, The United States Supreme Court ruled unconstitutional, those portions of the Federal Religious Freedom Restoration Act that applied to the states thereby potentially weakening the legal standard that protects individuals and their religious liberty in state courts. In a day and

age when it appears more rules, laws, legal precedents and ordinances burden the lives of Americans, it has become incumbent upon the individual states to protect religious liberty - it seems appropriate that the legislature would take this important step to preserve and strengthen religious liberties here in Kansas. Currently over a dozen states have adopted religious freedom preservation statutes – Kansas should follow suit.

Thank you for your time – KFPC encourages your support of HB 2203.