

Effective 5/12/2015

Chapter 20

Religious Protections in Relation to Marriage, Family, or Sexuality

Part 1

General Provisions

63G-20-101 Title.

This chapter is known as "Religious Protections in Relation to Marriage, Family, or Sexuality."

Enacted by Chapter 46, 2015 General Session

63G-20-102 Definitions.

As used in this chapter:

- (1) "Child placing" means the same as that term is defined in Section 26B-2-101.
- (2) "Child-placing agency" means a private person that is engaged in child placing related to a child who is not in the custody of the state.
- (3) "Government retaliation" means an action by a state or local government or an action by a state or local government official that:
 - (a) is taken in response to a person's exercise of a protection contained in Section 17-20-4, 63G-20-201, 63G-20-203.5, or 63G-20-301; and
 - (b)
 - (i) imposes a formal penalty on, fines, disciplines, discriminates against, denies the rights of, denies benefits to, or denies tax-exempt status to a person; or
 - (ii) subjects a person to an injunction or to an administrative claim or proceeding.
- (4)
 - (a) "Religious official" means an officer or official of a religion, when acting as such.
 - (b) "Religious official" includes an individual designated by the religion as clergy, minister, priest, pastor, rabbi, imam, bishop, stake president, or sealer, when that individual is acting as such.
- (5) "Religious organization" means:
 - (a) a religious organization, association, educational institution, or society;
 - (b) a religious corporation sole; or
 - (c) any corporation or association constituting a wholly owned subsidiary, affiliate, or agency of any religious organization, association, educational institution, society, or religious corporation sole.
- (6) "Sexuality" includes legal sexual conduct, legal sexual expression, sexual desires, and the status of a person as male or female.
- (7) "State or local government" means:
 - (a) a state government entity, agency, or instrumentality; or
 - (b) a local government entity, agency, or instrumentality.
- (8) "State or local government official" means an officer, employee, or appointee of a state or local government.

Amended by Chapter 466, 2023 General Session

63G-20-103 Interpretation.

- (1) Utah state courts and courts of the United States shall broadly construe this chapter in favor of a broad protection of religious beliefs, exercises, and conscience to the maximum extent permitted by the terms of this chapter and the Utah and United States constitutions.
- (2) Nothing in this chapter may be construed to limit:
 - (a) the authority of a state or local government or a state or local government official to protect the health, safety, or property of Utah residents through lawful means;
 - (b) the application of Utah's criminal laws;
 - (c) the application of Utah's laws barring discrimination in employment or housing; or
 - (d) the application of Utah's laws barring discrimination in public accommodations, subject to Section 63G-20-201.

Enacted by Chapter 46, 2015 General Session

Part 2

Government Entities Prohibited from Certain Burdens on Religious Beliefs

63G-20-201 Provisions governing solemnizing or recognizing a marriage -- Prohibition against employment actions.

Notwithstanding any other provision of law, a state or local government or a state or local government official may not:

- (1) require a religious official, when acting as such, or religious organization to solemnize or recognize for ecclesiastical purposes a marriage that is contrary to that religious official's or religious organization's religious beliefs;
- (2) if the religious official or religious organization is authorized to solemnize a marriage by Section 81-2-305, deny a religious official, when acting as such, or religious organization the authority to legally solemnize a legal marriage based on the religious official's or religious organization's refusal to solemnize any legal marriage that is contrary to the religious official's or religious organization's religious beliefs;
- (3) require a religious official, when acting as such, or religious organization to provide goods, accommodations, advantages, privileges, services, facilities, or grounds for activities connected with the solemnization or celebration of a marriage that is contrary to that religious official's or religious organization's religious beliefs; or
- (4) require a religious official, when acting as such, or religious organization to promote marriage through religious programs, counseling, courses, or retreats in a way that is contrary to that religious official's or religious organization's religious beliefs.

Amended by Chapter 366, 2024 General Session

63G-20-202 Prohibition on government retaliation.

Notwithstanding any other law, a state or local government or a state or local government official may not engage in government retaliation against:

- (1) an individual, a religious official when acting as such, or a religious organization for exercising the protections contained in Section 17-20-4, 63G-20-201, or 63G-20-301; or
- (2) a child-placing agency for exercising the protections contained in Section 63G-20-203.5.

Amended by Chapter 466, 2023 General Session

63G-20-203 Prohibition on licensing disadvantages based on beliefs.

Notwithstanding any other law, a state or local government, a state or local government official, or another accrediting, certifying, or licensing body may not:

- (1) deny, revoke, or suspend a licensee's professional or business license based on that licensee's beliefs or the licensee's lawful expressions of those beliefs in a nonprofessional setting, including the licensee's religious beliefs regarding marriage, family, or sexuality; or
- (2) penalize, discipline, censure, disadvantage, discriminate against, or retaliate against a licensee who holds a professional or business license based on that licensee's beliefs or lawful expressions of those beliefs in a nonprofessional setting, including the licensee's religious beliefs regarding marriage, family, or sexuality.

Enacted by Chapter 46, 2015 General Session

63G-20-203.5 Child-placing agencies.

- (1) As used in this section, "consortium" means a statewide consortium of child-placing agencies described in Subsection 26B-2-127(8).
- (2) Notwithstanding any other provision of law, a state or local government, a state or local government official, or another accrediting, certifying, or licensing body, including the Office of Licensing within the Department of Health and Human Services, may not:
 - (a) require a consortium-member child-placing agency to perform, assist, counsel, recommend, consent to, facilitate, or participate in child placing, with a qualified prospective adoptive parent, that is contrary to the child-placing agency's religious teaching, practices, or sincerely held beliefs, or the good faith wishes of the birth mother as to the optimal placement of the child;
 - (b) deny a consortium-member child-placing agency any grant, contract, or participation in a government program because the child-placing agency cannot, consistent with the child-placing agency's religious teaching, practices, or sincerely held beliefs, or consistent with the good faith wishes of the birth mother as to the optimal placement of the child, perform, assist, counsel, recommend, consent to, facilitate, or participate in a child placement with a qualified prospective adoptive parent; or
 - (c) deny an application for an initial license or accreditation, deny the renewal of a license or accreditation, or revoke the license or accreditation of a consortium-member child-placing agency that cannot, consistent with the child-placing agency's religious teaching, practices, or sincerely held beliefs, or consistent with the good faith wishes of the birth mother as to the optimal placement of the child, perform, assist, counsel, recommend, consent to, facilitate, or participate in a child placement with a qualified prospective adoptive parent.
- (3)
 - (a) A consortium-member child-placing agency that cannot, consistent with the child-placing agency's religious teaching, practices, or sincerely held beliefs, or consistent with the good faith wishes of the birth mother as to the optimal placement of the child, perform, assist, counsel, recommend, consent to, facilitate, or participate in a child placement with a qualified prospective adoptive parent, shall refer the individual who is seeking child-placement services to another child-placing agency in the consortium.
 - (b) A referral by a child-placing agency under Subsection (3)(a) does not constitute a determination that a proposed placement is not in the best interest of the child.
- (4) The fact that a consortium-member child-placing agency cannot, consistent with the child-placing agency's religious teaching, practices, or sincerely held beliefs, or consistent with the

good faith wishes of the birth mother as to the optimal placement of the child, perform, assist, counsel, recommend, consent to, facilitate, or participate in a child placement with a qualified prospective adoptive parent, may not form the basis for:

- (a) the imposition of a civil fine or other adverse administrative action; or
- (b) any claim or cause of action under any state or local law.

Enacted by Chapter 466, 2023 General Session

63G-20-204 Remedies -- Attorney fees and costs.

- (1)
 - (a) A person aggrieved by a violation of this part may:
 - (i) seek injunctive or other civil relief to require a state or local government or a state or local government official to comply with the requirements of this part; or
 - (ii) seek removal of the local government official for malfeasance in office according to the procedures and requirements of Title 77, Chapter 6, Removal by Judicial Proceedings.
 - (b) The court may award reasonable attorney fees and costs to the prevailing party.
- (2)
 - (a) A person aggrieved by a violation of this part may bring a civil action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.
 - (b) If the plaintiff establishes one or more violations of this part by a preponderance of the evidence, the court:
 - (i) shall grant the plaintiff appropriate legal or equitable relief; and
 - (ii) may award reasonable attorney fees and costs to the prevailing party.

Amended by Chapter 158, 2024 General Session

Part 3

Prohibitions on Certain Burdens on a Religious Official's or Religious Organization's Religious Beliefs about Marriage, Family, or Sexuality

63G-20-301 Prohibitions relating to refusing to solemnize a marriage.

Notwithstanding any other provision of law, an individual may not require a religious official, when acting as such, or religious organization to provide goods, accommodations, advantages, privileges, services, facilities, or grounds for activities connected with the solemnization or celebration of a marriage that is contrary to that religious official's or religious organization's religious beliefs about marriage, family, or sexuality.

Enacted by Chapter 46, 2015 General Session

63G-20-302 Remedies -- Civil action -- Attorney fees and costs.

- (1) A person aggrieved by a violation of this part may bring a civil action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.
- (2) If the plaintiff establishes one or more violations of this part by a preponderance of the evidence, the court:
 - (a) shall grant the plaintiff appropriate legal or equitable relief; and
 - (b) may award reasonable attorney fees and costs to the prevailing party.

Amended by Chapter 158, 2024 General Session

63G-20-303 Severability clause.

If any provision of Laws of Utah 2015, Chapter 46, or its application to any person or circumstance is found to be unconstitutional, or in conflict with or superseded by federal law, the remainder of Laws of Utah 2015, Chapter 46, and the application of the provision to other persons or circumstances is not affected by the finding.

Revisor instructions Chapter 46, 2015 General Session

Enacted by Chapter 46, 2015 General Session