

SECOND REGULAR SESSION

HOUSE JOINT RESOLUTION NO. 96

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CURTMAN.

6089H.011

D. ADAM CRUMBLISS, Chief Clerk

JOINT RESOLUTION

Submitting to the qualified voters of Missouri, an amendment to article I of the Constitution of Missouri, and adopting one new section relating to religious liberty.

Be it resolved by the House of Representatives, the Senate concurring therein:

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2016, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article I of the Constitution of the state of Missouri:

Section A. Article I, Constitution of Missouri, is amended by adding one new section, to be known as section 37, to read as follows:

Section 37. 1. (1) This section shall be known as the "Religious Liberty Amendment".

(2) As used in this section, the following terms mean:

(a) "Acts", any positive action or failure to act, including failure to participate in, perform, encourage, service, solemnize, or facilitate, whether compelled by or central to a system of religious belief;

(b) "Penalty", any adverse action including, but not limited to, any action taken by the state to:

a. Adversely alter the tax treatment of, or cause any tax, fine, or payment to be assessed against, to delay, revoke, or otherwise deny an exemption from taxation of, any religious organization or person;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 12 **b. Disallow or hinder a deduction for tax purposes of any charitable contribution**
13 **made to any religious organization or person;**
- 14 **c. Withhold, reduce, exclude, terminate, or otherwise deny any accreditation,**
15 **license, certificate, grant, contract, loan, guarantee, or insurance from or to any religious**
16 **organization or person;**
- 17 **d. Withhold, reduce, exclude, terminate, or otherwise deny any entitlement, social**
18 **service benefit, healthcare benefit, or to adversely alter or deny a custody award, foster**
19 **home placement, or adoption, from, to, or by any religious organization or person;**
- 20 **e. Deny access to meeting space, channels of communication, or other resources at**
21 **an educational institution that is otherwise available to other student organizations, access**
22 **to charitable fund-raising campaigns that is otherwise available to other charitable**
23 **organizations, or access to minister at correctional institutions and other public facilities**
24 **and property as is otherwise available to other nongovernmental organizations, or to any**
25 **religious organization or person; or**
- 26 **f. Recognize or allow an administrative charge or civil claim against any religious**
27 **organization or person;**
- 28 **(c) "Person", a natural person, corporation, limited liability company, partnership,**
29 **association, joint venture, trust, unincorporated organization, or other entity or group;**
30 **provided, however, that no business entity operating for profit shall qualify as a person**
31 **unless it provides goods or services that reflect creative or artistic expression, and:**
- 32 **a. Provides goods or services for a marriage or wedding ceremony or closely related**
33 **celebration; or**
- 34 **b. It is privately owned and closely held, and its owners believe they are required**
35 **to operate and do operate the business in accordance with particular religious beliefs**
36 **concerning the marriage of two individuals of the same sex or gender;**
- 37 **(d) "Religious organization", an organization or person that is:**
- 38 **a. A religious group, society, corporation, association, order, school, institution of**
39 **higher education, ministry, charity, social service provider, hospital, or other healthcare**
40 **facility, hospice, elder care facility, or crisis pregnancy center, and associated counseling,**
41 **courses, and teaching, if such organization holds itself out to the public in whole or in part**
42 **as religious and its purposes are wholly or partly religious;**
- 43 **b. A house of worship including, but not limited to, a church, convention,**
44 **denomination, synagogue, mosque, or temple; or**
- 45 **c. Any clergy, religious leader, minister, officer, manager, employee, member, or**
46 **volunteer of any entity described in subparagraph a. or b. of this paragraph, while acting**
47 **in the scope of his or her office, employment, or duties of position;**

48 (e) "State", a governmental body, or person that is a department, commission,
49 board, agency, office, committee, or court of the state of Missouri, and any political
50 subdivision of the state, including agents or persons acting under color of law of the state
51 or a political subdivision.

52 2. To the extent permitted by the United States Constitution and federal law, the
53 state shall not impose a penalty on any religious organization or person wholly or partially
54 on the basis that such organization or person believes or acts in accordance with a sincere
55 religious belief concerning marriage of two individuals of the same sex or gender.

56 3. The state shall consider accredited, licensed, or certified for purposes of state law
57 any religious organization that would be accredited, licensed, or certified, respectively, for
58 such purposes but for the organization's beliefs or acts in accordance with a sincere
59 religious belief concerning marriage of two individuals of the same sex or gender.

60 4. Nothing in this section shall:

61 (1) Permit any act prohibited by a state or federal criminal law, except for state
62 laws that criminalize nonviolent religious belief;

63 (2) Prevent the state from providing a license to marry or any other marital
64 entitlement, service, or benefit authorized by state law;

65 (3) Permit a hospital or other healthcare facility, or an elder care facility or hospice,
66 to refuse to treat a marriage as valid for purposes of a spouse's right to visitation or to
67 make surrogate healthcare decisions; or

68 (4) Repeal, supersede, or narrow the meaning or application of any constitutional
69 provision or state law that is equally or more protective of free exercise of religious belief
70 and practices.

71 5. (1) A person or religious organization may assert an actual or threatened
72 violation of this section as a claim or defense in a judicial or administrative proceeding and
73 obtain compensatory damages, injunctive relief, declaratory relief, or any other
74 appropriate relief against the state, including an institution of higher education.

75 (2) An action under this section may be commenced, and relief may be granted, in
76 a court of competent jurisdiction without regard to whether the person or religious
77 organization commencing the action has pursued or exhausted available administrative
78 remedies.

79 (3) This section shall apply without regard to whether a government entity is a
80 named party to a judicial claim, administrative proceeding, hearing, or other dispute
81 resolution process.

82 6. If any provision of this section or any application of such provision to any
83 person, religious organization, or circumstance is held to violate the United States

84 **Constitution or federal law, the remainder of this section and the application of the**
85 **provision to any other persons, religious organizations, or circumstances shall not be**
86 **affected.**

Section B. Under section 116.155, and other applicable constitutional provisions and
2 laws of this state authorizing the general assembly to adopt ballot language for the submission
3 of a joint resolution to the voters of this state, the official ballot title of the amendment proposed
4 in section A shall be as follows:

5 "Shall the Missouri Constitution be amended to provide that the state shall not penalize
6 religious organizations and certain persons for beliefs or acts that are based on sincere religious
7 beliefs concerning marriage of two individuals of the same sex or gender, and that are not crimes,
8 to the extent permitted by federal law?"

Section C. Under section 116.155, and other applicable constitutional provisions and the
2 laws of this state authorizing the general assembly to adopt a fiscal note summary for the
3 submission of a joint resolution to the voters of this state, the official fiscal note summary of the
4 amendment proposed by section A shall be as follows:

5 "This change is expected to have no fiscal impact."

✓