



MISSOURI HOUSE OF REPRESENTATIVES
WITNESS APPEARANCE FORM

BILL NUMBER: HB 746		DATE: 2/22/2021	
COMMITTEE: Special Committee on Government Accountability			
TESTIFYING: <input type="checkbox"/> IN SUPPORT OF <input checked="" type="checkbox"/> IN OPPOSITION TO <input type="checkbox"/> FOR INFORMATIONAL PURPOSES			
WITNESS NAME			
INDIVIDUAL:			
WITNESS NAME: ARNIE C. AC "HONEST-ABE" DIENOFF-STATE PUBLIC ADVO		PHONE NUMBER:	
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I am Opposed to this Bill. Let's use "Common-Sense" and Keep ALL Missourians Safe with Scientific Data!



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WITNESS NAME			
BUSINESS/ORGANIZATION:			
WITNESS NAME: BRIAN KAYLOR		PHONE NUMBER:	
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My name is Brian Kaylor. I am the editor of Word&Way, a Christian magazine that has been publishing in Missouri since 1896, and I am the associate director of Churchnet, a statewide Baptist network. I am concerned that before we are even out of this pandemic, we are considering bills that would make it more difficult to keep people safe and healthy in a future pandemic. I am particularly concerned about creating unconstitutional religious exemptions that could endanger worshipers and our church-state balance. So, I am here to testify against a pandemic privilege for religion found in House Bills 61, 308, 575, and 746. I oppose this legislation not because I do not care about religious liberty, but precisely because I, as a Baptist minister, cherish religious liberty for all. I do worry about government infringing on our free exercise rights. But we need to remember that our First Amendment includes two religion clauses. And we must respect them both. Not just the Free Exercise Clause but also the No Establishment Clause. These two clauses sit together and thus demand balance. The problem with these bills is they have no such balance. While all four bills rightly advocate for free exercise rights, they swing too far in the other direction by infringing on the No Establishment Clause. But that clause is also important to protect true religious liberty. To carve out a special pandemic privilege just for religious adherents is to favor religion over nonreligion. It is to grant special rights to religious individuals and groups that are not given to nonbelievers. That is to violate the No Establishment Clause. During the COVID-19 pandemic we have seen examples of governments going too far by infringing on the free exercise rights of houses of worship. And the courts have stepped in to override those rules that wrongly targeted religious institutions. But the courts have also rejected many of the challenges brought by houses of worship because the courts noted that religious gatherings in those cases were being treated like similar gatherings. That is the balance we need and that these three bills lack. Religious gatherings should be treated like similar gatherings. Houses of worship should not be hit with harsher rules than similar organizations. But religious gatherings should not be exempt from the same life-saving health rules to which similar gatherings are subjected. Simply put, there should not be a pandemic privilege for religion. These four bills do not follow the balance required by our First Amendment or that many officials and courts have wisely tried to implement over the past ten months. And these bills are unneeded as Missouri's Religious Freedom Restoration Act already provides the proper balance, and thus gives the courts the legal room to strike down violations of religious freedom. A virus like COVID-19 does not stop at the door of a church, nor does the virus care if a mass gathering is religious or not. That is why numerous church worship services, unfortunately, became super-spreader events during this pandemic. To exempt religious gatherings and organizations from the common-sense health rules imposed on similar events and groups does not respect religious liberty but instead violates it. This pandemic privilege for religion will not only upset our healthy constitutional church-state balance but will also endanger lives. So, I respectfully urge you not to adopt House Bills

61, 308, 575, and 746.



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WITNESS NAME			
REGISTERED LOBBYIST:			
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February 22, 2021 Senate Committee on Government Accountability Chairman Gregory HB 61, HB 308, HB 575, and HB 746 Dear Honorable Committee Members: Thank you for allowing me to provide written testimony today. On behalf of the American Civil Liberties Union of Missouri and our approximately 15,000 supporters statewide, I would like to express our opposition to HB 61, HB 308, HB 575, and HB 746. This suite of bills would ban restrictions on church gatherings in the midst of public health emergencies. While the freedom to practice one's religion as they see fit guaranteed by the First Amendment is among our most important rights, it is constitutionally appropriate for the government to restrict such in-person gatherings, along with similar non-religious gatherings, if medical and scientific experts agree that they pose an immediate and grave risk to the public health. These restrictions do not single out religious practice for restrictions. HB 61, HB 308, HB 575, and HB 746 create special provisions that protect religious gatherings above other activities and businesses. Just as discrimination based on religion is not constitutional, it is not constitutionally permissible to single out religious services for preferential treatment. These bills attempt to single out preferential treatment in the following ways: HB 61 prevents public health regulations to be implemented should they have the "effect of making religious services impractical." Essentially, making local health officials responsible for ensuring churches can function even though all other institutions may be closed. HB 308 would exempt houses of worship from "any social distancing requirement." As public health experts continue to make strides in the prevention and containment of contagious diseases, it is imperative that all play their part in keeping our communities safe. By exempting churches from these rules, this legislation perpetuates the risk of community spread. HB 575 prevents any order to be issued that would "limit or prohibit religious groups from holding religious meetings." As stated below, despite limitations on large gatherings, houses of worship have not shut down religious practices. Many have been creative to ensure the safe communication of their message to their congregants weekly through drive-thru and audio masses. HB 746 would prevent the restriction on any type of religious participation, be it prayer, services, meetings, or otherwise, during any emergency. Many of these emergencies are exempted in HB 61 and HB 575, meaning religious institutions would need to follow public and local health officials during these incidents. That is not the case under HB 746. This legislation would cover government restrictions related to flooding, fires, tornadoes, earthquakes, terrorist threats, civil unrest, or hazardous material incidents. The state is able to mandate these temporary restrictions so long as it has a compelling reason to impose restrictions on places of worship and must ensure that those restrictions are narrowly tailored to advance its compelling interest. At the Federal level, former Attorney General Bill Barr expressed the compelling importance of following measures deemed necessary by medical and scientific experts "because the virus is transmitted so easily from person to person and because it all too often has life-threatening consequences for its victims." [1] We all wish to

remain both safe and free. The restrictions on religious gatherings exist to slow and stop a deadly pandemic, one that has cost Missourians nearly 7,000 lives. Religious services pose a unique risk that places them in a cohort with other similar secular activities that have been temporarily restricted. Restricting gatherings in a neutral and narrow manner is permissible and reasonable given the challenge we face. You are still free to practice your faith in Missouri. The restrictions placed on all in-person gatherings are narrowly tailored, as they must be. They do not mandate a complete shutdown of religious practice. Houses of worship have remained open to stream worship services online or over the phone, to hold drive-in services in parking lots, and to conduct smaller services that adhere to the state's large-gathering limit. This shift in how services are provided is not unique in today's economy and mirror many of the ways secular businesses must adapt to this time. Exempting worship services from neutral and generally applicable restrictions enacted during public emergencies would harm others and is the type of religious preference that the Constitution forbids. Religious freedom is not a license to harm others. We look forward to the day when it is safe for all to practice their faith in the manner they choose; however, to remain true to our Constitutional values, we cannot single out houses of worship for preferential treatment. I urge this committee to not vote these bills out. I am available to answer any questions that you might have going forward. Thank you again for your consideration.

Best, Mo Del Villar
Legislative Associate
American Civil Liberties Union of Missouri

[1] Attorney General William Barr. (April 14, 2020). Statement on Religious Practice and Social Distancing. DOJ-Office of Public Affairs. Retrieved from <https://www.justice.gov/opa/pr/attorney-general-william-p-barr-issues-statement-religious-practice-and-social-distancing-0>.



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WITNESS NAME			
REGISTERED LOBBYIST:			
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We understand that in difficult times, many people look to their faith for comfort and guidance, but that does not mean religious gatherings cannot or should not be regulated during an emergency. You should reject this bill because it is unnecessary and would create a dangerously broad religious exemption that would put the public health at risk. The bill is unnecessary to protect houses of worship because they can already challenge restrictions on religious activities under the Missouri Religious Freedom Restoration Act. In addition, houses of worship can challenge restrictions under recent Supreme Court decisions, which make clear that government limits on religious activities must be neutral and generally applicable or “narrowly tailored” to serve a “compelling” state interest. This bill goes significantly further than current Missouri and federal law—it would prohibit any limits on religious activities, in any and all emergencies, no matter that danger to parishioners or others. The breadth of this blanket exemption is unprecedented. HB 746 would tie the hands of Missouri officials from issuing emergency orders in pandemic and non-pandemic emergencies. If the pandemic worsen, public health officials would not be able to respond effectively. The danger it would create in non-pandemic scenarios is equally troubling. For example, in a worst-case scenario, if an accident caused an explosion at a chemical plant, a county commission might have to close all schools, including religious schools, in an area that is highly hazardous. Or if the state were hit by tornadoes or flooding, the governor would need to enforce orders that keep all buildings in certain areas, including houses of worship, off limits because of damage. This bill would prohibit government officials from issuing such orders or from placing any limits on religious activities in an emergency. As a result, Missourians could get sick, injured, or worse. Many faiths teach that in emergency circumstances, protecting people’s lives comes first, and that it is an act of charity, justice, and love to stay home and to worship through alternative means. To protect people who attend religious worship services, as well as those who don’t, we should encourage these efforts, not exempt religious gatherings from emergency restrictions. For more information about the emergency orders issued by governors during the COVID-19 pandemic, please visit <https://bit.ly/37AzcjG>. Thank you for your consideration.



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WITNESS NAME			
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In addition to removing the ability of the executive branch to place necessary limits on worship services, HB 746 would remove the ability of hospitals to control the spread of deadly contagions by requiring them to allow visitors, without limitation, to terminally ill patients. If there ever was an instance of the legislature attempting to insert itself into an arena better left to the experts, this is it. Doctors must be allowed to make decisions about what visitor restrictions are necessary during a pandemic, and the legislature tying their hands is dangerous and foolhardy. Please vote no on HB 746.