

## Summary of the *Do No Harm Act*

Introduced in the 115<sup>th</sup> Congress (H.R. 3222)

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- Religious liberty is a fundamental American value. We are free to believe or not—but we may not use a sincerely held religious belief to cause harm to others.
- When Congress adopted the Religious Freedom Restoration Act of 1993 (RFRA) it was to expand protections for religious minority groups as a response to the flawed ruling in the 1990 Supreme Court case in Employment Division v. Smith regarding the ceremonial peyote use by American Indian employees.
- RFRA was the product of broad coalitions involving religious groups, Members of Congress, civil liberties organizations, and constitutional scholars to give religious liberty a heightened protection requiring that government action may only substantially burden a person’s exercise of religion if it is in the furtherance of a compelling government interest, and is the least restrictive means to achieve that interest.
- Since the passage of the federal RFRA law, twenty- one states have passed state RFRA’s and there is growing concern about how RFRA’s may be used by some as a sword and not a shield to advance harm to the rights of others in the pursuit of another’s religious exercise.
- The Do No Harm Act both protects religious liberty and protects against discrimination. It reflects the First Amendment’s careful balance: exemptions for religious exercise cannot impose burdens on others.
- Protecting civil rights is a compelling government interests! This principle should not be subject to another person’s religious belief.
- The Do No Harm Act ensures that the RFRA, a key federal law protecting religious liberty, cannot be used to cause harm to others. It will not change how RFRA has been used as intended, such as permitting an exception to a dress code to allow someone to wear a head covering as an article of faith.
- The Do No Harm Act restores RFRA’s original intent—to protect religious freedom without inflicting harm on others.
- The Do No Harm Act simply says that RFRA shouldn’t be used to create religious exemptions to key laws designed to protect people, like federal laws prohibiting discrimination, requiring equal pay, and protecting children’s welfare.
- The Do No Harm Act would prevent the RFRA law from being used to deny:
  - Protection against discrimination laws or the promotion of equal opportunity, including the Civil Rights Act of 1964 and other laws;
  - Workplace protections or protections against child abuse;
  - Healthcare access, information, referrals, provisions, coverage or services to which persons are otherwise legally entitled;
  - Services that the government has contracted to be provided to beneficiaries through a government contract, grant, or cooperative agreement; and,
  - Accommodations or other benefits and services provided by the government.