



Atheists. Agnostics. Humanists.
Americans.

PROTECT AMERICANS FROM DISCRIMINATION

S. 2525, *FIRST AMENDMENT DEFENSE ACT*

POSITION

The Secular Coalition for America strongly opposes efforts to enact the *First Amendment Defense Act* (FADA).

BACKGROUND

First Amendment Defense Act

FADA was first introduced by Senator Mike Lee (R-UT) and Representative Raul Labrador (R-ID) in the 114th Congress on June 17, 2015. It was co-sponsored by 171 Representatives and 37 Senators. After the bill failed to advance, it was re-introduced by Senator Lee in the 115th Congress on March 8, 2018. There are currently 22 co-sponsors.

If enacted, FADA “would bar the federal government from ameliorating discrimination against same sex couples, single parents, and unmarried couples when an entity evokes a sincerely held religious belief or moral conviction.”¹ In particular, it would prevent the federal government from revoking the tax-exempt status of or withholding federal grants or benefits from those individuals, private businesses, or non-profit organizations who “violate non-discrimination policies”² or refuse to serve same sex couples, single parents, or unmarried couples because of their “religious belief or moral conviction that marriage is or should be recognized as a union of one man and one woman ... or that sexual relations outside marriage are improper.”³

FADA WOULD ALLOW FOR TAXPAYER-FUNDED DISCRIMINATION

To prevent taxpayer-funded discrimination, FADA must **not** be enacted. If the bill were to pass, it would allow individuals, private businesses and non-profit organizations to discriminate against same-sex couples, single parents, and unmarried couples without fear of losing their tax-exempt status, federal grants, or federal benefits. For example, “private companies and non-profit government contractors – which includes a significant portion of social services

¹ See Charlotte Clymer, *HRC Responds to Anti-LGBTQ “First Amendment Defense Act” Proposed by GOP Senators*, HUMAN RIGHTS CAMPAIGN (Mar. 8, 2018), <https://www.hrc.org/blog/hrc-on-anti-lgbtq-first-amendment-defense-act-proposed-by-gop-sena>.

² *Id.*

³ See S. 2525, 115th Cong. (2018).

providers – [could] refuse to provide a service or benefit to people because they do not fit their definition of family, from same-sex married couples and their children,” to single parents and their children, to unmarried couples who live together.⁴ Religious liberty should **not** be used this way - “as a sword to hurt [nontraditional] families[,] rather than ... as a shield to protect religious freedom from government overreach.”⁵

THE CHANGES TO THE BILL’S LANGUAGE DO NOT MAKE IT NONDISCRIMINATORY

The new language added to the bill does not change “its true animus: to legalize discrimination against LGBTQ people”⁶ and other nontraditional families. Tellingly, even in its current form, it would allow individuals, private businesses, and non-profit organizations to violate non-discrimination policies and refuse service to non-traditional families without fear of a federal government response. The new language, therefore, is nothing more than a dishonest attempt by its supporters to disguise the bill’s true discriminatory purpose. The only way to prevent such discrimination from ensuing is to ensure that FADA is never enacted in any form.

POLICY RECOMMENDATION

The Secular Coalition for America urges members of Congress to oppose efforts to enact FADA and applauds actions to protect Americans from discrimination.

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⁴ See *ACLU Comment on Introduction of “First Amendment Defense Act”*, ACLU (Mar. 9, 2018), <https://www.aclu.org/news/aclu-comment-introduction-first-amendment-defense-act>.

⁵ See Charlotte Clymer, *HRC Responds to Anti-LGBTQ “First Amendment Defense Act” Proposed by GOP Senators*, HUMAN RIGHTS CAMPAIGN (Mar. 8, 2018), <https://www.hrc.org/blog/hrc-on-anti-lgbtq-first-amendment-defense-act-proposed-by-gop-sena>.

⁶ See Ashley Killough, *Sen. Mike reintroduces religious freedom bill, LGBTQ groups cry discrimination*, CNN (Mar. 9, 2018, 7:20 AM), <https://www.cnn.com/2018/03/09/politics/first-amendment-defense-act/index.html>.