



2024 STATE OF THE SECULAR STATES

*A Review of State Legislation Affecting the
Separation of Religion and Government*





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INTRODUCTION

Now in its sixth edition, our annual State of the Secular States report has tracked the trend of escalating state-level attacks on religious equality across the years. Worryingly, many of the most grave threats to civil rights protections for LGBTQ people, access to abortion care, and basic democratic norms that we've raised the alarm about have come to pass – often with the explicit endorsement of the Supreme Court, national political leaders, and a network of well-funded Christian nationalist advocacy groups.

These attacks on vulnerable communities, and on democracy itself, have gone from relatively rare outbursts of extremism to the centerpiece of a political movement. Some of the issues at play here, specifically those that focus on LGBTQ people, have come to dominate discourse among right-wing commentators and occupy an outsized place in even mainstream political coverage. This obsessive focus on a small and vulnerable minority has all the hallmarks of a moral panic.

State legislators, emboldened and enabled by astroturfed activists, have sought to enact bans not just on surgical or medical treatment for trans young people, but even bans on social transition or counseling. They have, using overly broad and unworkably vague laws, tried to ban

drag performances – including those where someone simply reads books or otherwise “performs” in public. Lawmakers have empowered extremists from across the country to demand the removal of books from public and school libraries, lest the staff be held civilly or even criminally liable. A report from *The Washington Post* found that the majority of the thousands of challenges to books in school libraries came from just 11 people.

The deep irony of many of these laws is that their advocates often speak about so-called “parental rights” to justify their actions. Just as white Christian nationalists use the smoke-screen of “religious freedom” to hide their true goals – reinforcing the privileged position of one particular form of Christianity above all other religions – this slogan sounds unobjectionable on its face, but the policies advanced in its name usurp the rights of parents, and young people, to make decisions for themselves without government intrusion.

And, as we predicted in last year's edition of this report, attacks on reproductive health care access – not limited to just abortion, but also access to birth control, attempts to silence discussion about abortion, and even criminal penalties for women traveling out of state to access abortion care – have intensified.

Like white Christian nationalist ideology itself, the effects of this extremism on communities are overwhelmingly unpopular with the

majority of Americans. Their actions are only possible because of the anti-democratic policies enacted by politicians aligned to this movement. For example, lawmakers in some states have engaged in extreme gerrymandering, or manipulating electoral districts in order to skew outcomes and protect extreme politicians, removed power from elected governors or attorneys general of the opposite party, placed onerous restrictions on voting such as limiting polling places in cities, and even assumed direct control over how elections take place, potentially giving legislatures greater control to throw out results they don't like. While it is true that some of the worst and most egregious actions have been blocked by lower courts, appellate courts seem to be willing to allow clearly antidemocratic and discriminatory laws to take effect, putting the health and welfare of vulnerable people at risk. This is particularly true for those circuit courts that were stacked with extremist judges by the Trump Administration.

We cannot sugarcoat this: the circumstances are dire for people living in states with heavily gerrymandered legislatures that have enacted many of these laws. The stories of women forced to continue non-viable pregnancies because of draconian restrictions on abortion care are horrifying. The mental and physical toll that anti-LGBTQ policies take on members of that community, particularly trans youth and their families, is difficult to overstate. And the dehumanizing rhetoric from the white Christian nationalist, anti-LGBTQ, anti-abortion

movement has led to numerous examples of bomb threats and calls to violence against hospitals, schools, libraries, and businesses.

There are opportunities for our movement to make significant progress and enact policies that protect the health and wellbeing of all Americans. From laws guaranteeing access to secular addiction recovery programs to banning the practice of child marriage and requiring greater transparency regarding religious refusals of health care, these commonsense laws protect vulnerable people from religiously motivated harms and improve quality of life in states that enact them.

As we enter into another election year, we hope members of our community will pay close attention to where politicians stand on these issues and cast their votes accordingly.



A handwritten signature in black ink that reads "Nick Fish". The signature is written in a cursive, flowing style.

Nick Fish
President
American Atheists

Key Developments in State Legislation in 2023

Last year, we wrote about how the 2022 state legislative session was especially destructive for civil rights and religious equality. However, in 2023, lawmakers truly outdid themselves in their unprecedented attacks on civil rights. To provide an idea of the scale here, consider that in 2022, American Atheists tracked approximately 500 negative bills in state legislatures that impacted civil rights and religious equality. In the 2023 legislative session, we tracked more than 1,000 such state bills – about twice as many as the previous high water mark. And, as we will discuss in detail throughout this report, the attacks on equality are getting worse. But this does not tell the whole story – we also tracked more than twice as many state bills intended to protect civil rights and religious equality.

THE LEGISLATIVE WAR ON BODILY AUTONOMY

Perhaps the most noteworthy change in state legislation over the past year has been the abrupt shift in laws targeting trans young people. In 2021 and 2022, states considered numerous bans on trans young people participating in school athletics, and 18 such laws were passed. However, in 2023, the same states that passed these bills instead focused on preventing trans young people and their families from accessing gender affirming care. At the end of 2022, only three states had banned this care, and just in the 2023 legislative session, 19 states passed laws or enacted regulations to severely limit or outright ban access to care. It is clear that these bans are driven by religious bigotry and hatred. Christian nationalists are the loudest voices condemning trans youth, their families, and health care providers. Lawmakers supporting these measures have compared trans people to “demons,” said that their god would never make someone trans, and even rebuked Satan for the existence of trans people.

Most of the bills passed in 2023 threaten the medical licenses of doctors and hospitals that offer care to trans youth, but several create criminal penalties for doctors and parents. Moreover, legislative attacks on trans health care were not limited to simple bans. Some states sought to prohibit state funding for trans health care, including care for state employees

and their families and at state-funded hospitals. Others restricted the ability of private insurers and businesses to cover such care or imposed ruinous liability on doctors and hospitals who would provide care.

While many of these trans health care bans have been enjoined by district courts, that is starting to change as decisions are appealed to circuit courts that have been packed with ideologically biased judges. And this is despite the fact that recent U.S. Supreme Court precedent (*Bostock v. Clayton County*) makes clear that sexual orientation and gender identity are protected by federal civil rights laws. If that precedent should be overruled by the Court, then the civil rights of LGBTQ people will be at even greater risk.

Most devastating is the impact that these laws have on trans young people and their families. Families in states that pass these laws are left with few options: move to another state, deny their child the lifesaving care they need, or find other ways to obtain care, potentially putting themselves and their child at risk. Further, this wave of legislation stigmatizes trans youth, negatively impacts their psychological well-being, and encourages bullying and discrimination.

In addition to these legislative attacks on trans health care, state lawmakers continued to undermine access to abortion and reproductive health care. States like Nebraska, which had previously avoided an abortion ban, passed a

law that restricted abortion access to 12 weeks. Other states tightened existing restrictions, such as Florida which passed a 15 week ban in 2022, quickly followed by a 6 week ban in 2023. Some states placed additional restrictions on medication abortion, which is the most common method of abortion. Many of these restrictions are tied to increasingly harsh enforcement mechanisms, such as criminal penalties for doctors and patients and loss of medical license. Some of these states have even passed laws removing enforcement discretion for anti-abortion laws from district attorneys or setting up alternative avenues to pursue prosecution.

RESPONSIVE PROTECTIONS FOR HEALTH CARE

In the face of these legislative attacks, state lawmakers who support reproductive freedom and the civil rights of trans people have not been idle. The legislative responses from states like California and New York have included increased state funding for health systems and provider training to increase capacity, changes to state-funded health coverage to expand access, and changes to licensure rules to allow additional categories of health care professionals to provide care, among many others.

One significant development is the passage of what are often referred to as “sanctuary” or “shield” bills, which purport to protect providers and/or patients from the enforcement of health

care bans in other states. These bills vary greatly, and 15 states have already passed some variation. Specifically, sanctuary bills may contain provisions to limit the ability of courts and law enforcement to assist investigations in other states concerning violation of anti-abortion or anti-trans laws, protect doctors from consequences to their medical licenses or professional insurance for providing care, or protect patient confidentiality and medical records.

These sanctuary laws were passed, in part, due to concerns that states that ban these health care procedures will attempt to prevent individuals from accessing care in other states, criminalize them for doing so, or use their laws to restrict the provision of such care in other states. However, there is uncertainty among legal experts about how effective they will be, as none of these protections have yet been tested in court. Because of constitutional doctrines relating to the Full Faith and Credit Clause and the Comity Clause, as well as interstate licensing agreements, it is unclear whether and how states may engage in enforcement across state lines or limit such enforcement.

DENIAL OF CARE AND STATE APPROACHES TO ACCESS

Another threat to the provision of necessary health care is the rise of broad denial of care laws, which allow religious hospitals, providers, and payers (such as employers and insurance

companies) to deny providing or paying for any type of health care they oppose. For example, justifying their actions on such a law, a hospital might refuse to follow end-of-life medical directives, a doctor may refuse to provide emergency miscarriage management, an insurer may refuse to cover HIV treatment, or an employer may refuse to provide pregnancy coverage for single employees. For the last several years, we have seen more and more states consider such bills, and in 2023, broad denial of health care laws were passed in Florida and Montana. Additionally, some of these bills also incorporate an expansive version of the Ministerial Exemption, applicable to religious health care facilities. By treating these facilities like churches, and doctors and other staff like church leaders, these laws would basically immunize religious health care facilities against claims for violating labor and employment nondiscrimination laws.

Because of these denial of care laws, the increasing number of states that ban or restrict necessary health care, and the increasing application of religious restrictions to patients because of hospital mergers consolidating rural hospitals into religious networks, many state lawmakers are considering how to protect patient access to care. One effort, pioneered by states like Oregon and New York, has been to limit mergers when there is an impact on health access and equity. Washington state, which has long been a leader in legislative efforts to ensure access to care, passed legislation requiring hospitals and

doctors to provide urgent care for reproductive emergencies and to allow doctors flexibility to provide patients with medical information, even if their religious hospital employer objects.

Similarly, Washington state passed a health care transparency law several years ago that requires hospitals to disclose whether they refuse to offer various types of reproductive care, including abortion. This is important because when hospitals deny care, they generally do not inform patients, and so patients lack the critical information necessary to make decisions about their care. In 2023, American Atheists worked with lawmakers in Colorado to develop and pass the Patients' Right to Know Act, comprehensive health care transparency legislation that ensures that hospitals disclose to patients when they deny care for nonmedical reasons.

EDUCATION, INDOCTRINATION, AND "PARENTAL RIGHTS"

Beginning in 2021 as attacks on "critical race theory," the bills we sometimes refer to as "parental rights" bills have continued to evolve and grow into vague and punitive mandates resulting in censorship and surveillance in schools. The number and scope of these parental rights bills have expanded dramatically, as this has become a core political issue for conservatives who use these bills to attack trans youth, sex education, vaccination, and racial justice, to ban books, and to carve religious

exemptions into the law. Christian nationalist lawmakers justify these bills by portraying teachers and schools as crazed ideologues, out to indoctrinate children in “gender ideology,” and to misuse history to attack white children. Of course this is nonsense, but it is politically useful nevertheless.

These laws allow a small fringe of radical parents to seize control of school curriculum, ban books that promote understanding and tolerance, and drive out conscientious educators. These laws often provide special legal protection for “parental rights,” a vague and nebulous concept, at the expense of young people’s rights to safety, education, religious freedom, health care, and free speech. Moreover, these laws set the stage for future litigation by Christian nationalist activists to define “parental rights” in ways that further their agenda.

It is ironic that, despite all their claims to oppose “indoctrination” in schools, these same Christian nationalist lawmakers have introduced and passed bills that push religion into schools in new and brazenly unconstitutional ways. Perhaps the most egregious bill passed in 2023 is Texas’s school chaplain bill, which allows school districts to employ unregulated, unqualified chaplains in place of school counselors. Not only will this deprive students of essential services, the bill fails to provide any safeguards necessary to protect the civil rights and religious freedom of students. For example, the law does nothing to prevent districts from hiring chaplains of only one favored religion, prevent chaplains

from denying services to students because they are atheist or LGBTQ, or prevent chaplains from proselytizing to students. In addition to this bill, state legislatures considered bills to mandate Ten Commandments monuments in school classrooms, require periods of school prayer, and insert specific Christian nationalist elements into school curriculum.

By using parental rights bills, religiously coercive bills, and other methods to undermine confidence in public schools, Christian nationalist lawmakers build support for school voucher laws, which divert public education funds to support private religious schools. In 2023, we saw a number of states adopt new universal school voucher laws that have no eligibility limitations. For example, Florida passed a law that made \$7,700 private school vouchers available to all K-12 students, regardless of income. Families may make use of similar vouchers if they homeschool their children, creating a large incentive to withdraw students from the public education system. This universal voucher program just began in 2023, and when school reopened in September, the number of students participating in Florida voucher programs doubled, causing an explosive growth in costs. These school privatization efforts are driven by large Christian nationalist donors who hope to reap financial benefits from disassembling our public education system, while making Christian education the only viable alternative.

SAYING NO TO FAITH-BASED CHAPLAINS IN PUBLIC SCHOOLS

By **Darcy Hirsh**, *Senior Director of Policy and Advocacy, Interfaith Alliance*

For anyone looking for an example of the concerted effort to instill Christian nationalist ideology within our nation's democratic institutions, and particularly in our public schools, one need look no further than a series of bills introduced during the 2023 session of the Texas Legislature. Two bills which directly sought to infuse religion into public schools failed - one concerning school prayer and one requiring classrooms to display the Ten Commandments. However, a bill that would place chaplains in public and charter schools to offer faith-based services passed the Senate and then the House, largely under the public's radar even as the other two bills made the headlines.

Senate Bill No. 763, the school chaplain bill, was signed into law by Governor Greg Abbott on June 18th, 2023. Supporters heralded the legislation as a solution to the critical need for additional mental health support in schools throughout the state. But in reality, the bill was championed by an alliance of conservative lawmakers and Christian nationalist activist groups, including the National School Chaplains Association, which seeks to place chaplains "readied with a Biblical perspective" into public schools for duties including "prayer,

counsel, and spiritual care for the school staff, the students, and their families." The bill's Senate lead, Senator Mayes Middleton, dispelled any doubt about the proposal's true intention, insisting during debate that the separation of church and state is "not a real doctrine."

The new law requires each of the over 1,200 Texas school districts to vote between September 2023 and March 2024 whether to employ chaplains as volunteers or hire them in place of school counselors - and it is problematic in multiple respects. Under this new law, chaplains could serve as students' first point of contact for mental health support even though they are not required to have any type of formal training or certification. There is no requirement that the chaplains refrain from proselytizing while at schools or that they serve students from all religious backgrounds, nor does the law require any specific training, certification, or other qualifications.

Every student should feel welcome in public schools. The Establishment Clause is meant to protect against state-funded endorsement of religion and proselytization of students by public school employees. Both

could well occur as a result of this law. By endorsing a specific religious viewpoint and using state institutions and funds to do so, the Texas school chaplains law infringes on the religious freedom of students, parents, and educators.

Further, since the law provides for chaplain salaries to be drawn from funds designated "to improve school safety and security," employing chaplains would draw from critical and limited funds used to protect students' safety and well-being. Specifically, the funds in question are directed at – but not limited to – the roles of restorative discipline and justice practices, mental and behavioral health support, and suicide prevention, intervention, and postvention. Chaplains are not required to be trained in these duties and are accordingly unqualified to provide these important services, which should be provided by trained professionals.

In the summer of 2023, Interfaith Alliance was proud to stand up a diverse coalition, together with American Atheists, of other national and Texas-based civil rights, faith, secular, and professional organizations to launch a grassroots advocacy strategy opposing the implementation of this law. The goal of our initiative is to educate parents, students, faith communities, educators, and other advocates and engage them in urging school boards to reject this harmful policy. One particularly successful strategy

was to engage faith leaders in speaking out against the law in the press, in testimony to school boards, and with a letter that garnered over 170 chaplain signatures. We have already seen some successes with school boards voting down the measure, including a large district outside of Dallas that specifically cited the chaplain letter as an integral factor, and we will continue our advocacy in Texas through March. At the same time, we will broaden our advocacy efforts nationwide in anticipation of other states replicating this dangerous law. This has already been proposed in Ohio, as a state representative filed legislation last summer proposing to allow Ohio's public school districts to employ chaplains.

2023 STATE LEGISLATIVE HIGHLIGHTS

Colorado POSITIVE

Passed a health care transparency law to require hospitals to disclose to patients when they deny care for nonmedical reasons

Florida NEGATIVE

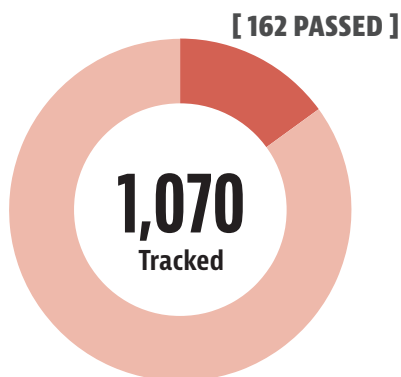
Passed a broad denial of care bill, a six-week abortion ban, and a ban on trans medical care

Texas NEGATIVE

Passed a bill allowing schools to replace counselors with chaplains and a ban on trans youth medical care

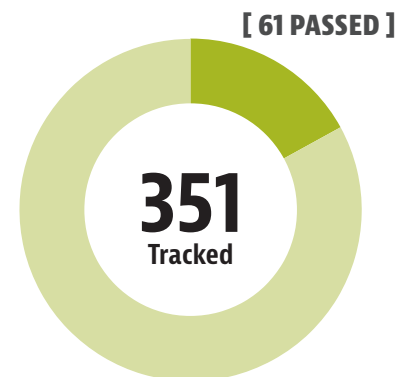
Michigan POSITIVE

Passed protections against conversion therapy and banned child marriage



Negative Bills

We tracked and opposed 1,070 bills that would undermine religious equality during the 2023 legislative session. Of these, 162 bills passed and 908 failed.



Positive Bills

We tracked and supported 351 bills that would protect religious equality during the 2023 legislative session. Of these, 61 bills passed and 290 failed.

State Legislative Outlook for 2024

Even as advocates and state lawmakers reel from the vicious rhetoric and attacks on civil rights during the 2023 state legislative session, 2024 is shaping up to be even more fractious. Driven by partisan politics during a general election year, lawmakers will continue to politicize civil rights issues in order to distinguish themselves and distract from failed economic policy. Meanwhile, legislative majorities in various contested states seem intent on eroding democracy to maintain electoral imbalances and insulate themselves from democratic accountability.

MORAL PANICS, GRIEVANCE POLITICS, AND ELECTIONS

The intense attacks on civil rights and wave of negative legislation is likely to continue in 2024 and even intensify as a result of the 2024 general election. The 2023 legislative session demonstrated just how divided our country has become on matters of civil rights. For example, nearly half the states have now banned or severely restricted abortion and gender affirming care, while the other half has passed laws to protect access to these types of health care as critical civil rights issues. Such substantial divergences of law will produce repercussions that will need to be adjudicated by the courts (see below). And as candidates for federal office nationalize these issues in order to appeal to their constituencies, these divisions will only widen.

It is worth examining for a moment how we arrived at this place. The last few years have been noteworthy in the number and scope of moral panics that have been promoted to sow fear among the populace, ranging from critical race theory in schools, to teachers “making students trans,” pornography in school libraries, immigrants “giving fentanyl to children,” and a whole host of even more outlandish conspiracy theories. Moral panics occur when an imagined threat to society, and especially to children, is propped up as a sinister and existential danger. However, because of our increasingly targeted

and insular media, these imaginary harms are given substance, validated, and entrenched. As a result of these media bubbles, Americans very much live in different worlds, with vastly different facts and shared understandings, based on their politics.

As an example, consider the social media presence of former-President Donald Trump, the current frontrunner for the Republican presidential nomination. Many of his statements are utterly incomprehensible to one not acquainted with his slogans, callbacks, and euphemisms. And this self-referential rhetoric is frequently combined with threats against political enemies and the media, promising comeuppance for targets of shared hatred. For example, the former president told his followers, “I am your retribution.” When politicians foster negative emotions and blame-based political strategies in this way in order to get elected, it is often referred to as grievance politics. Notably, this political approach is not one-sided – former-President Trump’s opposition certainly makes use of the hatred their constituents hold for him to promote turnout and fundraising.

However, this combination of moral panic culture, media segregation, and grievance politics disproportionately affects the political right, and we are now seeing the state legislative fruits of these poisonous seeds. In 2023, state legislatures introduced more bills attacking civil rights than ever before, at least twice as many

as 2022, the previous record year. And many, if not most, of these bills concerned niche issues responsive to narrow online constituencies, efforts to relitigate social issues in the public or the courts, and bills that pursue obscure vendettas. Examples include legislation to ban trans students from sports (even in states with so few trans students, it's unclear whether the law applies to anyone), to introduce chaplains into public schools (which neither schools nor the public called for), and to prevent teachers from secretly "making students trans" (a conspiracy theory promoted by right wing activists). Sadly, in this legislative environment, concerns about necessity, impact, and even constitutionality are tossed aside. None of this is new to American politics, but the scale is unprecedented, and we have every reason to believe it will worsen during the 2024 state legislative session as a result of the general election.

MORE, AND MORE EXTREME, ATTACKS ON CIVIL RIGHTS

Not only did we see more attacks on civil rights in the 2023 legislative session than in previous years, these attacks were more extreme than in previous years, and it is likely that trend will continue in 2024. In 2022, despite the fact that many states passed legislation to ban trans athletes from participating in school athletics, Alabama was an outlier in that it also banned, and even criminalized, gender affirming care. In 2023, following this example, 19 states passed laws banning care for trans youth. State

lawmakers frequently look for the "next thing" in order to appeal to their base constituency. A bill that pushes the limits on an issue one year might, absent significant pushback or repercussions, become model legislation the next year. And here, where there is a nationwide campaign to stoke hatred against certain disfavored groups, legislative attacks on civil rights can become progressively more cruel and dangerous.

There are numerous health care issues where we are likely to see right wing state lawmakers push extreme legislation in 2024. For example, now that nearly half of states have banned abortion and gender affirming care for young people, lawmakers may consider bills that allow them to target anyone who pays for or supports these procedures or criminalize those who obtain or provide these procedures out of state. They may extend prohibitions to care for trans adults, prohibit any professional training or education on disfavored procedures, or even encourage conversion therapy against trans youth. In some states that have banned abortion, lawmakers are increasingly shifting funding from maternal wellness and health care to so-called "crisis pregnancy centers" (CPCs), religious nonprofit organizations that rely on deception and shame to prevent abortions. Lastly, while so far only a handful of states have adopted broad denial of care laws, 2024 may be the year that we see many more states take up and pass this dangerous legislation.

So-called “parental rights” bills are another area where there has been significant legal and strategic development year over year. What began with bills targeting “critical race theory” has metastasized into legislation that often includes provisions to ban books, forcibly out LGBTQ students, ban discussion of LGBTQ people and history, ban schools from providing mental health care, prevent administration of national surveys to identify disparities, allow parents with religious objections to opt students out of any class, give special legal protections for “parental rights,” and more. These bills are so vague and expansive, we are likely to see lawmakers pick up ideas from other states and pass ever more censorious and punitive measures in 2024.

The legislative focus on “parental rights” is part of a broader effort to undermine secular public education. In 2023, states passed a wave of universal school voucher laws with unlimited eligibility, with bills passing in Arkansas, Florida, Indiana, Iowa, Ohio, Oklahoma, and Utah. We’re already seeing the impact of these terrible policies, as they have generated massive cost overruns and fraud in states like Florida and Arizona. These bills are part of a coordinated and well-funded national effort to undermine public education in favor of private, religious education, and states with pre-existing voucher programs are likely to be targets for similar legislation in 2024.

Finally, we are likely to see Christian nationalist state lawmakers take up bills that push religion

into public schools, including noteworthy bills that were considered or passed by other states during the 2023 session. For example, other states may consider Texas’s egregious school chaplain law, which allows districts to replace school counselors with unregulated and unqualified chaplains. Texas considered but did not pass other extreme, religiously coercive bills, including a mandate to post Ten Commandments displays in classrooms and a bill specifically permitting students and teachers to engage in daily prayer, while shielding against liability. After the U.S. Supreme Court’s decision in *Kennedy v. Bremerton School District*, it has become more difficult to challenge unconstitutional religious coercion in public schools, but it is unclear at this stage how Christian nationalists will advance legislation to capitalize on this victory.

UNCERTAINTY, INCONSISTENCY, AND THE RULE OF LAW

In modern America, the U.S. Supreme Court has a perennial influence on state legislative activities. Changes to the balance of the Court can trigger states to pass laws that challenge longstanding decisions, and major decisions from previous sessions can shape state legislative responses across the country. Although there were significant decisions that affect civil rights and religious equality in the Court’s 2023 term, it is unclear at this point how they will impact state legislation. For example, in the *303 Creative LLC v. Elenis* case, the Court ruled that

a website designer could not be required to comply with a state nondiscrimination law that compels her to engage in artistic design with which she disagrees. We may see states respond to this decision by introducing carve-outs from nondiscrimination laws that protect expressive activities, perhaps with special consideration for those based on religion, but it seems unlikely that would be a priority in states that have robust nondiscrimination laws.

Despite its limited likely impact on state legislatures, the *303 Creative LLC* decision is emblematic of the U.S. Supreme Court's recent jurisprudence in another way: it leaves unresolved many questions with which the lower courts will need to grapple, without much guidance. For example, where is the line between speech and conduct when it comes to public accommodations? There have been so many massive doctrinal shifts over the past five years, fundamentally reshaping whole areas of the law, that lower courts are left adrift in trying to reconcile conflicting precedent and poorly defined new tests. One especially noteworthy example is the Court's new reliance on "historical practices and understandings" to define civil rights in areas ranging from abortion access, to gun safety, and church-state separation. As several district court judges have pointed out, they are not historians – this test makes it both difficult and expensive to bring cases to protect civil rights, and it allows hostile courts to cherry pick from history to arrive at desired outcomes. Especially at a time when so many are turning

to the courts to protect their basic civil rights, which are under attack by Christian nationalists and their lawmaker allies, these vague tests and clearly ideologically biased courts create uncertainty and risk.

Especially relevant in an election year, for example, are the many challenges to state laws that gerrymander state legislative districts or interfere in elections in ways that are not permitted under federal law. The U.S. Supreme Court has issued inconsistent guidance, saying both that federal courts may not evaluate constitutional challenges to gerrymandering, but also that if these issues are addressed by state courts, federal courts may intervene to halt such decisions if it suits them. Another example of conflicting decisions impacting civil rights is the myriad of cases brought on behalf of trans youth to challenge school athletics bans and health care bans. The legal precedent in this area is strong, and nearly every district court to have considered the issue has found these laws to be unconstitutional. However, a few of the most ideologically imbalanced circuit courts have begun to reverse these decisions, even as they fail to contend with the clear constitutional issues highlighted in each district court opinion. Lastly, as discussed above, because the *Kennedy v. Bremerton School District* decision overturned a clear rule to protect church-state separation in favor of a costly and vague historical test, it has become much more difficult to challenge state laws and policies that promote religion in school, even when they become coercive.

STATE LEGISLATIVE THREATS TO SECULAR PUBLIC EDUCATION

By **Maggie Garrett**, *Vice President of Public Policy, Americans United for Separation of Church and State*

We are in the midst of an unprecedented and coordinated attack on our nation's public schools.

Bankrolled by billionaire donors like the Kochs, the Waltons, and the DeVoses, the anti-public school playbook is in full effect. Their three-prong plan first calls for sowing mistrust in public schools through manufactured controversies, such as those villainizing public school teachers, disparaging "critical race theory" (CRT), and attacking LGBTQ students, families, and educators. Step two: defund public education. And finally, replace public schools with a system of universal private school vouchers. This plan is fueled by hundreds of millions of dollars to pay lobbyists and fund the political campaigns for their hand-picked politicians.

Unfortunately, this plan is working.

In 2023, 282 private school voucher bills were introduced in 41 states. By October, seven states passed new voucher programs and ten expanded existing programs. To make matters worse, seven of these states (AR, FL, IA, IN, OH, OK, and UT) created universal voucher programs—meaning that each and

every student in the state is eligible to get a voucher regardless of their economic status and even if they already attend a private school.

These hugely expensive voucher plans—Florida's program alone is projected to cost \$4 billion a year—primarily fund private religious schools, which teach and promote the faith of their religious denominations and houses of worship. And because voucher programs have no curriculum standards, these schools can teach creationism, inaccurate sex education, revisionist history, and debunked refutations of climate change. This violates the religious freedom of taxpayers, who are being forced to fund religious education. And it violates the religious freedom of students, parents, and teachers, who can face discrimination by voucher schools for being the "wrong" religion.

Vouchers are also funding widespread waste and fraud. The intentional lack of regulation and accountability in voucher programs has left them vulnerable to opportunists and grifters, who have stolen and wasted millions of dollars of taxpayer funds intended to educate our children. For example, Arizona's

Auditor General found that parents misused more than \$700,000 in voucher funds on items such as beauty supplies and sports apparel. And in Florida, the Department of Education was able to substantiate allegations of fraud in 25 cases at schools that collectively received nearly \$50 million.

Meanwhile, studies show that vouchers don't even improve the educational achievement of students, and often they lead to a decrease in test scores.

The huge price tags on voucher programs are also draining desperately needed funds from our public schools, which are fundamental to a strong democracy. While not infallible, public education improves communities, reduces inequalities, and forges common experiences. Public schools are the only option that serves all children who come through their doors, including those at the margins, who are unable to go anywhere else. And public schools must remain neutral on the issue of religion, welcoming to students of all religions and none. Private schools, in contrast, can and often do reject students for many reasons including ability to pay, academic achievement, disability, and religion.

But we are not without hope. The public is with us. In fact, a March 2023 Reuters/Ipsos issues survey puts public support for private

school vouchers that defund public schools at a mere 36%, and everytime vouchers have been on the ballot, the people have voted them down. Learning from this, grassroots activists in Nebraska are fighting back. They just collected enough signatures statewide to put their recently adopted voucher bill up for a vote. If they win, it will send a message across the nation that people oppose voucher programs.

At the same time, additional threats to our public schools are now emerging. There is a new movement to convert public charter schools into religious schools, despite the fact that they are public schools that are funded entirely by taxpayer dollars. If it succeeds, the taxpayers will be forced to foot the bill for charter schools that teach a religious curriculum, that require students to pray and attend chapel, and that can skirt non-discrimination protections for students and teachers.

This battle is coming to a head in Oklahoma, where the Statewide Virtual Charter School Board approved the application of St. Isidore of Seville Catholic Virtual Charter School. The school's own application admits it will "operate the school as a Catholic School" and serve as a "place of evangelization." The school says it will abide only by nondiscrimination laws that "are not inconsistent" with its faith, reserving the right to discriminate

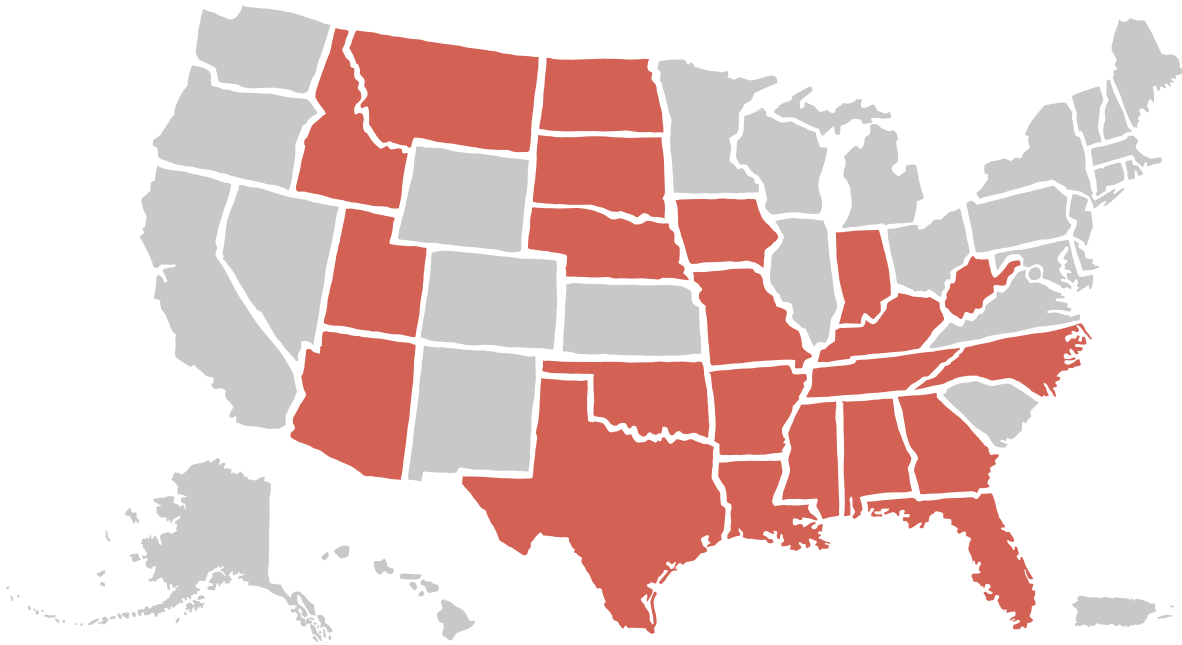
against students with disabilities and LGBTQ students and parents.

Oklahoma's Republican Attorney General warned state officials that the program violates the U.S. Constitution, explaining in an op-ed published in EdWeek: "Forcing Oklahomans to fund religious teachings with their tax dollars is not religious freedom—it is state-sponsored religion, which violates the first clause of the First Amendment." But the Board moved ahead anyway and were almost immediately sued by a legal team that includes Americans United for Separation of Church and State, the ACLU, the Education Law Center, and the Freedom From Religion Foundation. The case is pending.

If we don't stop Oklahoma from creating the nation's first religious public charter school, they could soon appear in states around the country.

The time is now to take action in your community to support your public schools, oppose privatization, and support the First Amendment principle that taxpayer-funded schools are a welcoming place for people of all religions and nonreligious people. Public funds should fund public schools that are open to all.

BANS ON HEALTH CARE FOR TRANS YOUTH



States that ban best practices health care for trans youth **[22 states]**

AL, AR, AZ, FL, GA, IA, ID, IN, KY, LA, MO, MS, MT, NC, ND, NE, OK, SD, TN, TX, UT, WV

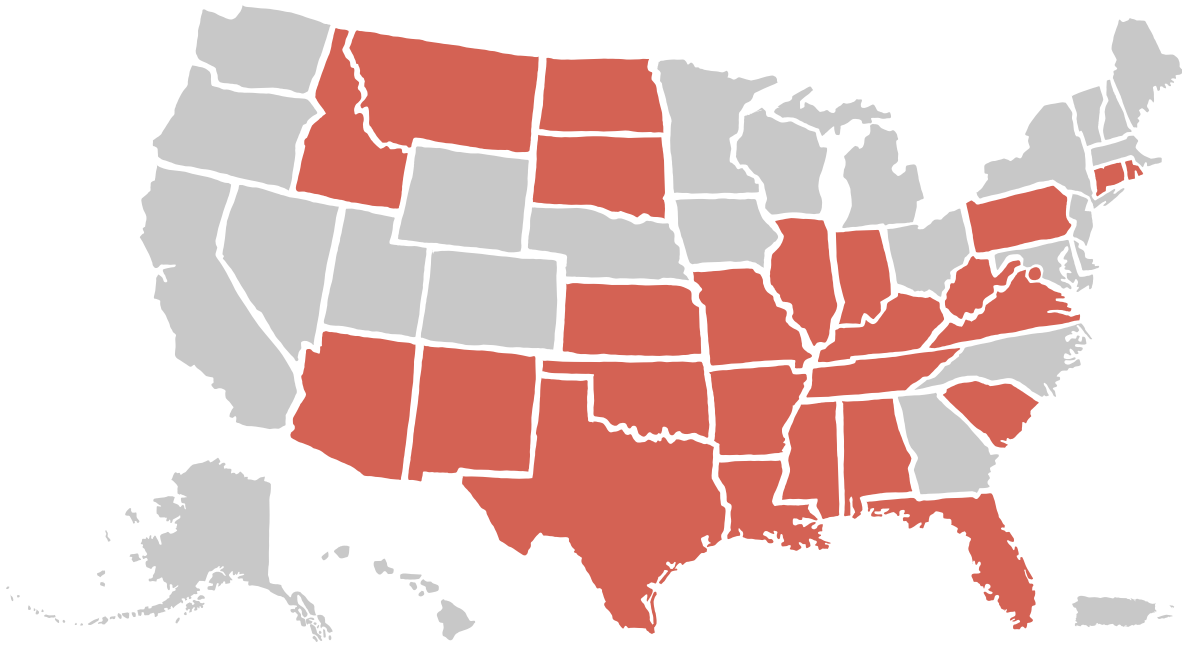
In both 2022 and 2023, there were unprecedented waves of state bills targeting trans young people. In 2022, most of the bills that passed limited the ability of these youth to participate in athletics along with their classmates in their lived gender, resulting in segregation and isolation. In 2023, unfortunately, this legislative hatred targeting trans youth took an even darker turn, with 19 states passing laws preventing trans youth from receiving appropriate and medically necessary health care.

Displaying a fundamental lack of understanding of trans youth, these medical bans prevent youth from accessing the standards of necessary medical care that are backed by the American Academy of Pediatrics, the American Medical Association, and other leading health authorities. Some of these bills go so far as to threaten

parents with prosecution if they help their child receive the medical care recommended by the child's doctor. Others would strip doctors of their licenses or even jail them for providing this care. When lawmakers prohibit medical care based on their beliefs, they risk the safety of others and undermine their religious freedom. No one should have authority to put their religious beliefs before the health and well-being of others.

Sadly, these laws put families of trans youth in a very difficult situation. Many families have had to flee these states in order to obtain appropriate health care for their trans children. While some are able to access care in nearby states, and many of these laws are currently being challenged in court, too many youth have lost care altogether.

RELIGIOUS FREEDOM RESTORATION ACTS



States with statutory Religious Freedom Restoration Acts (RFRAs) **[25 states + DC]**

AL, AR, AZ, CT, DC, FL, ID, IL, IN, KS, KY, LA, MO, MS, MT, ND, NM, OK, PA, RI, SC, SD, TN, TX, VA, WV

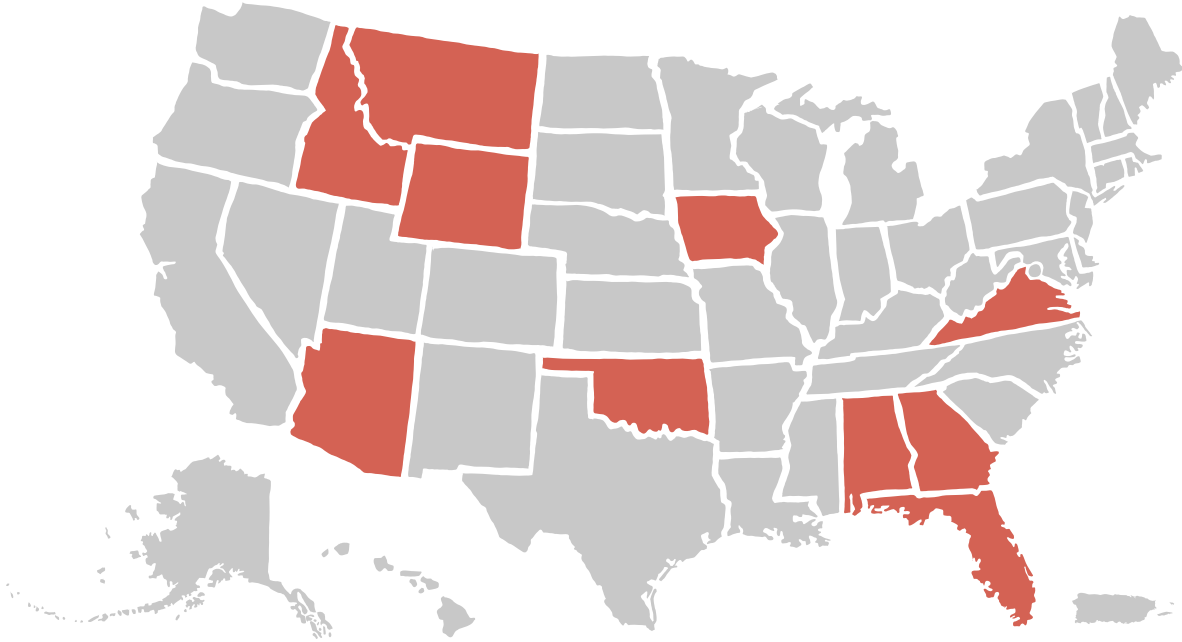
Based on U.S. Supreme Court precedent, the U.S. Constitution’s Free Exercise Clause does not limit the ability of the federal government to pass neutral laws that apply to everyone regardless of their religion, even if they incidentally burden religious exercise. The Court has noted that to do otherwise would allow individual religious belief to supersede the laws of the land, resulting in an unworkable society where laws could not be applied evenly.

Despite this warning, Congress passed the federal Religious Freedom Restoration Act (RFRA) in 1993, and 25 states have since passed their own version of this law. RFRAs require the government to meet a rigid legal test called

“strict scrutiny” when they take any action that burdens religious expression – they must demonstrate that the government interest is compelling and that the least restrictive means is used to achieve that interest.

Over time, as predicted by the Supreme Court and by organizations such as American Atheists who opposed passage of RFRA, these laws have been misused at both the state and federal levels to carve out exemptions that privilege religious expression. Christian nationalists and their lawmaker allies seek to apply these laws in new ways, such as undermining civil rights laws that protect LGBTQ people and women from discrimination.

STRICT SCRUTINY PROVISIONS FOR PARENTAL RIGHTS



States with laws that limit their ability to protect the rights of young people **[10 states]**
AL, AZ, FL, GA, IA, ID, MT, OK, VA, WY

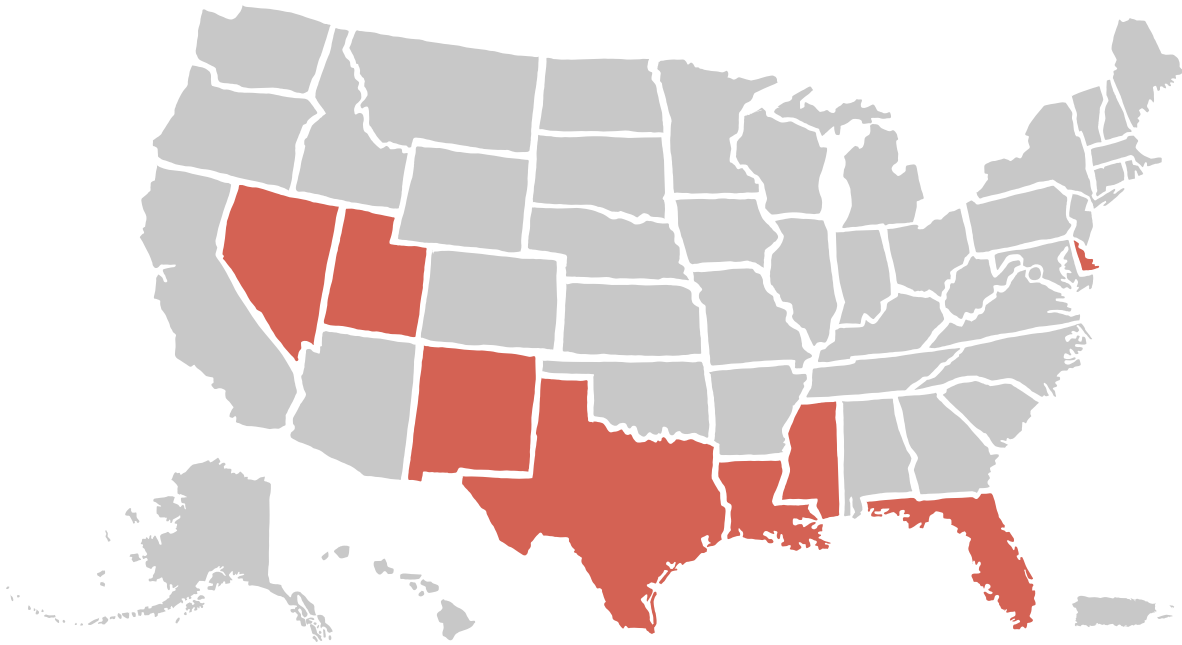
Over the last few years, Christian nationalist organizations and activists have increasingly sought to use so-called “parental rights” both as a wedge issue politically and as a legal framework to pursue their agenda. For example, a number of states have considered or passed Parents’ Bill of Rights legislation (see page 46), which include specific language intended to allow a fringe minority of religious activists to exercise disproportionate control over schools, at the expense of young people, educators, and parents.

This map shows states with laws that undermine the rights of young people by providing special protection for “parental rights.” Using a similar framework as Religious Freedom

Restoration Acts, these laws subject any infringement on “parental rights,” a broad and poorly defined concept, to strict scrutiny analysis. In other words, whenever government protections for children conflict with the beliefs and actions of parents, the government must meet a rigid legal test or make a special exception for those parents.

These laws can greatly limit the ability of state agencies to protect young people and enable them to exercise their own rights to safety, education, religious freedom, health care, or free speech. Further, these laws set the stage for future litigation by a fringe minority of religious activists to define “parental rights” in ways that further their agenda.

COMPELLED PLEDGE LAWS



States with Pledge of Allegiance requirements that disallow student opt-outs **[8 states]**
DE, FL, LA, MS, NM, NV, TX, UT

In 1943, the U.S. Supreme Court clarified in its landmark *West Virginia State Board of Education v. Barnette* decision that students could not be compelled by public schools to participate in the Pledge of Allegiance. As Justice Jackson famously said, “If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.”

Of course this didn’t stop states from attempting to do just that: coerce students into pledging allegiance. This map identifies states that have a

law mandating that the Pledge of Allegiance be recited in public schools classrooms with either no opt-out possible for students or an opt-out that requires parental permission.

While some states allow students to opt out of the pledge with parental consent, such exemptions are insufficient because students have the constitutional right to freedom of speech and freedom of religion. Accordingly, if states are going to have laws that require students to pledge allegiance, they should recognize the ability of students, not parents, to exercise their right to remain silent.



Issue Analysis & Categorization



This report analyzes four categories of public policy in each state that affect religious equality and the separation of religion and government: Constitutional & Nondiscrimination Protections, Special Privileges for Religion, Health Care & Wellness, and Education & Youth. Within each category, laws and policies that positively and negatively impact religious equality are listed along with a brief explanation of the topic.

Constitutional & Nondiscrimination Protections

Nearly every state constitution has provisions that echo the critical protections for freedom of religion created by the U.S. Constitution. These protections form the bedrock of our religious freedom by ensuring both that everyone is entitled to their beliefs and that no one's beliefs are favored by the government. They are meant

to ensure that the government treats everyone equally, regardless of their religion or if they reject religion altogether. Similarly, most states have passed nondiscrimination laws that prohibit discrimination based on protected characteristics, including religious beliefs or lack thereof.

Positive Laws & Policies ▲

ESTABLISHMENT CLAUSE & FREE EXERCISE CLAUSE

These items indicate whether the state constitution has a provision analogous to the First Amendment's Establishment Clause and Free Exercise Clause: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." Many state constitutions reiterate these important protections enshrined in the First Amendment to the U.S. Constitution. These clauses may be interpreted in accordance with federal precedent or state courts may interpret them to provide a greater level of protection than required under federal law.

STRONG TAXPAYER STANDING

This item indicates whether the court systems in a state recognize standing for taxpayers to bring suit against unconstitutional expenditures of

state funds. Standing is a legal term that indicates whether someone is qualified to pursue a claim in court. When a state or local government exceeds the bounds of its constitution or the U.S. Constitution (by spending public money to endorse a religion, for example), generally the only way to prevent that expenditure is for individuals to bring suit in court.

At the federal level, there has been a gradual erosion of taxpayer standing, which may prevent individuals from suing the government in federal court. States, however, are not bound by this federal court precedent, and while some states have incorporated elements of federal standing doctrine into their jurisprudence, others use different approaches to ensure access to their state courts. Strong taxpayer standing allows citizens to challenge unconstitutional uses of taxpayer funds, including violations of the separation of religion and government.

NONDISCRIMINATION LAWS

This item indicates whether the state has nondiscrimination laws that prohibit discrimination on the basis of religion in various areas of the law, such as employment, housing, public accommodations, and education. The majority of states provide protection in at least some of these areas, and they typically cover a number of other protected characteristics such as race, color, sex, national origin, sexual orientation, gender identity, and disability. It is important to note that, while these nondiscrimination laws typically list “religion” or “creed” as protected characteristics, this category covers discrimination against atheists and nonreligious people as well as people with religious beliefs. Discrimination prohibited by these types of laws can take many forms, including failure to hire a person, failure to promote a person, taking adverse actions in the workplace against a person, failure to address harassment, refusal to admit or serve a person, or firing a person because of a protected characteristic.

Many nondiscrimination laws exempt religious organizations, either by excluding them from the definitions of covered organizations or by including a specific exemption. The U.S. Supreme Court has ruled that in some instances, places of worship and religious schools are entitled to be exempt from various labor laws, including employment nondiscrimination laws. This is called the “ministerial exemption” because it has generally applied to clergy and faith leaders. Similarly, Title VII of the Civil Rights Act of 1964, which federally prohibits

employment discrimination, has an exemption for religious organizations: “This subchapter shall not apply... to a religious corporation, association, educational institution, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities.” However, some states have nondiscrimination laws that provide an even broader allowance for religious organizations to discriminate. If a state’s nondiscrimination law has exemptions that go beyond those in Title VII or the ministerial exemption, this item will indicate that the state has religious exemptions.

Negative Laws & Policies ▼

RELIGIOUS TESTS FOR OFFICE

While the U.S. Constitution states that “no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States,” this provision has not always been understood to apply to state offices. Consequently, several state constitutions require office-holders to swear a religious oath or require candidates to practice a specific religion. Others explicitly prohibit atheists or nonreligious people from holding office. It is generally understood that these provisions are unconstitutional and without effect, but they may remain in state law or the state constitution despite being voided by a court. This item indicates that these inactive provisions remain in the state constitution or state law.

Special Privileges for Religion

Many states have laws that privilege religious organizations and religious beliefs. Such measures exempt individuals, groups, or businesses from particular legal requirements that conflict with their religious beliefs. For example, nearly half of states have broad statutes that may allow religious individuals and organizations to avoid general legal requirements that burden their exercise of religion. Similarly, most states have created special privileges for religious organizations and places of worship, allowing them to avoid taxes or other legal requirements that apply to other types of nonprofit organizations.

Rather than enhancing religious freedom, these laws and policies undermine it. They often seek to enshrine a particular set of religious beliefs (such as those held by Christian nationalists) into the law by creating exceptions to specific legal requirements tailored to suit those groups.

For example, a state law may create a religious exemption to civil rights laws specifically for wedding service providers so that they are not required to serve same-sex couples. Alternatively, the law may purport to protect individuals and businesses from discrimination because of their beliefs, but only to protect certain narrow beliefs, such as the belief that the only moral form of sexual intercourse is between heterosexual married couples. Although limited religious exemptions must be included in some laws in order for them to comply with the First Amendment's Free Exercise Clause, the exemptions Christian nationalists seek are significantly broader, in some cases undermining the very purpose of the law.

Positive Laws & Policies ▲

LIMITATIONS ON CLERGY PRIVILEGE

This item identifies state laws that limit clergy privilege to protect the safety and well-being of children. Clergy-penitent privilege is a right recognized in all 50 states that provides confidentiality for discussions between religious leaders and their followers. This privilege is most frequently referenced in the Catholic practice of confession, but it pertains to other religions as well. When it applies, this privilege generally prohibits any court from compelling

testimony from a clergy member. Unfortunately, because the privilege is so broad, it can sometimes prevent the reporting of child abuse and lead to other negative outcomes.

A significant number of states seek to protect youth by making clergy mandatory reporters for suspected child abuse and neglect, like educators and health care providers. This means that if there is a reasonable cause for a clergy member to believe a child is being abused, they are required to report this suspicion to state

authorities. A smaller number of states provide explicit exceptions to the clergy privilege concerning child abuse. This is important because, even with mandatory reporting, if communication is still privileged, it is difficult or impossible to investigate the situation or enforce the required reporting.

SECULAR CELEBRANTS

States offer numerous options for solemnizing or officiating a marriage, but all too often, these

options exclude the possibility of a nonreligious or secular celebrant. States may disallow secular celebrants either by failing to include them in the statutory list of who may solemnize a wedding, which forces any potential secular celebrant to register to temporarily perform marriages, or by placing religious restrictions on options such as self-officiation of marriages. This item indicates that there are state laws or court decisions that provide nonreligious couples equivalent marriage solemnization or officiation options to religious couples.

Negative Laws & Policies ▼

RELIGIOUS EXEMPTIONS TO ENFORCEMENT

This item assesses state laws that include religious exemptions to rules that otherwise apply to everyone else. Many of these religious exemptions are specifically sought by Christian nationalists because they align with their beliefs, and therefore the exemptions allow them to ignore provisions of law with which they disagree.

For example, several states allow religious foster care and adoption agencies that receive state funding to discriminate against potential parents and, in some states, even the vulnerable youth themselves, based on their beliefs. This most negatively impacts single people, LGBTQ

people, atheists, and religious minorities. These laws are especially harmful to foster youth because they reduce the number of qualified families, which in turn denies them the chance to find loving, permanent homes.

During the COVID-19 pandemic, a number of states passed exemptions that excuse religious organizations from being required to follow public health restrictions implemented during emergencies. These laws vary significantly. Some allow in-person gatherings so long as other precautionary rules are followed, while others completely eliminate the ability of the state to enforce public health rules on religious organizations, whether they relate to the pandemic or other emergencies. In a few states, lawmakers passed sweeping exemptions that

shield religious organizations from civil and criminal liability, potentially even outside the context of public health emergencies. These laws are exceptionally dangerous as they could result in religious organizations, including schools, hospitals, and others, never being held accountable for wrongs they commit. It remains to be seen how courts will apply such broad exemptions.

TAX EXEMPTIONS FOR PLACES OF WORSHIP

Most states exempt churches and other places of worship, as well as other religious organizations and nonprofits, from various state taxes. However, this item indicates laws or policies that provide special tax exemptions or limited filing requirements for religious organizations or places of worship that are not available to secular nonprofits. For example, some states allow religious organizations or places of worship to omit initially filing for tax exemption, while others may exempt these organizations from filing an annual return. Without these important filings, it is impossible for the government to detect fraud and misconduct within the religious organizations to which it grants tax exemption.

Most states offer tax exemptions for parsonages or other dwellings provided to clergy, in effect subsidizing their housing. Such exemptions are not typically available to secular nonprofits.

Although similar provisions exist in federal law, this item indicates exemptions from state-level taxes.

Nearly every state offers tax exemptions for property owned by religious organizations and places of worship, but such exemptions are not typically available to other nonprofits. In some instances, these exemptions are granted automatically to places of worship, but only granted conditionally to other nonprofits or granted after a lengthy approval process.

Some states offer religious organizations and places of worship an exemption from state sales tax that is not available to other nonprofits. For example, these states may limit the types of nonprofits that can apply for sales tax exemptions, or they might automatically approve religious organizations for these exemptions while requiring other types of nonprofits to apply for approval.

STATE RELIGIOUS FREEDOM RESTORATION ACTS

Based on U.S. Supreme Court precedent, the First Amendment's Free Exercise Clause does not limit the ability of the federal government to pass neutral laws that generally apply to everyone (or every relevant party), even if they incidentally burden religious exercise. The Court has noted that to do otherwise would allow individual religious belief to supersede the law

of the land, resulting in an unworkable society where laws could not be applied evenly.

Despite this warning, Congress passed the Religious Freedom Restoration Act (RFRA) at the federal level, and a number of states have followed by passing their own version of this law. RFRA requires the government to meet a very difficult test whenever it burdens religious exercise – they must show that the reason for the government action is compelling and that the government used the least restrictive means to achieve that goal. In effect, this creates a widely applicable exemption that religious individuals and organizations can use to insulate themselves from state law by claiming that the state is infringing on their religious exercise.

Over time, as predicted by the Supreme Court, RFRA has been misused at both the state and federal levels to carve out exemptions that privilege particular religious viewpoints. Christian nationalists seek to apply these laws in new ways, such as undermining civil rights laws that protect LGBTQ people and women from discrimination. This item indicates that the state has a statute similar to, or even more expansive than, the federal RFRA.

ANTI-BLASPHEMY LAWS

State anti-blasphemy laws were long ago ruled unconstitutional by the U.S. Supreme Court. The *Joseph Burstyn, Inc. v. Wilson* (1952) decision

held that “[i]t is not the business of government in our nation to suppress real or imagined attacks upon a particular religious doctrine, whether they appear in publications, speeches, or motion pictures.” This item indicates that the state law still contains inactive anti-blasphemy provisions.

Health Care & Wellness

For decades, religious extremists and their lawmaker allies have sought to impose their beliefs through limitations on health care, targeting women's health care in particular. After the *Dobbs v. Jackson Women's Health Organization* (2022) decision, which overturned decades of precedent protecting access to abortion, Christian nationalist lawmakers are now able to fully legislate their regressive agenda, revoking civil rights that Americans had long thought secured.

Negative laws affecting health care generally relate to issues of paramount concern to religious conservatives: abortion, contraception, sterilization, end-of-life care, LGBTQ care, and faith healing. Moreover, as a result of the pandemic, vaccination issues have gained a higher profile. In addition to compromising the separation of religion and government, these intrusive laws and policies can have a drastically negative impact on people by limiting access to essential health care, especially for groups that already face discrimination or are otherwise vulnerable.

Positive Laws & Policies ▲

MEDICAL AID-IN-DYING LAWS

This item indicates state laws that allow a terminally ill, mentally competent adult to request and obtain medication that brings about a peaceful death. Prohibitions on suicide, assisted suicide, and homicide do not apply to individuals taking appropriate actions in accordance with these laws.

HEALTH CARE TRANSPARENCY LAW

This item indicates that the state has a health care transparency law. These laws require hospitals and health facilities to disclose to the public what services they do not offer because of nonmedical reasons, such as their objection to a particular service like abortion, gender

affirming care, or sterilization. Although these laws do not fully prevent the harm caused by denial of care, they may help to inform patients so that they can obtain appropriate services at hospitals that will provide them. This is critical because most patients are not aware when they are denied care because of the beliefs of a doctor or a hospital system. Health care transparency laws can be an important first step to raising awareness about denial of care and passing greater protections for patient access to services.

SANCTUARY LAWS

In the wake of the *Dobbs v. Jackson Women's Health Organization* (2022) decision, which overturned the constitutional right to access

abortion, an increasing number of states are severely restricting or banning abortion. These abortion bans may subject doctors and other health professionals who provide abortions to disciplinary action, loss of medical license, or even criminal penalties. Similarly, these laws may subject those who are seeking or have received an abortion to criminal penalties, and a few states even purport to criminalize activities that occur in other states. Unfortunately, we are also seeing unrelenting attacks on bodily and medical autonomy when it comes to care for trans people, particularly trans youth. More than twenty states severely restrict access to necessary health care for trans youth through a similar regime of professional discipline and criminalization of parents and health care providers.

Because of this rapidly worsening environment for accessing health care that has become politicized, a growing number of states have passed legislation to protect health care providers, patients, and their families. These sanctuary laws are meant to enable patients to receive, and doctors to provide, stigmatized health care services in these states, regardless of their restricted status in other jurisdictions. Sanctuary laws differ quite a bit by state, and they are untested – there are important legal and constitutional questions about how conflicting state laws should be resolved. Nevertheless, because these laws represent an important legal development and they have passed in numerous

states, we felt that it was important to report on them, with an emphasis on those elements that have the greatest legal support.

This item indicates sanctuary laws that either provide protection to access reproductive care, including abortion, or gender affirming care for trans people. Specifically, we indicate laws that provide confidentiality protections to health care providers, patients, and their families, and laws that maintain the ability of health care professionals who provide these services to practice. For example, confidentiality provisions may include limiting access to contact information, medical records, and other data concerning providers, patients, and their families. The health care provider-focused provisions may, for example, protect providers' medical licenses and/or ability to access professional insurance from adverse actions originating in other states.

Negative Laws & Policies ▼

LIMITATIONS ON ACCESS TO ABORTION

The U.S. Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization* (2022) overturned the protections for access to abortion first established by the Court 50 years ago in *Roe v. Wade* (1973). Subsequently, states controlled by Christian nationalist lawmakers are now able to strip what had previously been considered constitutional rights from citizens. This item examines laws that protect access to abortion and those that severely restrict or ban access to this care.

A number of states have established constitutional or statutory protections for abortion. For example, many states guarantee the right to abortion through their state constitutions, either directly or as part of the right to privacy or equal protection. While some states with constitutional protections for abortion have shown increasing hostility to abortion, those protections remain in place unless the state constitution is modified through a ballot measure or they are undermined by the state courts. In 2022, for example, citizens in Kansas choose not to repeal their constitutional protections for abortion access despite strong support from conservative lawmakers and leaders.

In addition, many states have enacted statutory protections for abortion. The protections can

vary quite widely from those that merely codify the legal protections for abortion provided in *Roe v. Wade* to more comprehensive approaches. For example, the Reproductive Health Act passed by New York in 2019 decriminalized abortion, allowed qualified providers other than physicians to perform abortions, and reduced restrictions, such as the prohibition on third-trimester abortions (which are typically only done because of health risks resulting from pregnancy or the fetus is not viable).

In the weeks and months leading up to the *Dobbs* decision, several states passed what amounts to complete bans on abortion, and more states passed such bans soon thereafter. Other states have long had abortion bans that pre-date *Roe v. Wade*. While *Roe* rendered those laws inoperative, in at least some states lawmakers refused to repeal these measures, hoping that they could once again take effect once *Roe* was overturned. Now that this has happened, several of these states are taking action to reassert these laws. In addition, a number of states had passed trigger laws that would ban abortion to some extent if *Roe* were to be overturned. This item indicates state laws that effectively ban all or most abortions through any combination of these various statutes.

Lastly, in 2021, Texas passed SB 8, a unique anti-abortion bill that allows any Texas resident to bring suit against any person (except

the pregnant individual) who they suspect performed or “aided or abetted” a prohibited abortion. This created a legal system where anti-abortion activists can directly sue providers, and the law was so greatly stacked in their favor that abortion providers would likely be subject to ruinous liability. Even before the *Dobbs* decision, this private enforcement provision greatly limited the availability of abortion in Texas, however the U.S. Supreme Court threw out challenges to this dangerous new type of enforcement. Since the passage of SB 8 in Texas, a few other states have adopted similar provisions.

DENIAL OF CARE LAWS

This item indicates laws and policies that allow religious providers (including individual health care workers and institutional providers like hospitals) to refrain from providing various types of health care that conflict with their religious beliefs. Sometimes called “freedom of conscience” laws or “religious refusals,” these provisions may effectively supersede rules of professional ethics, medical best practices, and protections against medical negligence in order to privilege the religious beliefs of providers. These laws most often allow providers to refuse services relating to abortion, contraception, and sterilization, but some states have even broader exemptions and many of the newer laws are squarely aimed at denying care to LGBTQ patients.

While many denial of care laws echo existing exemptions at the federal level, states may pass laws that apply exemptions more broadly or extend them to additional types of institutions, including those that do not receive federal funding. As indicated on each scorecard, many states have laws that allow various types of institutions to refuse to provide abortion services. States may also have laws that allow at least some health care providers to refuse to provide contraception and/or sterilization services.

Lastly, over the past few years several states have adopted extraordinarily broad denial of care laws that allow refusals of any type of care based on the purported religious, moral, or ethical beliefs of hospitals or providers. Generally, there is no requirement that the provider inform the patient that they are being denied care, and these laws make explicitly clear that providers are not required to refer patients to another provider for the needed care. These laws also apply to health care payers, including health insurance companies and self-insured employers, allowing them to also deny necessary care to patients and employees based on their purported religious, moral, or ethical beliefs. These provisions are ripe for abuse by payers seeking another avenue through which to deny coverage for care. Moreover, these laws also have provisions that exempt religious health facilities from the application of the law (in other words, they protect the beliefs of religious hospitals, but not the employees of

those hospitals who might disagree), and some go further, exempting religious hospitals from any labor law that does not accord with their beliefs. Because of the incredible breadth of these denial of care laws, and the fact that they firmly place the religious beliefs of the health facilities above the applicable standards of care or the best interests of patients, we are calling these extreme measures “religion-based health care” laws.

CHILD NEGLIGENCE EXEMPTIONS FOR FAITH HEALING

This item indicates laws that carve holes into state law protections against child negligence or medical neglect, protecting individuals from legal consequences for the far-too-frequent tragic outcomes of faith healing imposed on minors. These laws typically protect the faith healers and parents or guardians from any penalties when a child dies or is severely harmed as a result of these practices or when a child is denied appropriate treatment for religious reasons. With these exemptions in place, law enforcement has limited ability to prosecute. State laws may include religious exemptions to civil liability, criminal laws, or both.

NONMEDICAL EXEMPTIONS TO VACCINATION

Every state has laws that require children to receive various vaccinations prior to attending

public school. This item indicates that the state has nonmedical exemptions to those laws, which endanger young people and risk public health. Personal exemptions allow a parent to opt their child out of the vaccination requirement for basically any reason, which is often framed as a philosophy or belief. Religious exemptions allow a parent to opt their child out of the vaccination requirement based on their religious beliefs, which may or may not be associated with their particular denomination. There is evidence that those who seek to avoid vaccination will take advantage of either type of nonmedical exemption, depending on what is available under state law.

Education & Youth

Unfortunately, but unsurprisingly, the bulk of negative legislation sought by white Christian nationalists targets schools and youth. Young people, particularly those who aren't already being influenced by a church, can be an especially appealing target for religious and ideological indoctrination. Research shows that individuals raised within a particular religious faith are likely to remain in that faith as they age. Younger children are particularly vulnerable to peer pressure, as they are still in the process of identity development and have yet to fully develop their capacity for reason.

In recent years there has been significant advocacy by white Christian nationalists to pass legislation to convince young people that America was founded as a Christian nation, in order to propagate this false version of history. These efforts seek to enshrine revisionist history

into the law, conflate founding documents with religious ones, teach the bible in a devotional manner in schools, and require the display of religious messages and symbolism in schools. Especially over the last few years, there have been concerted efforts to censor school curriculums and to ban books from school libraries in order to prevent students from learning about and grappling with the complex history of race and oppression in the United States.

Moreover, because young people depend on the care of others, they are especially vulnerable to harms caused by the religious beliefs of their parents and caretakers. Sadly, religious beliefs are all too often used to justify conduct that can have a severely negative and lifelong impact on young people, including denial of medical care or dangerous practices like conversion therapy.

Positive Laws & Policies ▲

PROTECTION FROM CHILD MARRIAGE

This item indicates laws that prohibit individuals below the age of majority (usually 18) from marrying. Because exceptions, such as those allowing parental consent, can be misused to force children to marry, we are only counting those laws which flatly prohibit the marriage of minors.

This issue is critically important because too frequently these marriages occur in religious sects in which very young girls are forced to marry much older men. Child brides forced into marriage have few options. As minors, they face legal dead ends if they want to end their marriage. In states where their parents (or spouse) have custody rights, organizations and shelters are unable to interfere with those rights. As a result, these children have no legal avenues

to escape an abusive family or husband. They are too often removed from school, raped, and forced to live in poverty. The only way to give child brides the legal right to say “no” to marriage is to prohibit marriage among minors altogether.

PROTECTION FROM CONVERSION THERAPY

This item indicates laws designed to protect LGBTQ youth from dangerous and discredited conversion therapy. Conversion therapy consists of a variety of harmful practices which falsely claim to change a person’s sexual orientation, gender identity, or gender expression. These laws generally apply through licensing restrictions that prevent licensed medical and mental health providers from conducting conversion therapy on youth under the age of 18. Generally, however, these laws are unable to regulate conversion therapy that is provided by religious clergy because they are usually not licensed providers.

SEX EDUCATION

This item examines how state laws and policies affect the quality of sex education in each state’s public schools, which can and should play an important role in providing comprehensive and medically accurate sex education. Comprehensive sex education helps to foster healthy relationships and development, reduces the risk

of unintended pregnancy, and lowers the risk of sexually transmitted infections (STIs).

Under this analysis, a state is considered to offer comprehensive sex education if school districts are required to offer such education and the curriculum covers a wide range of relevant issues beyond abstinence. A comprehensive curriculum generally teaches abstinence as the best method for avoiding STIs and unintended pregnancies while also teaching that contraception reduces the risk of unintended pregnancy and STIs, including HIV. Such programs should be inclusive and provide age-appropriate education about gender roles, sexual orientation, and gender identity. These programs also develop interpersonal and other communication skills and help young people explore their own values, goals, and options.

A state’s public school sex education curriculum is considered “abstinence only” if there are laws mandating that programs must exclusively or primarily promote abstinence from sexual activity outside of marriage. By doing so, these programs tell students that abstinence is an unmarried person’s only moral option. This category also includes “abstinence-plus” programs, which provide some information about contraception in the context of strong abstinence messages. Many abstinence only programs offered in schools based on these state laws incorporate religious elements or promote religious values in ways that conflict with the separation of religion and government.

HOMESCHOOLING LAWS

This item provides an assessment of state laws that regulate homeschooling. Although homeschooling is not always a religious issue, it cannot be denied that religious groups have long dominated this issue area. Unfortunately, such organizations have worked to stymie any reasonable requirements for homeschooling or to ensure the safety and well-being of homechooled students.

For this assessment, we examined state homeschooling laws to determine if there are a few minimal educational and safety requirements. First, we determined whether state law requires homeschooling instructors (whether parents or outside instructors) to meet any qualification requirements. This is critical to ensure that those teaching homeschooled students (usually, but not always, parents) are capable of providing quality instruction.

Second, we examined whether state law requires evaluation of homeschooled students' academic progress at least annually. Some states use standardized testing to measure progress, while other states require progress reports detailing what a child learned during a certain period of time. As part of this evaluation, we also looked for some type of remediation process so that efforts can be made to help homeschooled children when they fall behind.

Third, we examined whether state law protects children by disallowing homeschooling where an adult in the household has been convicted of certain crimes, such as homicide, aggravated assault, rape, or child abuse. Unfortunately, research has clearly shown that homeschooled children are at greater risk for abuse and neglect. Without basic protections in place, homeschooling can allow child abuse to go undetected because there can be a lack of contact with adults outside the home.

Finally, we looked at religious or other exemptions to homeschooling requirements. For example, some states exempt parents from homeschooling laws and oversight if the parents claim a religious objection to such requirements. This item also assesses broader limitations on oversight of homeschooling, such as state laws that explicitly prohibit any oversight of homeschooling by school districts.

Negative Laws & Policies ▼

SCHOOL CENSORSHIP LAWS

A number of states have passed laws that prohibit schools from teaching matters that the state deems “divisive,” “controversial,” or which may make students “feel guilty.” These attacks on the free speech of educators and the education of students have been pushed by groups that oppose teaching students accurate history about the civil rights struggles for racial equality and LGBTQ equality in the United States. Legislation in this area is often framed as being about parental rights, as protecting students from activism by teachers, or as school transparency measures. In fact, these bills censor curricula, ban books, persecute teachers, and undermine the rights of students to further the radical agenda of white Christian nationalist politicians.

This item indicates whether a state has passed a law that prohibits teachers in public schools or colleges from discussing topics defined by the state as divisive or controversial. For example, these bills may restrict discussion of racial oppression throughout American history, gender identity or sexual orientation, women’s issues, or other politicized topics. The language used in the bills is intentionally broad and vague, essentially tying the hands of teachers and administrators by putting them at risk for discipline, fines, or even permanent loss of license. Many of them purport to ban topics such as “Critical Race Theory,” even though the subject is only taught in high-level graduate courses. Others ban any discussion that could

potentially cause discomfort in students, such as structural racism or feminism. When passed, these laws have had a dramatically negative impact on school environments, frequently leading to book bans, disciplining and firing of educators, censorship of curriculum, revocation of diversity and inclusive education programs, and stifling of student discussion.

Additionally, some states have laws that prohibit educators from discussing LGBTQ topics in school or mandate that such topics be presented negatively. Prior to 2022, these laws usually applied only to sex education, although they were frequently applied more broadly by school districts. Recently, however, some states have passed even broader prohibitions on discussion of sexual orientation and gender identity, often labeled as “don’t say gay laws.” While advocates for these laws contend that they are meant to prevent exposure of students to inappropriate sexual material, in fact they falsely conflate LGBTQ people and topics with sexuality. Unfortunately, these bills stigmatize LGBTQ students, limit their ability to access supportive resources, and have a negative impact on the school environment.

We also indicate states that allow parents to opt students out of any class with which they disagree for religious reasons. Many states have laws that allow students to opt out of sex education classes, and some require explicit parental permission or “opt-in” for these classes. However, this assessment goes beyond sex

education to indicate opt-out from classes such as history or biology to which parents have religious objections.

Lastly, we indicate state laws that undermine the rights of young people by providing special protection for “parental rights.” Using a similar framework as Religious Freedom Restoration Acts, these laws subject any infringement on “parental rights,” a broad and poorly defined concept, to strict scrutiny analysis. In other words, whenever government protections conflict with parental beliefs and actions, the government must meet the most challenging legal test. This greatly limits the ability of state agencies to protect young people and enable them to exercise their own rights to safety, education, religious freedom, health care, or free speech. Further, these laws set the stage for future litigation by a fringe minority of religious activists to define “parental rights” in ways that further their agenda, at the expense of young people. While a number of states have relevant court decisions saying that parental rights are “fundamental rights” in limited circumstances, such as child custody disputes, we are not counting these limited decisions for the purpose of this section.

ANTI-TRANS YOUTH LAWS

Several states have considered bills that target trans children, or their parents and medical providers, generally based on religious disapproval of trans identities. Although there is significant variation in these bills, those that have passed into law tend to either seek to prevent trans youth from accessing medical care or to exclude them from school athletics.

Displaying a fundamental lack of understanding of trans youth, these bans prevent them from accessing the standards of necessary medical care that are backed by the American Academy of Pediatrics, the American Medical Association, and other leading health authorities. Some of these bills go so far as to threaten parents with prosecution if they help their child receive the medical care recommended by the child’s doctor. When lawmakers prohibit medical care based on their beliefs, they risk the safety of others and undermine their religious freedom. No one should have authority to put their religious beliefs before the health and well-being of others.

Trans youth, like other students, deserve the opportunity to learn teamwork, sportsmanship, leadership, and self-discipline, and to build a sense of belonging with their peers through school athletics. Unfortunately, some states have passed legislation that prevents trans children from accessing school sports and related programs. These attacks on trans youth are rooted in religious disapproval rather than educational best practices. These bills are not about fairness – the overwhelming majority of trans youth, like most children, don’t play at elite levels. Instead, these laws result in exclusion and isolate trans youth from their classmates.

ANTI-SCIENCE / ANTI-EVOLUTION LAWS

This item indicates laws that allow or require public school educators to present non-scientific religious doctrine as scientific fact, most often relating to evolution. For example, these laws may require public schools to teach about

“controversies” in areas where religious doctrine conflicts with generally accepted science.

BIBLE CLASS LAWS

This item indicates laws that require or encourage public schools to offer elective classes on the Christian bible as a historical or literary document. While it may be technically possible for a public school to offer a course on the bible that uses it solely for historical or literary purposes, studies have shown it is very challenging for schools to consistently teach the bible in a non-devotional manner. Instead, many schools that offer such courses purposefully use them to proselytize and engage students in religious activities. Note that the classes authorized by these bills differ significantly from comparative religion classes, which examine many different religious perspectives.

RELIGIOUS DISPLAYS IN SCHOOLS

This item indicates laws that require schools (and sometimes other public buildings) to post religious displays such as the national motto, “In God We Trust,” or some version of the Ten Commandments from the bible. Some of these laws mandate the size, format, and location (requiring display, for example, in “every classroom” or “a prominent location”) of these displays, while others leave these details to the individual school or district. Some of these laws require that the displays be donated rather than paid for with taxpayer funds. An excellent example of Christian nationalist symbolism, these requirements have nothing to do with education, but rather are meant to inculcate the ahistorical belief that America was founded as a

Christian nation and to reinforce the linkage of religious expression with American identity. In 1980, the U.S. Supreme Court’s *Stone v. Graham* decision found a Kentucky law that required the display of the Ten Commandments in school classrooms to be unconstitutional.

SCHOOL VOUCHERS & TAX CREDITS

This item indicates whether state law establishes school voucher or tax credit programs. School vouchers divert taxpayer funding from public education to private educational institutions, the majority of which are religious. Many states have laws that either create statewide school voucher or pilot voucher programs. Alternatively, some states have tax credit programs that create a more complex process to achieve the same result. States with these programs give tax credits to individuals who donate to third party scholarship organizations. These organizations then give students vouchers to attend private, usually religious, schools. So, in effect, these programs are subsidized by the state.

SCHOOL PRAYER LAWS

This item indicates state laws that allow schools or educators to improperly promote religious activities. For example, this includes laws that allow school staff to participate in religious activities with students on school grounds or facilities during school hours and laws that encourage schools to engage religious leaders to interact with students. Courts have made clear that the First Amendment prohibits school staff from promoting religion or engaging in religious expression with students because this is religiously coercive. Despite recent U.S.

Supreme Court decisions in this area, schools can and must limit religious expression by teachers when interacting with students as part of their teaching activities.

This assessment also includes laws that promote the exercise of religion by students in ways that are discriminatory toward other students or disruptive to the educational environment. The First Amendment guarantees students the right to engage in religious activities in schools to the same extent students can engage in secular expressive activities. At the same time, schools may set reasonable time, place, and manner restrictions on these activities. However, some states have passed laws that grant religious students special privileges or allow religious expression that harasses other students.

COMPELLED PLEDGE LAW

This item indicates whether a state has a law mandating that the Pledge of Allegiance be recited in public schools classrooms with either no opt-out possible for students or an opt-out that requires parental permission. While some states allow students to opt out of the pledge with parental consent, such exemptions are insufficient because students have the constitutional right to freedom of free speech and freedom of religion. In 1943, the US Supreme Court recognized that students may not be compelled to participate in the Pledge of Allegiance in the landmark *West Virginia State Board of Education v. Barnette* decision. Accordingly, state laws should recognize the ability of students to exercise these rights.

RELEASED TIME LAW

Some state laws require or allow school districts to provide “released time” for students to attend private religious education. To meet constitutional requirements defined by the U.S. Supreme Court in *McCullum v. Board of Education (1948)* and *Zorach v. Clausen (1952)*, this religious instruction must be outside school grounds, the school may not encourage participation, and school resources may not be spent to facilitate this religious education. Unfortunately, these released time programs may compromise the education of both participating and non-participating students if they detract from class time. While most laws establishing released time are permissive, meaning they allow school districts to set their own released time policies, at least one state (Tennessee) has a mandatory released time law that requires schools to allow released time, regardless of school district policy.

SCHOOL CREDIT FOR RELIGIOUS EDUCATION

This item indicates state laws that allow students to receive academic credit for religious education classes taught outside of school grounds and/or school hours. While some of these laws are tied to released time policies, allowing students to acquire credit for released time activities, others allow students to receive academic credit or other types of religious education. Generally, to qualify for credit, these educational activities must meet secular and religiously neutral parameters. There has been some challenge to the constitutionality of these laws, but they have been upheld by at least two

federal circuit courts in the *Lanner v. Wimmer* (10th Circ. 1981) and the *Moss v. Spartanburg County School District Seven* (4th Circ. 2012) decisions.

CAMPUS LICENSE TO DISCRIMINATE LAWS

This item indicates state laws that prevent public colleges and universities from applying nondiscrimination policies to religious student organizations. The majority of public colleges and universities have nondiscrimination policies that allow students to participate in any recognized student organization, and most colleges and universities collect a fee from students that is provided to student organizations in order to support their programming.

The U.S. Supreme Court has made clear that public colleges and universities must treat student organizations equally with respect to recognition and funding – they cannot discriminate based on viewpoint – but they may impose universal requirements such as nondiscrimination policies. These policies are important because they ensure that students are not forced to pay for student organizations in which they are not allowed to participate.

However, some states have Campus License to Discriminate laws that require public colleges and universities to both recognize religious student organizations and to allow them to discriminate by excluding some students based on the organization's religious beliefs. Religious groups may advocate for these laws so that they

can exclude students of other religions, nonreligious students, or other groups they disfavor, such as LGBTQ people.

There have been some legal developments in this area because the Trump Administration released regulations requiring all public colleges and universities to both recognize religious groups and also allow them to discriminate. American Atheists is currently suing the U.S. Department of Education to challenge this discriminatory rule, and the Department has indicated it will rescind or modify the rule.

RELIGIOUS DAYCARE EXEMPTION

This item indicates laws that exempt daycares that are operated by a church, ministry, or parochial school from obtaining necessary licenses, paying annual fees, or meeting other legal requirements that apply to secular daycare programs. While some states still require religious daycares to maintain standard health and safety requirements, others do not require any licensure or regulation whatsoever. These exemptions are harmful because the preferences given to religious daycares incentivize those programs and reduce the availability of nonreligious daycare programs, which are required to follow significantly more stringent rules. For example, secular daycares must maintain a license, be subject to inspections, staff training requirements, and required child-staff ratios, which may increase costs compared to the relatively unregulated religious programs. At the same time, the lack of these safeguards in religious daycares can result in abuse, fraud, and neglect.

THE DANGEROUS STATE LEGISLATIVE AGENDA OF PARENTAL-RIGHTS EXTREMISTS

By **Angela Grimberg**, *Executive Director* & **Samantha Field**, *Government Relations Director*, *Coalition for Responsible Home Education*

Since 2014, Parental-Rights Extremists have been accelerating their plan to pass a “Parents’ Bill of Rights” in every state. These harmful bills allow a fringe minority of parents to exercise disproportionate control over schools and undermine the rights of young people. This year, over eighty of these bills were filed across the US, and they were passed into law in North and South Carolina, Iowa, Missouri, and Montana, bringing the total number of states with a Parents’ Bill of Rights to sixteen. This movement is gaining ground rapidly.

Parental-Rights Extremism originated among homeschool activists and homeschooling parents who are now eager to see the isolation and disinformation they’ve successfully forced on homeschooled children applied to every child in the country. The end goal of this movement is to keep any kind of information that would contradict their authoritarian agenda away from children, as well as to bar them from accessing resources, such as mental health care, information about LGBTQ people, and reproductive education.

The way they plan to do this is by elevating parent’s rights to “fundamental parental

rights.” Parents absolutely do have rights – that is not up for debate. However, those rights are not considered *fundamental* by modern constitutional definitions. It would be extremely dangerous to grant parents “fundamental” rights over their children’s autonomy, as this would trigger a very challenging legal test (strict scrutiny) whenever legal protections conflict with parental actions. In other words, this makes it nearly impossible for the government to protect the ability of young people to exercise their own rights to safety, education, religious freedom, health care, or free speech. For more information on why parent’s rights aren’t currently seen as “fundamental,” please see the Coalition for Responsible Home Education’s legal brief on the issue.

As Parents’ Bill of Rights legislation continues to pass, we can expect to see two things happen. Firstly, one of these bills’ primary architects is Michael Farris, founder of the Home School Legal Defense Association, former president of the Alliance Defending Freedom, and one of the authors of the Religious Freedom Restoration Act (RFRA). For people like Farris and his colleagues at the Heritage Foundation, litigation has

always been their primary focus. These bills were written by a litigator in order to provide litigation options for Parental-Rights Extremists to sue school districts and other agencies, with the eventual goal of bringing a case before the US Supreme Court. In much the same way that RFRA has been used as a litigation tool to expand and constitutionalize religious rights, these bills would be used to expand and constitutionalize parental rights, at the expense of young people.

Secondly, these new laws will make it incredibly difficult for public schools to continue offering an accurate, empowering education that prepares children for an open future. As we're already seeing, Parental-Rights Extremists will continue to attack public schools for offering accurate information about US history, sex and gender, and science. We can look to the fate of many homeschooled children to see the eventual conclusion – children indoctrinated into white supremacy, girls denied any education in math, STEM curriculum constantly being challenged and undermined, and US history distorted and warped with propaganda. This is a fate we should all be earnestly seeking to avoid.

The Coalition for Responsible Home Education is here and ready to assist anyone who would like to join in this fight. We have decades of experience with the founders and leaders of this movement, and we know from our own experiences as homeschool alumni what their next steps are and how to effectively fight them. Everyone working to oppose this hateful and destructive agenda should keep in mind: *children have rights, parents have responsibilities.*

Acknowledging Context

RESEARCH PROCESS

Each scorecard assesses the presence or absence of statewide laws and policies affecting religious equality and the separation of religion and government, either positively or negatively. In addition to the 50 states, scorecards are provided for the District of Columbia and Puerto Rico. Research for this project was conducted by the lawyers and law clerks at the American Atheists Legal Center, based on established criteria for each law and policy item, and compiled into a scorecard for each state. This research was drawn from publicly available sources.

The evaluations of each law and policy item are based on the nature of the item, typical statewide laws and policies concerning that issue, and our determination about best practices for that issue. States are grouped into one of the three general categories based on a subjective analysis of their laws. During the course of researching and drafting this report, a number of states passed relevant laws or policies. This report includes assessments of laws and policies passed as of November 1, 2023.

“Clauses” refer to state constitutional provisions. “Laws” refer to state statutes, either passed through a state’s legislative process or through referendum. “Policies” refer to administrative regulations and policies from a state executive agency that have a legal effect. “Court decisions” refer to final rulings by a relevant state

or federal court with a statewide or larger jurisdiction and for which the decision is controlling law.

IMPLEMENTATION OF LAWS & POLICIES

The State of the Secular States report is an assessment of statewide laws and policies that affect the separation of religion and government in each state as well as the District of Columbia and Puerto Rico. This report is intended to support advocacy on these issues, both by providing a benchmark for existing laws and policies and a roadmap for how advocates can work to preserve the separation of religion and government and promote religious equality in their own communities and states. However, this report is not an evaluation of statewide advocacy efforts. We recognize that state advocacy relating to the separation of religion and government and religious equality varies widely in different regions and is affected by state politics, historical context, legislative concerns, state constitutions, and many other factors.

Moreover, this report does not measure the implementation of laws and policies that affect the separation of religion and government and religious equality. It reviews only the presence or absence of the listed law and policy items. For example, we note on Maryland’s scorecard that the state has a constitutional prohibition on atheists holding state offices – a religious

test for office – even though the U.S. Supreme Court struck down that clause in its 1961 *Torcaso v. Watkins* decision, and it has no legal effect. Particularly in rapidly developing areas of law, such as limitations on health care for trans youth and prohibitions on abortion, scorecards may not convey the reality of whether the law is actively enforced or stayed by a court.

POTENTIAL FUTURE CATEGORIES

This report differs from the previous edition in that it includes additional criteria as well as some modified assessments of previous criteria. We intend to continue to iterate upon this report periodically in order to provide a useful resource for advocates and lawmakers. Some issues we are considering for future inclusion are:

- Laws that prevent religious coercion from mandated substance use disorder programs
- Restrictions on hospital mergers
- Religion in state-mandated oaths
- Separation of religion and government in prison and re-entry programs
- Laws restricting private businesses from requiring vaccination
- Laws that inhibit effective enforcement of church-state separation in court
- Laws that give special protect for religious speech over other types of free speech
- State regulation of health care sharing ministries

State Assessment Categories

This report identifies four areas of public policy in each state that affect religious equality: Constitutional & Nondiscrimination Protections, Education & Youth, Health Care & Wellness, and Special Privileges for Religion. We assess more than 50 related law and policy measures in each state as well as Puerto Rico and the District of Columbia. The states have been grouped into three broad categories, but they have not been individually ranked within those categories.

Strong Protections for Religious Equality

In addition to strong constitutional protections that protect the separation of religion and government, states in this category have laws and policies that protect individuals from religion-based harm, such as child marriage or conversion therapy. Generally, these states allow few religious exemptions or special privileges for religion.

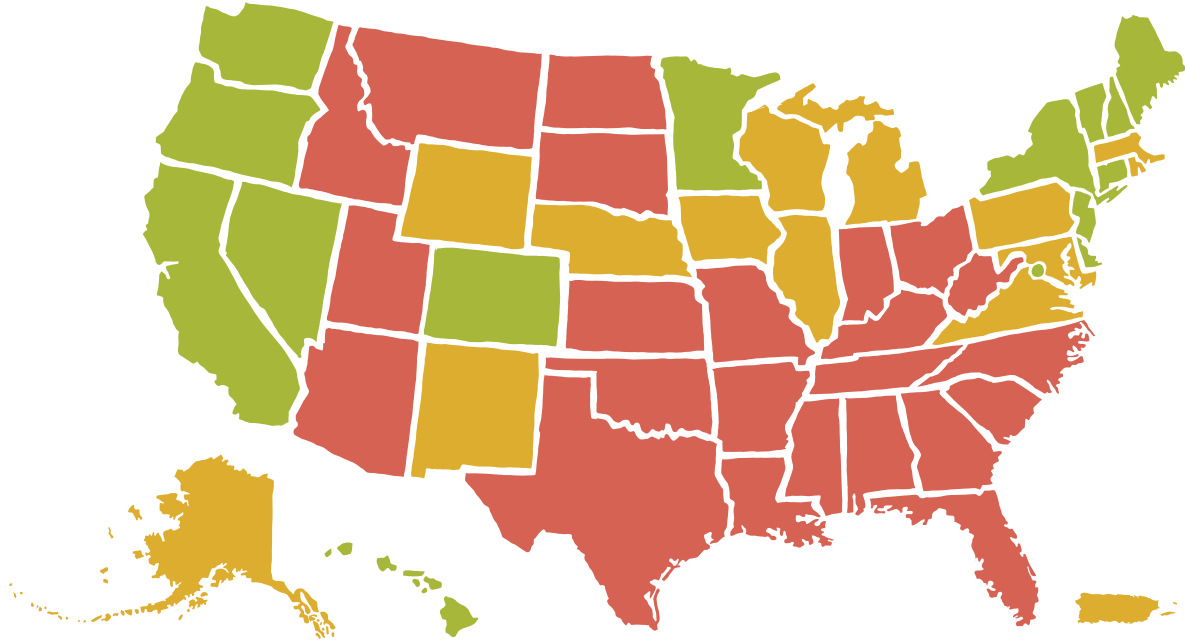
Basic Separation of Religion and Government

States in this category may have constitutional provisions that protect religious equality by ensuring the separation of religion and government, but they have few laws to protect individuals from religion-based harm. These states generally have at least some religious exemptions or special privileges for religion.

Religious Exemptions That Undermine Equality

States in this category have several laws that establish religious exemptions or special privileges for religion and provide few protections for the separation of religion and government. Generally, these states have passed laws to promote false Christian nationalist narratives, to allow religious exemptions to civil rights protections, or to enshrine particular religious views into the law.

National Summary Map



Strong Protections for Religious Equality

[15 STATES & TERRITORIES]

- | | |
|----------------------|---------------|
| California | Nevada |
| Colorado | New Hampshire |
| Connecticut | New Jersey |
| Delaware | New York |
| District of Columbia | Oregon |
| Hawaii | Vermont |
| Maine | Washington |
| Minnesota | |

Basic Separation of Religion and Government

[14 STATES & TERRITORIES]

- | | |
|---------------|--------------|
| Alaska | Pennsylvania |
| Illinois | Puerto Rico |
| Iowa | Rhode Island |
| Maryland | Virginia |
| Massachusetts | Wisconsin |
| Michigan | Wyoming |
| Nebraska | |
| New Mexico | |

Religious Exemptions That Undermine Equality

[23 STATES]

- | | | | | |
|----------|-----------|----------------|----------------|---------------|
| Alabama | Idaho | Mississippi | Ohio | Texas |
| Arizona | Indiana | Missouri | Oklahoma | Utah |
| Arkansas | Kansas | Montana | South Carolina | West Virginia |
| Florida | Kentucky | North Carolina | South Dakota | |
| Georgia | Louisiana | North Dakota | Tennessee | |

National Summary



Constitutional & Nondiscrimination Protections

- 40 ▲ State Establishment Clause
- 51 ▲ State Free Exercise Clause
- 23 ▲ Strong Taxpayer Standing

NONDISCRIMINATION LAWS

- 49 ▲ Employment
- 51 ▲ Housing
- 47 ▲ Public Accommodations
- 32 ▲ Education
- 27 ▼ Religious Exemptions
- 8 ▼ Religious Tests for Office

Special Privileges for Religion

LIMITATIONS ON CLERGY PRIVILEGE

- 37 ▲ Mandatory Reporting
- 15 ▲ Exception for Child Abuse
- 7 ▲ Secular Celebrants

RELIGIOUS EXEMPTIONS TO ENFORCEMENT

- 13 ▼ Foster Care & Adoption
- 14 ▼ Public Health Protections
- 4 ▼ Broad Liability Shield

TAX EXEMPTIONS FOR PLACES OF WORSHIP

- 14 ▼ Limited Filing Requirements
- 44 ▼ Parsonage Exemption
- 48 ▼ Property Tax Exemption
- 21 ▼ Sales Tax Exemption
- 26 ▼ State Religious Freedom Restoration Act
- 6 ▼ Anti-Blasphemy Law

KEY

- ▲ This law or policy enhances religious equality
 - ▼ This law or policy harms religious equality
- Number** Indicates total number of states and territories with law or policy in place

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Health Care & Wellness

- 10 ▲ Medical Aid-In-Dying Law
- 2 ▲ Health Care Transparency Law

SANCTUARY LAWS

- 12 ▲ Reproductive Care Confidentiality Protections
- 8 ▲ Trans Care Confidentiality Protections
- 15 ▲ Reproductive Care Provider Protections
- 9 ▲ Trans Care Provider Protections

ACCESS TO ABORTION

- 28 ▲ Constitutional or Statutory Protections
- 27 ▼ Statutory Abortion Ban
- 2 ▼ Private Enforcement Provisions

DENIAL OF CARE LAWS

- 45 ▼ Refusals Related to Abortion
- 20 ▼ Refusals Related to Contraception
- 22 ▼ Refusals Related to Sterilization
- 7 ▼ Religion-Based Health Care Law
- 41 ▼ Child Negligence Exemptions for Faith Healing
- 46 ▼ Nonmedical Exemption to Vaccination

Education & Youth

- 10 ▲ Protection From Child Marriage
- 23 ▲ Protection From Conversion Therapy

SEX EDUCATION

- 6 ▲ Comprehensive Sex Education
- 27 ▼ Abstinence Only Programs

HOMESCHOOLING LAWS

- 12 ▲ Instructor Qualifications
- 13 ▲ Testing & Evaluation
- 2 ▲ Child Abuse Prevention
- 12 ▼ Exemptions

SCHOOL CENSORSHIP LAWS

- 14 ▼ Divisive Topics Restricted
- 10 ▼ LGBTQ Topics Restricted
- 4 ▼ Religious Opt-Outs
- 10 ▼ Undermines Children's Rights

ANTI-TRANS YOUTH LAWS

- 22 ▼ Medical Ban
- 23 ▼ Athlete Ban
- 4 ▼ Anti-Science / Anti-Evolution Law
- 13 ▼ Bible Class Law
- 12 ▼ Religious Displays in Schools
- 32 ▼ School Vouchers & Tax Credits
- 14 ▼ School Prayer Law
- 8 ▼ Compelled Pledge Law
- 28 ▼ Released Time Laws
- 6 ▼ School Credit for Religious Education
- 15 ▼ Campus License to Discriminate Law
- 22 ▼ Religious Daycare Exemption

Alabama

Religious Exemptions That Undermine Equality



Constitutional & Nondiscrimination Protections

- ▲ State Establishment Clause
- ▲ State Free Exercise Clause
- △ Strong Taxpayer Standing

NONDISCRIMINATION LAWS

- △ Employment
- ▲ Housing
- △ Public Accommodations
- △ Education
- ▼ Religious Exemptions
- ▼ Religious Tests for Office

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LIMITATIONS ON CLERGY PRIVILEGE

- ▲ Mandatory Reporting
- △ Exception for Child Abuse
- △ Secular Celebrants

RELIGIOUS EXEMPTIONS TO ENFORCEMENT

- ▼ Foster Care & Adoption
- ▼ Public Health Protections
- ▼ Broad Liability Shield

TAX EXEMPTIONS FOR PLACES OF WORSHIP

- ▼ Limited Filing Requirements
- ▼ Parsonage Exemption
- ▼ Property Tax Exemption
- ▼ Sales Tax Exemption
- ▼ State Religious Freedom Restoration Act
- ▼ Anti-Blasphemy Law

KEY

- ▲ State has this law or policy that enhances religious equality
- △ State does not have this law or policy that enhances religious equality
- ▼ State has this law or policy that harms religious equality
- ▽ State does not have this law or policy that harms religious equality

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Health Care & Wellness

- △ Medical Aid-In-Dying Law
- △ Health Care Transparency Law

SANCTUARY LAWS

- △ Reproductive Care Confidentiality Protections
- △ Trans Care Confidentiality Protections
- △ Reproductive Care Provider Protections
- △ Trans Care Provider Protections

ACCESS TO ABORTION

- △ Constitutional or Statutory Protections
- ▼ Statutory Abortion Ban
- ▼ Private Enforcement Provisions

DENIAL OF CARE LAWS

- ▼ Refusals Related to Abortion
- ▼ Refusals Related to Contraception
- ▼ Refusals Related to Sterilization
- ▼ Religion-Based Health Care Law
- ▼ Child Negligence Exemptions for Faith Healing
- ▼ Nonmedical Exemption to Vaccination

Education & Youth

- △ Protection From Child Marriage
- △ Protection From Conversion Therapy

SEX EDUCATION

- △ Comprehensive Sex Education
- ▼ Abstinence Only Programs

HOMESCHOOLING LAWS

- △ Instructor Qualifications
- △ Testing & Evaluation
- △ Child Abuse Prevention
- ▼ Exemptions

SCHOOL CENSORSHIP LAWS

- ▼ Divisive Topics Restricted
- ▼ LGBTQ Topics Restricted
- ▼ Religious Opt-Outs
- ▼ Undermines Children's Rights

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- ▼ School Prayer Law
- ▼ Compelled Pledge Law
- ▼ Released Time Laws
- ▼ School Credit for Religious Education
- ▼ Campus License to Discriminate Law
- ▼ Religious Daycare Exemption

Alaska

Basic Separation of Religion and Government



Constitutional & Nondiscrimination Protections

- ▲ State Establishment Clause
- ▲ State Free Exercise Clause
- ▲ Strong Taxpayer Standing

NONDISCRIMINATION LAWS

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- ▲ Housing
- ▲ Public Accommodations
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- ▼ Anti-Blasphemy Law

KEY

- ▲ State has this law or policy that enhances religious equality
- △ State does not have this law or policy that enhances religious equality
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Health Care & Wellness

- △ Medical Aid-In-Dying Law
- △ Health Care Transparency Law

SANCTUARY LAWS

- △ Reproductive Care Confidentiality Protections
- △ Trans Care Confidentiality Protections
- △ Reproductive Care Provider Protections
- △ Trans Care Provider Protections

ACCESS TO ABORTION

- ▲ Constitutional or Statutory Protections
- ▽ Statutory Abortion Ban
- ▽ Private Enforcement Provisions

DENIAL OF CARE LAWS

- ▽ Refusals Related to Abortion
- ▽ Refusals Related to Contraception
- ▽ Refusals Related to Sterilization
- ▽ Religion-Based Health Care Law
- ▽ Child Negligence Exemptions for Faith Healing
- ▽ Nonmedical Exemption to Vaccination

Education & Youth

- △ Protection From Child Marriage
- △ Protection From Conversion Therapy

SEX EDUCATION

- △ Comprehensive Sex Education
- ▽ Abstinence Only Programs

HOMESCHOOLING LAWS

- △ Instructor Qualifications
- △ Testing & Evaluation
- △ Child Abuse Prevention
- ▽ Exemptions

SCHOOL CENSORSHIP LAWS

- ▽ Divisive Topics Restricted
- ▽ LGBTQ Topics Restricted
- ▽ Religious Opt-Outs
- ▽ Undermines Children's Rights

ANTI-TRANS YOUTH LAWS

- ▽ Medical Ban
- ▽ Athlete Ban
- ▽ Anti-Science / Anti-Evolution Law
- ▽ Bible Class Law
- ▽ Religious Displays in Schools
- ▽ School Vouchers & Tax Credits
- ▽ School Prayer Law
- ▽ Compelled Pledge Law
- ▽ Released Time Laws
- ▽ School Credit for Religious Education
- ▽ Campus License to Discriminate Law
- ▽ Religious Daycare Exemption

Arizona

Religious Exemptions That Undermine Equality



Constitutional & Nondiscrimination Protections

- ▲ State Establishment Clause
- ▲ State Free Exercise Clause
- △ Strong Taxpayer Standing

NONDISCRIMINATION LAWS

- ▲ Employment
- ▲ Housing
- ▲ Public Accommodations
- △ Education
- ▼ Religious Exemptions
- ▼ Religious Tests for Office

Special Privileges for Religion

LIMITATIONS ON CLERGY PRIVILEGE

- ▲ Mandatory Reporting
- △ Exception for Child Abuse
- △ Secular Celebrants

RELIGIOUS EXEMPTIONS TO ENFORCEMENT

- ▼ Foster Care & Adoption
- ▼ Public Health Protections
- ▼ Broad Liability Shield

TAX EXEMPTIONS FOR PLACES OF WORSHIP

- ▼ Limited Filing Requirements
- ▼ Parsonage Exemption
- ▼ Property Tax Exemption
- ▼ Sales Tax Exemption
- ▼ State Religious Freedom Restoration Act
- ▼ Anti-Blasphemy Law

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Arkansas

Religious Exemptions That Undermine Equality



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NONDISCRIMINATION LAWS

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California



Strong Protections for Religious Equality

Constitutional & Nondiscrimination Protections

- ▲ State Establishment Clause
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- ▲ Strong Taxpayer Standing

NONDISCRIMINATION LAWS

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Colorado

Strong Protections for Religious Equality



Constitutional & Nondiscrimination Protections

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NONDISCRIMINATION LAWS

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Connecticut

Basic Separation of Religion and Government



Constitutional & Nondiscrimination Protections

- ▲ State Establishment Clause
- ▲ State Free Exercise Clause
- △ Strong Taxpayer Standing

NONDISCRIMINATION LAWS

- ▲ Employment
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Delaware

Religious Exemptions That Undermine Equality



Constitutional & Nondiscrimination Protections

- ▲ State Establishment Clause
- ▲ State Free Exercise Clause
- ▲ Strong Taxpayer Standing

NONDISCRIMINATION LAWS

- ▲ Employment
- ▲ Housing
- ▲ Public Accommodations
- ▲ Education
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Special Privileges for Religion

LIMITATIONS ON CLERGY PRIVILEGE

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- ▲ Exception for Child Abuse
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- ▼ Public Health Protections
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District of Columbia

Strong Protections for Religious Equality



Constitutional & Nondiscrimination Protections

- n/a State Establishment Clause
- n/a State Free Exercise Clause
- ▲ Strong Taxpayer Standing

NONDISCRIMINATION LAWS

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Florida



Religious Exemptions That Undermine Equality

Constitutional & Nondiscrimination Protections

- ▲ State Establishment Clause
- ▲ State Free Exercise Clause
- △ Strong Taxpayer Standing

NONDISCRIMINATION LAWS

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Georgia

Religious Exemptions That Undermine Equality



Constitutional & Nondiscrimination Protections

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- ▲ State Free Exercise Clause
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NONDISCRIMINATION LAWS

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- ▼ Nonmedical Exemption to Vaccination

Education & Youth

- △ Protection From Child Marriage
- △ Protection From Conversion Therapy

SEX EDUCATION

- △ Comprehensive Sex Education
- ▼ Abstinence Only Programs

HOMESCHOOLING LAWS

- ▲ Instructor Qualifications
- △ Testing & Evaluation
- △ Child Abuse Prevention
- ▼ Exemptions

SCHOOL CENSORSHIP LAWS

- ▼ Divisive Topics Restricted
- ▼ LGBTQ Topics Restricted
- ▼ Religious Opt-Outs
- ▼ Undermines Children’s Rights

ANTI-TRANS YOUTH LAWS

- ▼ Medical Ban
- ▼ Athlete Ban
- ▼ Anti-Science / Anti-Evolution Law
- ▼ Bible Class Law
- ▼ Religious Displays in Schools
- ▼ School Vouchers & Tax Credits
- ▼ School Prayer Law
- ▼ Compelled Pledge Law
- ▼ Released Time Laws
- ▼ School Credit for Religious Education
- ▼ Campus License to Discriminate Law
- ▼ Religious Daycare Exemption

Hawaii

Strong Protections for Religious Equality



Constitutional & Nondiscrimination Protections

- ▲ State Establishment Clause
- ▲ State Free Exercise Clause
- ▲ Strong Taxpayer Standing

NONDISCRIMINATION LAWS

- ▲ Employment
- ▲ Housing
- ▲ Public Accommodations
- ▲ Education
- ▼ Religious Exemptions
- ▼ Religious Tests for Office

Special Privileges for Religion

LIMITATIONS ON CLERGY PRIVILEGE

- ▲ Mandatory Reporting
- ▲ Exception for Child Abuse
- ▲ Secular Celebrants

RELIGIOUS EXEMPTIONS TO ENFORCEMENT

- ▼ Foster Care & Adoption
- ▼ Public Health Protections
- ▼ Broad Liability Shield

TAX EXEMPTIONS FOR PLACES OF WORSHIP

- ▼ Limited Filing Requirements
- ▼ Parsonage Exemption
- ▼ Property Tax Exemption
- ▼ Sales Tax Exemption
- ▼ State Religious Freedom Restoration Act
- ▼ Anti-Blasphemy Law

KEY

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Health Care & Wellness

- ▲ Medical Aid-In-Dying Law
- ▲ Health Care Transparency Law

SANCTUARY LAWS

- ▲ Reproductive Care Confidentiality Protections
- ▲ Trans Care Confidentiality Protections
- ▲ Reproductive Care Provider Protections
- ▲ Trans Care Provider Protections

ACCESS TO ABORTION

- ▲ Constitutional or Statutory Protections
- ▼ Statutory Abortion Ban
- ▼ Private Enforcement Provisions

DENIAL OF CARE LAWS

- ▼ Refusals Related to Abortion
- ▼ Refusals Related to Contraception
- ▼ Refusals Related to Sterilization
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Idaho

Religious Exemptions That Undermine Equality



Constitutional & Nondiscrimination Protections

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NONDISCRIMINATION LAWS

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Illinois

Basic Separation of Religion and Government



Constitutional & Nondiscrimination Protections

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NONDISCRIMINATION LAWS

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Indiana

Religious Exemptions That Undermine Equality



Constitutional & Nondiscrimination Protections

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NONDISCRIMINATION LAWS

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Iowa

Basic Separation of Religion and Government



Constitutional & Nondiscrimination Protections

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NONDISCRIMINATION LAWS

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Kansas

Religious Exemptions That Undermine Equality



Constitutional & Nondiscrimination Protections

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NONDISCRIMINATION LAWS

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Kentucky

Religious Exemptions That Undermine Equality



Constitutional & Nondiscrimination Protections

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Louisiana

Religious Exemptions That Undermine Equality



Constitutional & Nondiscrimination Protections

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Maine

Strong Protections for Religious Equality



Constitutional & Nondiscrimination Protections

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NONDISCRIMINATION LAWS

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- ▼ School Credit for Religious Education
- ▼ Campus License to Discriminate Law
- ▼ Religious Daycare Exemption

Maryland



Basic Separation of Religion and Government

Constitutional & Nondiscrimination Protections

- △ State Establishment Clause
- ▲ State Free Exercise Clause
- △ Strong Taxpayer Standing

NONDISCRIMINATION LAWS

- ▲ Employment
- ▲ Housing
- ▲ Public Accommodations
- ▲ Education
- ▽ Religious Exemptions
- ▽ Religious Tests for Office

Special Privileges for Religion

LIMITATIONS ON CLERGY PRIVILEGE

- △ Mandatory Reporting
- △ Exception for Child Abuse
- △ Secular Celebrants

RELIGIOUS EXEMPTIONS TO ENFORCEMENT

- ▽ Foster Care & Adoption
- ▽ Public Health Protections
- ▽ Broad Liability Shield

TAX EXEMPTIONS FOR PLACES OF WORSHIP

- ▽ Limited Filing Requirements
- ▽ Parsonage Exemption
- ▽ Property Tax Exemption
- ▽ Sales Tax Exemption
- ▽ State Religious Freedom Restoration Act
- ▽ Anti-Blasphemy Law

KEY

- ▲ State has this law or policy that enhances religious equality
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Health Care & Wellness

- △ Medical Aid-In-Dying Law
- △ Health Care Transparency Law

SANCTUARY LAWS

- ▲ Reproductive Care Confidentiality Protections
- ▲ Trans Care Confidentiality Protections
- ▲ Reproductive Care Provider Protections
- ▲ Trans Care Provider Protections

ACCESS TO ABORTION

- ▲ Constitutional or Statutory Protections
- ▽ Statutory Abortion Ban
- ▽ Private Enforcement Provisions

DENIAL OF CARE LAWS

- ▽ Refusals Related to Abortion
- ▽ Refusals Related to Contraception
- ▽ Refusals Related to Sterilization
- ▽ Religion-Based Health Care Law
- ▽ Child Negligence Exemptions for Faith Healing
- ▽ Nonmedical Exemption to Vaccination

Education & Youth

- △ Protection From Child Marriage
- ▲ Protection From Conversion Therapy

SEX EDUCATION

- △ Comprehensive Sex Education
- ▽ Abstinence Only Programs

HOMESCHOOLING LAWS

- △ Instructor Qualifications
- ▲ Testing & Evaluation
- △ Child Abuse Prevention
- ▽ Exemptions

SCHOOL CENSORSHIP LAWS

- ▽ Divisive Topics Restricted
- ▽ LGBTQ Topics Restricted
- ▽ Religious Opt-Outs
- ▽ Undermines Children's Rights

ANTI-TRANS YOUTH LAWS

- ▽ Medical Ban
- ▽ Athlete Ban
- ▽ Anti-Science / Anti-Evolution Law
- ▽ Bible Class Law
- ▽ Religious Displays in Schools
- ▽ School Vouchers & Tax Credits
- ▽ School Prayer Law
- ▽ Compelled Pledge Law
- ▽ Released Time Laws
- ▽ School Credit for Religious Education
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Massachusetts

Basic Separation of Religion and Government



Constitutional & Nondiscrimination Protections

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NONDISCRIMINATION LAWS

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Michigan



Basic Separation of Religion and Government

Constitutional & Nondiscrimination Protections

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NONDISCRIMINATION LAWS

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Minnesota

Basic Separation of Religion and Government



Constitutional & Nondiscrimination Protections

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Mississippi

Religious Exemptions That Undermine Equality



Constitutional & Nondiscrimination Protections

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Missouri

Religious Exemptions That Undermine Equality



Constitutional & Nondiscrimination Protections

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NONDISCRIMINATION LAWS

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Montana

Religious Exemptions That Undermine Equality



Constitutional & Nondiscrimination Protections

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Nebraska

Basic Separation of Religion and Government



Constitutional & Nondiscrimination Protections

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Nevada

Strong Protections for Religious Equality



Constitutional & Nondiscrimination Protections

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New Hampshire

Strong Protections for Religious Equality



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- ▼ State Religious Freedom Restoration Act
- ▼ Anti-Blasphemy Law

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Health Care & Wellness

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- △ Health Care Transparency Law

SANCTUARY LAWS

- △ Reproductive Care Confidentiality Protections
- △ Trans Care Confidentiality Protections
- △ Reproductive Care Provider Protections
- △ Trans Care Provider Protections

ACCESS TO ABORTION

- △ Constitutional or Statutory Protections
- ▽ Statutory Abortion Ban
- ▽ Private Enforcement Provisions

DENIAL OF CARE LAWS

- ▽ Refusals Related to Abortion
- ▽ Refusals Related to Contraception
- ▽ Refusals Related to Sterilization
- ▽ Religion-Based Health Care Law
- ▽ Child Negligence Exemptions for Faith Healing
- ▽ Nonmedical Exemption to Vaccination

Education & Youth

- △ Protection From Child Marriage
- ▲ Protection From Conversion Therapy

SEX EDUCATION

- △ Comprehensive Sex Education
- ▽ Abstinence Only Programs

HOMESCHOOLING LAWS

- △ Instructor Qualifications
- ▲ Testing & Evaluation
- △ Child Abuse Prevention
- ▽ Exemptions

SCHOOL CENSORSHIP LAWS

- ▽ Divisive Topics Restricted
- ▽ LGBTQ Topics Restricted
- ▽ Religious Opt-Outs
- ▽ Undermines Children's Rights

ANTI-TRANS YOUTH LAWS

- ▽ Medical Ban
- ▽ Athlete Ban
- ▽ Anti-Science / Anti-Evolution Law
- ▽ Bible Class Law
- ▽ Religious Displays in Schools
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- ▽ Released Time Laws
- ▽ School Credit for Religious Education
- ▽ Campus License to Discriminate Law
- ▽ Religious Daycare Exemption

New Jersey

Strong Protections for Religious Equality



Constitutional & Nondiscrimination Protections

- ▲ State Establishment Clause
- ▲ State Free Exercise Clause
- ▲ Strong Taxpayer Standing

NONDISCRIMINATION LAWS

- ▲ Employment
- ▲ Housing
- ▲ Public Accommodations
- ▲ Education
- ▼ Religious Exemptions
- ▼ Religious Tests for Office

Special Privileges for Religion

LIMITATIONS ON CLERGY PRIVILEGE

- ▲ Mandatory Reporting
- ▲ Exception for Child Abuse
- ▲ Secular Celebrants

RELIGIOUS EXEMPTIONS TO ENFORCEMENT

- ▼ Foster Care & Adoption
- ▼ Public Health Protections
- ▼ Broad Liability Shield

TAX EXEMPTIONS FOR PLACES OF WORSHIP

- ▼ Limited Filing Requirements
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New Mexico

Basic Separation of Religion and Government



Constitutional & Nondiscrimination Protections

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New York

Strong Protections for Religious Equality



Constitutional & Nondiscrimination Protections

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North Carolina

Religious Exemptions That Undermine Equality



Constitutional & Nondiscrimination Protections

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NONDISCRIMINATION LAWS

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North Dakota

Religious Exemptions That Undermine Equality



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Ohio

Religious Exemptions That Undermine Equality



Constitutional & Nondiscrimination Protections

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DENIAL OF CARE LAWS

- ▼ Refusals Related to Abortion
- ▼ Refusals Related to Contraception
- ▼ Refusals Related to Sterilization
- ▼ Religion-Based Health Care Law
- ▼ Child Negligence Exemptions for Faith Healing
- ▼ Nonmedical Exemption to Vaccination

Education & Youth

- ▲ Protection From Child Marriage
- ▲ Protection From Conversion Therapy

SEX EDUCATION

- ▲ Comprehensive Sex Education
- ▼ Abstinence Only Programs

HOMESCHOOLING LAWS

- ▲ Instructor Qualifications
- ▲ Testing & Evaluation
- ▲ Child Abuse Prevention
- ▼ Exemptions

SCHOOL CENSORSHIP LAWS

- ▼ Divisive Topics Restricted
- ▼ LGBTQ Topics Restricted
- ▼ Religious Opt-Outs
- ▼ Undermines Children's Rights

ANTI-TRANS YOUTH LAWS

- ▼ Medical Ban
- ▼ Athlete Ban
- ▼ Anti-Science / Anti-Evolution Law
- ▼ Bible Class Law
- ▼ Religious Displays in Schools
- ▼ School Vouchers & Tax Credits
- ▼ School Prayer Law
- ▼ Compelled Pledge Law
- ▼ Released Time Laws
- ▼ School Credit for Religious Education
- ▼ Campus License to Discriminate Law
- ▼ Religious Daycare Exemption

Puerto Rico

Basic Separation of Religion and Government



Constitutional & Nondiscrimination Protections

- ▲ State Establishment Clause
- ▲ State Free Exercise Clause
- △ Strong Taxpayer Standing

NONDISCRIMINATION LAWS

- ▲ Employment
- ▲ Housing
- ▲ Public Accommodations
- ▲ Education
- ▼ Religious Exemptions
- ▼ Religious Tests for Office

Special Privileges for Religion

LIMITATIONS ON CLERGY PRIVILEGE

- ▲ Mandatory Reporting
- ▲ Exception for Child Abuse
- △ Secular Celebrants

RELIGIOUS EXEMPTIONS TO ENFORCEMENT

- ▼ Foster Care & Adoption
- ▼ Public Health Protections
- ▼ Broad Liability Shield

TAX EXEMPTIONS FOR PLACES OF WORSHIP

- ▼ Limited Filing Requirements
- ▼ Parsonage Exemption
- ▼ Property Tax Exemption
- ▼ Sales Tax Exemption
- ▼ State Religious Freedom Restoration Act
- ▼ Anti-Blasphemy Law

KEY

- ▲ State has this law or policy that enhances religious equality
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Health Care & Wellness

- △ Medical Aid-In-Dying Law
- △ Health Care Transparency Law

SANCTUARY LAWS

- △ Reproductive Care Confidentiality Protections
- △ Trans Care Confidentiality Protections
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ACCESS TO ABORTION

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Rhode Island

Basic Separation of Religion and Government



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South Carolina

Religious Exemptions That Undermine Equality



Constitutional & Nondiscrimination Protections

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South Dakota

Religious Exemptions That Undermine Equality



Constitutional & Nondiscrimination Protections

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Tennessee

Religious Exemptions That Undermine Equality



Constitutional & Nondiscrimination Protections

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Texas

Religious Exemptions That Undermine Equality



Constitutional & Nondiscrimination Protections

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Utah

Religious Exemptions That Undermine Equality



Constitutional & Nondiscrimination Protections

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NONDISCRIMINATION LAWS

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Vermont

Strong Protections for Religious Equality



Constitutional & Nondiscrimination Protections

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Virginia

Basic Separation of Religion and Government



Constitutional & Nondiscrimination Protections

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- ▽ Released Time Laws
- ▽ School Credit for Religious Education
- ▽ Campus License to Discriminate Law
- ▽ Religious Daycare Exemption

Washington

Strong Protections for Religious Equality



Constitutional & Nondiscrimination Protections

- △ State Establishment Clause
- ▲ State Free Exercise Clause
- △ Strong Taxpayer Standing

NONDISCRIMINATION LAWS

- ▲ Employment
- ▲ Housing
- ▲ Public Accommodations
- ▲ Education
- ▽ Religious Exemptions
- ▽ Religious Tests for Office

Special Privileges for Religion

LIMITATIONS ON CLERGY PRIVILEGE

- △ Mandatory Reporting
- △ Exception for Child Abuse
- △ Secular Celebrants

RELIGIOUS EXEMPTIONS TO ENFORCEMENT

- ▽ Foster Care & Adoption
- ▽ Public Health Protections
- ▽ Broad Liability Shield

TAX EXEMPTIONS FOR PLACES OF WORSHIP

- ▽ Limited Filing Requirements
- ▽ Parsonage Exemption
- ▽ Property Tax Exemption
- ▽ Sales Tax Exemption
- ▽ State Religious Freedom Restoration Act
- ▽ Anti-Blasphemy Law

KEY

- ▲ State has this law or policy that enhances religious equality
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- ▽ State has this law or policy that harms religious equality
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Health Care & Wellness

- ▲ Medical Aid-In-Dying Law
- ▲ Health Care Transparency Law

SANCTUARY LAWS

- ▲ Reproductive Care Confidentiality Protections
- ▲ Trans Care Confidentiality Protections
- △ Reproductive Care Provider Protections
- △ Trans Care Provider Protections

ACCESS TO ABORTION

- ▲ Constitutional or Statutory Protections
- ▽ Statutory Abortion Ban
- ▽ Private Enforcement Provisions

DENIAL OF CARE LAWS

- ▽ Refusals Related to Abortion
- ▽ Refusals Related to Contraception
- ▽ Refusals Related to Sterilization
- ▽ Religion-Based Health Care Law
- ▽ Child Negligence Exemptions for Faith Healing
- ▽ Nonmedical Exemption to Vaccination

Education & Youth

- △ Protection From Child Marriage
- ▲ Protection From Conversion Therapy

SEX EDUCATION

- ▲ Comprehensive Sex Education
- ▽ Abstinence Only Programs

HOMESCHOOLING LAWS

- ▲ Instructor Qualifications
- ▲ Testing & Evaluation
- △ Child Abuse Prevention
- ▽ Exemptions

SCHOOL CENSORSHIP LAWS

- ▽ Divisive Topics Restricted
- ▽ LGBTQ Topics Restricted
- ▽ Religious Opt-Outs
- ▽ Undermines Children's Rights

ANTI-TRANS YOUTH LAWS

- ▽ Medical Ban
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West Virginia

Religious Exemptions That Undermine Equality



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Wisconsin

Basic Separation of Religion and Government



Constitutional & Nondiscrimination Protections

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OUR ORGANIZATION

AMERICAN ATHEISTS is a national civil rights organization that works to achieve religious equality for all Americans by protecting what Thomas Jefferson called the “wall of separation” between government and religion created by the First Amendment. We strive to create an environment where atheism and atheists are accepted as members of our communities and where casual bigotry against our community is seen as abhorrent and unacceptable. We promote understanding of atheists through education, outreach, and community-building and work to end the stigma associated with being an atheist in America.

American Atheists is committed to providing resources and tools to help our local grassroots organizers grow and sustain vibrant communities. By emphasizing activities in the four core areas of our ACES program – Activism, Community, Education, and Service – affiliate groups can provide support for their members while expanding engagement in their local community, improving policy outcomes at every level of government, and normalizing atheism across the nation. To find out more about becoming a volunteer leader or to find a local affiliate group, please email us at field@atheists.org.

American Atheists seeks to empower its constituents to be effective advocates for state and local policy change. We monitor bills and policies that affect the separation of religion and government, and inform grassroots leaders about such measures, enabling them to amplify their outreach to lawmakers. We support these efforts by providing advocacy resources, bill analyses, effective messaging, and assistance with coalition-building and drafting legislation. We are always eager to work with state and local advocates on the various laws and policies discussed in this report. For example, in states such as California, Colorado, Florida, Oklahoma, Texas, and West Virginia, we have assembled and supported teams of advocates to focus on proactive legislation. If you are interested in engaging in this work, please email us at advocacy@atheists.org.

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2024 STATE OF THE SECULAR STATES

A Review of State Legislation Affecting the
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