

# TIPPING THE SCALES FOR RELIGIOUS EXEMPTIONS TO THE LAW



## MOUNTING LEGISLATION, LITIGATION, AND POLICY CREATE MORE AND MORE WAYS IN WHICH RELIGION CAN BE USED AS AN EXCUSE NOT TO FOLLOW THE LAW



### LAWS ALLOWING RELIGIOUS EXEMPTIONS IN HEALTH CARE

Broad religious exemptions in health care allow health care providers to refuse to provide comprehensive women's and reproductive health care, including birth control or abortion care in some states. In 2018, the U.S. Department of Health and Human Services announced the creation of an office and a proposed rule that would open the door to widespread discrimination in health care. This rule would allow doctors, nurses, insurance plans, hospitals—and nearly any other employee in health care settings that receive any federal funds—to use their religious or moral beliefs to determine the essential care a patient receives.



### LAWS ALLOWING GOVERNMENT OFFICIALS TO REFUSE TO CERTIFY MARRIAGES

Kentucky and North Carolina passed laws that remove county clerks' names from marriage licenses or allow clerks to opt-out of performing marriages.



### LAW ALLOWING BUSINESSES TO DISCRIMINATE AGAINST CUSTOMERS

Mississippi passed legislation creating a license-to-discriminate that allows business owners to refuse to serve customers if the owner has a religious objection to that customer.



### LAWS CREATING RELIGIOUS EXEMPTIONS IN ADOPTION AND FOSTER CARE SERVICES

Seven states allow child welfare organizations that are tax-payer funded and state-supported to refuse to provide services if doing so would conflict with their moral or religious beliefs.



### FEDERAL GUIDANCE GIVES EXEMPTIONS FOR FEDERAL AGENCIES, EMPLOYEES, CONTRACTORS, AND GRANTEEES

U.S. Department of Justice guidance heavily favors religious exemptions in the functioning of the federal government, including for agencies as employers, agencies tasked with drafting regulation, enforcement actions, and in grant making and the awarding of contracts.



### SUPREME COURT AND AGENCIES EXTEND EXEMPTIONS TO EMPLOYERS

The U.S. Supreme Court extended religious exemptions, that had previously only been available to religious entities, to companies. In *Hobby Lobby*, the Court found that private, for-profit "closely held" companies can be exempt from federal laws for "religious purposes." And in *Advocate Healthcare Network*, the Court ruled that a hospital associated with a church qualifies for exemptions to federal law available to churches.



### PROPOSAL TO PERMIT WIDESPREAD DISCRIMINATION BASED ON NARROW VIEWPOINTS

First introduced in Congress in 2015, the First Amendment Defense Act would permit people, companies, non-profits, and government agencies to discriminate against their employees and customers based on a single religious viewpoint.

In October 2017, the U.S. Department of Health and Human Services announced a sweeping religious exemption allowing any employer or university to refuse contraceptive coverage in their health benefits.



### MASTERPIECE CAKESHOP CASE

The U.S. Supreme Court is considering a case that could create license-to-discriminate for businesses by allowing them to violate federal and state nondiscrimination laws.



### PROPOSAL TO ALLOW CHURCHES TO LOBBY

Repealing the Johnson Amendment would allow tax-exempt churches and nonprofits to use tax-free money to support candidates or to lobby, which they are currently unable to do.