

2015 Regular Session

HOUSE BILL NO. 707

BY REPRESENTATIVE MIKE JOHNSON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

MARRIAGE: Creates the Marriage and Conscience Act

1 AN ACT

2 To enact Part XX of Chapter 32 of Title 13 of the Louisiana Revised Statutes of 1950, to be
3 comprised of R.S. 13:5243 through 5248, relative to marriage and the right of
4 conscience; to create a cause of action for the protection of the right of conscience
5 as relates to marriage; to provide for definitions; to provide for applicability; to
6 provide for rules of construction; to provide for remedies; and to provide for related
7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Part XX of Chapter 32 of Title 13 of the Louisiana Revised Statutes of
10 1950, comprised of R.S. 13:5243 through 5248, is hereby enacted to read as follows:

11 PART XX. MARRIAGE AND CONSCIENCE ACT12 §5243. Short title13 This Part may be cited as the "Marriage and Conscience Act".14 §5244. Legislative findings15 The legislature finds and declares that:

16 (1) Leading legal scholars concur that conflicts between religious liberty and
17 changing ideas about the institution of marriage are very real, rapidly increasing, and
18 should be addressed by legislation.

19 (2) As the President stated in response to the decision of the Supreme Court
20 on the Defense of Marriage Act in 2013, "Americans hold a wide range of views" on

1 the issue of marriage, and "maintaining our Nation's commitment to religious
2 freedom" is "vital".

3 (3) Protecting religious freedom from government intrusion is a
4 governmental interest of the highest order. Legislatively enacted measures advance
5 this interest by remedying, deterring, and preventing government interference with
6 the right of conscience and religious exercise in a way that complements the
7 protections mandated by the First Amendment to the Constitution of the United
8 States and Article 1, Section 8 of the Constitution of Louisiana.

9 (4) Laws that protect the free exercise of religious beliefs or moral
10 convictions about marriage will encourage private citizens and institutions to
11 demonstrate similar tolerance and therefore contribute to a more respectful, diverse,
12 and peaceful society.

13 §5245. Protection of the right of conscience, the free exercise of religious beliefs
14 and moral convictions

15 A. Notwithstanding any other law to the contrary, this state shall not take any
16 adverse action against a person, wholly or partially, on the basis that such person acts
17 in accordance with a religious belief or moral conviction about the institution of
18 marriage.

19 B. As used in Subsection A of this Section, an adverse action means any
20 action taken by this state to do any of the following:

21 (1) Deny or revoke an exemption from taxation pursuant to R.S. 47:287.501
22 of the person who is acting in accordance with the religious belief or moral
23 conviction referred to in Subsection A.

24 (2) Disallow a deduction for state tax purposes of any charitable contribution
25 made to or by such person.

26 (3) Alter in any way the state tax treatment of, or cause any tax, penalty, or
27 payment to be assessed against, such person or such person's employees with respect
28 to any benefit provided or not provided by such person to such person's employees,

1 wholly or partially on the basis that the benefit is provided or not provided on
2 account of a religious belief or moral conviction referred to in Subsection A.

3 (4) Deem any employee benefit plan covering employees of such person to
4 have lost its status as a "qualified plan" under 26 USC 401(a) (Internal Revenue
5 Code), 29 USC 1001 et seq. (Employee Retirement Income Security Act), or any
6 other applicable state law, wholly or partially on the basis that the benefit plan fails
7 to provide a benefit, right, or feature on account of such person's religious belief or
8 moral conviction referred to in Subsection A.

9 (5) Deny or exclude such person from receiving any state grant, contract,
10 cooperative agreement, loan, professional license, certification, accreditation,
11 employment, or other similar position or status.

12 (6) Deny or withhold from such person any benefit under a state benefit
13 program.

14 (7) Otherwise discriminate against or disadvantage such person.

15 C. This state shall consider accredited, licensed, or certified for purposes of
16 Louisiana law any person that would be accredited, licensed, or certified,
17 respectively, for such purposes but for a determination against such person on the
18 basis that the person acts in accordance with a religious belief or moral conviction
19 about the institution of marriage.

20 §5246. Judicial relief

21 A person may assert an actual or threatened violation of this Part as a claim
22 or defense in a judicial proceeding and obtain compensatory damages, injunctive
23 relief, declaratory relief, or any other appropriate relief against this state.

24 §5247. Rules of construction

25 A. This Part shall be construed in favor of a broad protection of the right of
26 conscience and religious beliefs and moral convictions described in R.S. 13:5245,
27 to the maximum extent permitted by the terms of this Part and the Louisiana
28 Constitution.

1 B. Nothing in this Part shall be construed to preempt federal law or repeal
2 state law that is equally as protective of the right of conscience, religious beliefs, or
3 moral convictions as, or more protective of the right of conscience, religious beliefs,
4 or moral convictions than, this Part. Nothing in this Part shall be considered to
5 narrow the meaning or application of any other state or federal law protecting the
6 right of conscience religious beliefs or moral convictions.

7 C. Nothing in this Part shall be construed to preempt, repeal or narrow the
8 definition of marriage as provided in the Louisiana Constitution, or to require any
9 official or court of the state of Louisiana to construe the constitution or any state law
10 to require that marriage or the legal incidents thereof be conferred upon any member
11 of a union other than the union of one man and one woman. Nothing in this Part
12 shall be construed to require that a legal status identical or substantially similar to
13 that of marriage for unmarried individuals may be valid or recognized, or that the
14 state of Louisiana may recognize any marriage contracted in any other jurisdiction
15 which is not the union of one man and one woman.

16 §5248. Definitions

17 In this Part:

18 (1) The term "person" means a natural or juridical person as defined in Civil
19 Code Article 24, and includes any such person regardless of religious affiliation or
20 lack thereof, and regardless of for-profit or nonprofit status.

21 (2) The term "state" includes each authority of any branch of the government
22 of the state of Louisiana.

23 (3) The term "state benefit program" means any program administered or
24 funded by this state, or by any agent on behalf of this state, providing cash or in-kind
25 assistance in the form of payments, grants, loans, or loan guarantees to any person.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 707 Original

2015 Regular Session

Mike Johnson

Abstract: Provides relative to the right of conscience and religious freedom regarding beliefs about marriage.

Present law protects the free exercise of religion and includes the ability to act or refuse to act in a manner substantially motivated by a sincerely-held religious belief, whether or not the exercise is compulsory or a central part or central requirement of the person's religious belief.

Present law defines marriage in La. Const. Article XII, §15.

Proposed law retains present law and creates the Marriage and Conscience Act. Prohibits the state from taking any adverse action against a person on the basis that such person acted in accordance with a religious belief or moral conviction about marriage. Provides for those actions which are deemed to be adverse actions.

Provides that nothing in proposed law shall be construed to preempt, repeal, or narrow the definition of marriage provided in La. Const. Art. XII, Section 15, nor shall proposed law require any official or court in this state to construe the constitution or state law to confer the legal incidents of marriage to any member of a union other than one man and one woman. Nor shall proposed law be construed to recognize any marriage contracted in another jurisdiction which is not of one man and one woman.

Proposed law provides for judicial relief including compensatory damages, injunctive relief, declaratory relief, or any other appropriate relief.

(Adds R.S. 13:5243-5248)