

EXECUTIVE ORDER

BJ 15-8

Marriage and Conscience Order

WHEREAS, Article I, Section 1 of the Louisiana Constitution is titled “Origin and Purpose of Government”, and provides:

All government, of right, originates with the people, is founded on their will alone, and is instituted to protect the rights of the individual and for the good of the whole. Its only legitimate ends are to secure justice for all, preserve peace, protect the rights, and promote the happiness and general welfare of the people. The rights enumerated in this Article are inalienable by the state and shall be preserved inviolate by the state.

WHEREAS, in 1974, the people of the State of Louisiana chose to adopt the exact language found in the First Amendment of the Constitution of the United States of America regarding religious free exercise as Article 1, Section 8 of the Constitution of Louisiana:

No law shall be enacted respecting an establishment of religion or prohibiting the free exercise thereof.

WHEREAS, in 2010, the Governor made part of his legislative package and signed into law the Preservation of Religious Freedom Act to further protect the free exercise of religion by making clear:

Government shall not substantially burden a person's exercise of religion, even if the burden results from a facially neutral rule or a rule of general applicability, unless it demonstrates that application of the burden to the person is both:

- (1) In furtherance of a compelling governmental interest.*
- (2) The least restrictive means of furthering that compelling governmental interest.*

WHEREAS, the federal Religious Freedom Restoration Act contains virtually identical language to prohibit the federal government from imposing a substantial burden upon a person’s exercise of religion absent a compelling governmental interest and a showing that the action taken is the least restrictive means of furthering that compelling governmental interest;

WHEREAS, in June, 2014, the United States Supreme Court, in *Burwell v. Hobby Lobby Stores, Inc.*, 134 S.Ct. 2751 (2014), expressly held that the federal Religious Freedom Restoration Act of 1993 prohibits the federal government from requiring a “person” to act in contravention of a sincerely held religious belief, and that the definition of “person” includes individuals, non-profit, or for-profit corporations;

WHEREAS, federal and state law each contain nearly identical, expansive definitions of “person”, while the Preservation of Religious Freedom Act’s definition includes certain terms, but does not exclude the more expansive state law definition:

“Person” is defined by La. R.S. 1:10: *“Unless it is otherwise clearly indicated, the word ‘person’ includes a body of persons, whether incorporated or not.”*

“Person” is defined in 1 USC 1: *“In determining the meaning of any Act of Congress, unless the context indicates otherwise—...the words ‘person’ and ‘whoever’ include corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals;...”*

“A person” is defined in La. R.S. 13:5234: *“‘A person’ includes an individual and also includes a church, association of churches or other religious order, body or institution which qualifies for exemption from taxation under Section 501(c)(3) or (d) of the Internal Revenue Code of 1986 (Public law 99-514, 26 U.S.C. Section 501).”* (Emphasis added.)

WHEREAS, it is of preeminent importance that government take no adverse action against a person, wholly or partially, on the basis that such person acts in accordance with his religious belief that marriage is or should be recognized as the union of one man and one woman, but that this principle not be construed to authorize any act of discrimination.

WHEREAS, specifically, government should take no adverse action to:

1. Deny or revoke an exemption from taxation pursuant to La. R.S. 47:287.501 of the person who is acting in accordance with his religious belief;
2. Disallow a deduction for state tax purposes of any charitable contribution made to or by such person;
3. Deny or exclude such person from receiving any state grant, contract, cooperative agreement, loan, professional license, certification, accreditation, employment, or other similar position or status; or
4. Deny or withhold from such person any benefit under a state benefit program;

WHEREAS, the state should consider any person who would be accredited, licensed, or certified but for a determination against such person on the basis that the person acts in accordance with his own religious belief about the institution of marriage, to be accredited, licensed, or certified for purposes of Louisiana law.

NOW THEREFORE, I, BOBBY JINDAL, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and the laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: All departments, commissions, boards, agencies, and political subdivisions of the state are authorized and directed to take cognizance of the definition of “person” contained in La. R.S. 1:10 when complying with the Preservation of Religious Freedom Act (La. R.S. 13:5230-5242), the interpretation of the virtually identical federal law definition contained in 1 USC 1 by the United States Supreme Court in *Burwell v. Hobby Lobby* in its holding that the federal government is prohibited from requiring a “person” to act in contravention of a sincerely held religious belief, and that the definition of “person” includes individuals, non-profit, or for-profit corporations.

SECTION 2: All departments, commissions, boards, agencies, and political subdivisions of the state are authorized and directed to comply with the restrictions placed upon government action in the Preservation of Religious Freedom Act and, including more specifically, on the basis that such person acts in accordance with his religious belief that marriage is or should be recognized as the union of one man and one woman, shall take no adverse action to:

- A. Deny or revoke an exemption from taxation pursuant to La. R.S. 47:287.501 of the person who is acting in accordance with his religious belief.
- B. Disallow a deduction for state tax purposes of any charitable contribution made to or by such person.
- C. Deny or exclude such person from receiving any state grant, contract, cooperative agreement, loan, professional license, certification, accreditation, employment, or other similar position or status.
- D. Deny or withhold from such person any benefit under a state benefit program.
- E. Deny, revoke, or suspend the accreditation, licensing, or certification of any person that would be accredited, licensed, or certified for purposes of Louisiana law but-for a determination against such person on the basis that the person acts in accordance with his own religious belief.

SECTION 3: All departments, commissions, boards, agencies, and political subdivisions of the state are authorized and directed to cooperate with the

implementations of the provisions of this Order.

SECTION 4: This Order is effective upon signature and shall remain in effect until amended, modified, terminated or rescinded.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 19th day of May, 2015.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State