

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 3158

BY DELEGATE HOLSTEIN

[Introduced March 15, 2021; Referred to the
Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §5-30-1, §5-30-2, §5-30-3, and §5-30-4, all relating to ensuring protections for
 3 religious freedom in the State of West Virginia; providing generally a means by which to
 4 respect religious and political speech; creating conscientious protections for the preventive
 5 care mandate; and creating religious liberty guidance.

Be it enacted by the Legislature of West Virginia:

ARTICLE 30. PROMOTING FREE SPEECH AND RELIGIOUS LIBERTY ACT.

§5-30-1. Policy.

1 It shall be the policy of the State of West Virginia to ensure a robust protection for religious
 2 freedom. The Founders of our Country envisioned a nation in which religious voices and views
 3 were integral to a vibrant public square, and in which religious people and institutions were free
 4 to practice their faith without fear of discrimination or retaliation by the Federal Government or the
 5 Government of the State of West Virginia. For that reason, the United States Constitution and the
 6 West Virginia Constitution enshrines and protects the fundamental right to religious liberty as
 7 Americans' first freedom. Federal and state law protects the freedom of Americans and their
 8 organizations to exercise religion and participate fully in civic life without undue interference by
 9 the Federal or State Government.

§5-30-2. Respecting religious and political speech.

1 All departments and agencies in West Virginia shall, to the greatest extent practicable and
 2 to the extent permitted by law, respect and protect the freedom of persons and organizations to
 3 engage in religious and political speech. In particular, the State of West Virginia shall ensure, to
 4 the extent permitted by law, that the state does not take any adverse action against any individual,
 5 house of worship, or other religious organization on the basis that such individual or organization
 6 speaks or has spoken about moral or political issues from a religious perspective, where speech
 7 of similar character has, consistent with law, not ordinarily been treated as participation or
 8 intervention in a political campaign on behalf of (or in opposition to) a candidate for public office

9 by the state. As used in this section, the term “adverse action” means the imposition of any tax or
 10 tax penalty; the delay or denial of tax-exempt status; the disallowance of tax deductions for
 11 contributions made to entities exempted from taxation under section 501(c)(3) of title 26, United
 12 States Code; or any other action that makes unavailable or denies any tax deduction, exemption,
 13 credit, or benefit.

§5-30-3. Conscience protections with respect to preventive-care mandate.

1 The secretary of all agencies in West Virginia shall consider issuing amended regulations,
 2 consistent with applicable law, to address conscience-based objections to the preventive-care
 3 mandate promulgated under section 300gg–13(a)(4) of title 42, United States Code.

§5-30-4. Religious liberty guidance.

1 In order to guide all agencies in complying with relevant federal and state law, the West
 2 Virginia Attorney General shall, as appropriate, issue guidance interpreting religious liberty
 3 protections in federal and state law.

NOTE: The purpose of this bill is to ensure protection for religious freedom and religious speech in West Virginia.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.