



To: House Civil Justice Subcommittee
From: Michelle Richardson, Director of Public Policy
Date: October 5, 2015
Re: **Vote NO on HB 43, Pastor Protection Act**

The ACLU of Florida urges you to vote no on HB 43, the Pastor Protection Act, because it is unnecessary, it is likely to become a vehicle that authorizes broader discrimination, and it diverts scarce legislative resources away from the conversation we should be having about protecting LGBT people from discrimination in employment, housing, and public accommodations.

The bill is unnecessary.

Religious freedom is a fundamental American value, which is why it's protected in the First Amendment to the Constitution. This includes the right of churches and other houses of worship to decide which religious marriages they will host. As a result, houses of worship and clergy already have the freedom to determine which marriages they will and won't perform in their faith traditions.¹ Allowing same-sex couples to marry doesn't change that, and neither would defeat of this bill. Even before the Supreme Court's ruling in *Obergefell v. Hodges*, same-sex couples had the freedom to marry in over 30 states, and in no instance have clergy been forced to marry a same-sex couple or anyone else against their religious beliefs.

The bill may very likely morph into affirmative legal discrimination against LGBT Floridians.

The ACLU of Florida unwaveringly supports the right of houses of worship or clergy to choose whom they marry. However, we are gravely concerned that this bill will become a vehicle for amendments that will enshrine discrimination against LGBT individuals. Whether intentional or not, minor changes to the language of the bill could radically change its legal effect and turn this into a bill that deeply divides the state, as happened in Indiana earlier this year. With a majority of Floridians supporting pro-LGBT anti-discrimination laws—including the overwhelming support of Florida's business community—an Indiana-style fight is not what Florida needs, and amendments to this bill could instigate that at any time.

¹ Our Constitution reserves ecclesiastical matters exclusively to religious leaders. *See, e.g., Kedroff v. St. Nicolas Cathedral*, 344 U.S. 94, 122 (1952) (Frankfurter, J., concurring) (noting that under the Free Exercise Clause, legislatures have no authority to “to define religious obedience”); *Serbian Eastern Orthodox Diocese v. Milivojevich*, 426 U.S. 696, 708 (1976) (overturning state supreme court that had “unconstitutionally undertaken the resolution of quintessentially religious controversies whose resolution the First Amendment commits exclusively to the highest ecclesiastical tribunals”).

The bill suggests that clergy need protection from gay couples, and it distracts from important conversations about protecting gay and transgender people, who continue to experience discrimination.

It's time for our state to update our laws to protect LGBT people from discrimination. Although Florida is the third-largest state in the nation, it is one of the decreasing number of states that fail to offer explicit, basic protections to LGBT people in the areas of employment, housing, and public accommodations. As the legislature gets bogged down over unnecessary bills like the Pastor Protection Act and acutely damaging bills concerning adoptions by gay people and restroom use by transgender people, the Competitive Workforce Act gets left in the dust. All Floridians deserve a fair chance to live, work, and provide for their families without fear of being discriminated against simply because of who they are. The Competitive Workforce Act would offer that protection.

For more information, Michelle Richardson, Director of Public Policy at mrichardson@aclufl.org.