

CS/HJR 1471

2011

## House Joint Resolution

A joint resolution proposing an amendment to Section 3 of Article I of the State Constitution to eradicate remnants of anti-religious bigotry from the State Constitution and to end exclusionary funding practices that discriminate on the basis of religious belief or identity.

WHEREAS, Floridians highly value tolerance and liberty in all forms, and

WHEREAS, Floridians strongly support the right of each person to practice religion according to the dictates of his or her own conscience, and

WHEREAS, Florida is a religiously diverse state with over a quarter of its population identifying as Roman Catholic and with the largest Jewish population in the Southern United States, and

WHEREAS, the public policy of the State of Florida is to support the protection and advancement of religious liberty, and

WHEREAS, Florida's Blaine Amendment language, the last sentence of Article I, Section 3, of the current State Constitution, was originally adopted in 1885 following a failed attempt to adopt similar language in the United States Constitution, and

WHEREAS, Florida's Blaine Amendment language was borne in an atmosphere of, and exists as a result of, anti-Catholic bigotry and animus, and

WHEREAS, the genesis of Florida's Blaine Amendment language reflects an attempt to stifle and disrupt the constitutional

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28 | rights and development of the emerging Catholic minority  
29 | community in America, and

30 |       WHEREAS, the Constitutional Convention that adopted the  
31 | Constitution of 1885 created a more religiously and racially  
32 | discriminatory document than its predecessor, with the first  
33 | inclusion of the Blaine Amendment language alongside the racist  
34 | separate-but-equal doctrine, and

35 |       WHEREAS, the racist separate-but-equal doctrine has been  
36 | duly abolished and all vestiges thereof rightfully removed from  
37 | the State Constitution, and the people of Florida should now be  
38 | given the opportunity to remove the discriminatory Blaine  
39 | Amendment language, a lasting stain upon the state's history  
40 | that stands in opposition to the people's will and counter to  
41 | our time-honored traditions of religious liberty and freedom,  
42 | and

43 |       WHEREAS, religiously affiliated hospitals, schools,  
44 | adoption agencies, and other benevolent institutions have been  
45 | of longstanding service to the people of Florida and have  
46 | provided numerous services to those in need, and

47 |       WHEREAS, until 2004, no Florida court had ever applied the  
48 | State Constitution in a reported case in a manner more  
49 | restrictive of the use of state funds than have federal courts  
50 | applying the Establishment Clause of the First Amendment to the  
51 | United States Constitution, and

52 |       WHEREAS, Florida's Blaine Amendment is currently being  
53 | enforced against religious groups and organizations of all  
54 | denominations, stifling their development and inhibiting the  
55 | free exercise of religious liberty, and

56 WHEREAS, courts have prohibited religiously affiliated  
 57 schools from participating in state-funded education programs  
 58 and religious organizations from participating in state-funded  
 59 services to incarcerated persons, and

60 WHEREAS, such application of the Blaine Amendment language  
 61 jeopardizes the participation of religiously affiliated  
 62 hospitals and other benevolent institutions in Medicaid and  
 63 other public programs, and

64 WHEREAS, those institutionalized in hospitals and prisons  
 65 are among those most in need of spiritual nurture and  
 66 encouragement as well as being often dependent on state-  
 67 subsidized human services, and

68 WHEREAS, the enforcement of the Blaine Amendment language,  
 69 barring religious organizations access to state funding and  
 70 state-funded business on an equal basis with nonreligious  
 71 organizations, violates the founding principles of the United  
 72 States and this state as contained in the Declaration of  
 73 Independence and the Preamble to the State Constitution, and

74 WHEREAS, the Establishment Clause of the First Amendment to  
 75 the United States Constitution does not require any such  
 76 absolute restrictions on the use of public funds, and

77 WHEREAS, the Establishment Clause permits the use of public  
 78 funds in religious hospitals, schools, and other benevolent  
 79 institutions, and

80 WHEREAS, the Establishment Clause and the religion clauses  
 81 of the State Constitution, other than the Blaine Amendment, are  
 82 intended to protect the religious liberties and sentiments of  
 83 Floridians without inhibiting the free exercise of religion, and

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84 WHEREAS, their religious convictions motivate some  
 85 Floridians to establish religiously affiliated schools,  
 86 hospitals, adoption agencies, and other benevolent institutions  
 87 that provide valuable services to society and to receive or  
 88 utilize such valuable services from these benevolent providers,  
 89 which could be subsidized by the state through public programs,  
 90 and

91 WHEREAS, it is not necessary to prohibit all economic  
 92 relations with religious organizations and providers in order to  
 93 prevent an establishment of religion that would infringe on the  
 94 religious liberties of Floridians, and

95 WHEREAS, in 2000, a plurality of the United States Supreme  
 96 Court acknowledged that this "doctrine, born of bigotry, should  
 97 be buried now," and

98 WHEREAS, it is necessary to amend the State Constitution to  
 99 correct the aforementioned disconnect between the true  
 100 sentiments and principles of Floridians and the discriminatory  
 101 origins, intentions, and present application of the Blaine  
 102 Amendment, in furtherance of a deeply rooted commitment to  
 103 freedom and liberty, where rights and restrictions ought to be  
 104 based on the merits of one's words and actions rather than on  
 105 religious affiliation or identity, NOW, THEREFORE,

106  
 107 Be It Resolved by the Legislature of the State of Florida:

108  
 109 That the following amendment to Section 3 of Article I of  
 110 the State Constitution is agreed to and shall be submitted to  
 111 the electors of this state for approval or rejection at the next

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112 general election or at an earlier special election specifically  
 113 authorized by law for that purpose:

114 ARTICLE I

115 DECLARATION OF RIGHTS

116 SECTION 3. Religious freedom.—There shall be no law  
 117 respecting the establishment of religion or prohibiting or  
 118 penalizing the free exercise thereof. Religious freedom shall  
 119 not justify practices inconsistent with public morals, peace, or  
 120 safety. Except to the extent required by the First Amendment to  
 121 the United States Constitution, neither the government nor any  
 122 agent of the government may deny to any individual or entity the  
 123 benefits of any program, funding, or other support on the basis  
 124 of religious identity or belief. No revenue of the state or any  
 125 ~~political subdivision or agency thereof shall ever be taken from~~  
 126 ~~the public treasury directly or indirectly in aid of any church,~~  
 127 ~~sect, or religious denomination or in aid of any sectarian~~  
 128 ~~institution.~~

129 BE IT FURTHER RESOLVED that the following statement be  
 130 placed on the ballot:

131 CONSTITUTIONAL AMENDMENT

132 ARTICLE I, SECTION 3

133 RELIGIOUS FREEDOM.—Proposing an amendment to the State  
 134 Constitution to provide, consistent with the United States  
 135 Constitution, that no individual or entity may be denied, on the  
 136 basis of religious identity or belief, governmental benefits,  
 137 funding, or other support and to delete the prohibition against  
 138 using revenues from the public treasury directly or indirectly  
 139 in aid of any church, sect, or religious denomination or in aid

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140 | of any sectarian institution. |