

ENROLLED
CS/HJR 1471

2011 Legislature

1 House Joint Resolution

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

7
8 WHEREAS, Floridians highly value tolerance and liberty in
9 all forms, and

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

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

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

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

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

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

ENROLLED
CS/HJR 1471

2011 Legislature

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

ENROLLED
CS/HJR 1471

2011 Legislature

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

ENROLLED
CS/HJR 1471

2011 Legislature

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

ENROLLED
CS/HJR 1471

2011 Legislature

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

ENROLLED
CS/HJR 1471

2011 Legislature

140 | of any sectarian institution.