

Point of Personal Privilege Remarks as Prepared for Delivery by Senator
Josh McKoon

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Thank you Mr. President. I rise today to speak broadly regarding the subject matter of Senate Bill 377, the Preservation of Religious Freedom Act. I am going to start by just telling you the principle reason I got involved in politics going back to student government has been to give those who were being bullied a voice. Whether that bullying took the form of physical abuse or more recently by the use of money or position in politics to force one's way even when they did not have the best argument, I have tried during my three and a half years in this role to counter that sort of bullying. In many ways this drove my interest in the gift limitation law and other ethics in government initiatives. If the playing field could be leveled I think there would be a better chance for the merit of the idea rather than the identity of its supporter to carry the day. We have certainly seen a lot of bullying, misinformation and downright lying with respect to this issue over the last several days. Before I get into the substance of my remarks, I do want to recognize the work of my friend the Gentleman from the 37th who has carried similar legislation in the House and has

treated the opposition to this common sense proposal with far more restraint than I could manage. He is a credit to this General Assembly and I am proud to serve with him.

I said from this well not long ago that there is a war going on against people of faith in this country and I think the evidence of that war is manifest. From Obamacare's mandate to require religious institutions to provide abortion services to the fact we had to bring forward legislation so school children and those employed in our public schools to be allowed to say "Merry Christmas" or "Happy Hanukkah" evidence abounds that the last group of people in America it is ok to pick on are people of faith. I felt that instead of continuing to deal with these issues in piecemeal, how about providing a defense to people of every faith who face a government that routinely is hostile toward fundamental religious liberty interests. And so almost a year ago I began to research Religious Freedom Restoration Acts around the country and brought forward Senate Bill 377 which I believe robustly protects Georgians without creating any so called "right to discriminate". There is a very loud but small minority who either wishes to

remain willfully ignorant of the plain language of this legislation or worse is intentionally misleading the public as to what this legislation does.

So let me spend a moment talking about this proposal and why it is needed. A state Religious Freedom Restoration Act is the single most important step we can take as state legislators to comprehensively protect religious freedom. In the absence of these laws, any government action that is not outright persecution of religion is presumptively legal. Under a law like SB 377, the presumption shifts: as President Bill Clinton put it in signing the federal law on which this proposal is modeled “The government should be held to a very high level of proof before it interferes with someone’s free exercise of religion.” In legal terminology, when the government burdens the free exercise of religion, it must show that it has a “compelling government interest” and uses the “least restrictive means” of furthering that interest.

Eighteen states—including all of the states that border Georgia, have passed a similar law. 11 more states have Supreme Court decisions that

apply equivalent protections. Let's talk about how those protections work in the real world.

Several years ago, a city in Texas tried to prevent a pastor from operating a prisoner re-entry program for non-violent offenders out of his church. They threatened him with civil fines and eventually criminal penalties. He eventually won his case before the Texas Supreme Court, relying on a law very similar to this. He would have lost without it.

Last year, a Florida community college had a class assignment about the human experience of revulsion part of which required the students to stomp on a picture of Jesus. One religious student objected...and the university initiated disciplinary proceedings. Not against the teacher, against the student. When his attorneys contacted the school's attorneys, the relevant legal authority was Florida's Religious Freedom Restoration Act. How could the school really have a compelling interest in forcing this student to stomp on a picture of Jesus? The school backed down.

Last year, Father Francisco Nahoe testified before the Nevada legislature on a law similar to this one. One of his parishioners was locked

up on a suspected immigration violation, and Father Nahoe was summarily and totally denied access to pray and counsel this frightened member of his flock. No explanation, no reason, because as he told the committee, the authorities had no legal duty to consider the religious interest at stake.

A final case: a minister in Georgia was told when his church was building a worship center at a new location, there were whispers that the ministry to the less fortunate would bring “the wrong kind of people” into the area. The center was built, but not without a grueling bureaucratic wrestling match. Now, this Act would not give church’s license to locate anywhere, but it would require government to treat houses of worship on an equal basis of secular facilities of similar size and scope.

Three of these four examples didn’t even involve a lawsuit. If you’ve ever dealt with a government bureaucracy, you know they can be stubborn and arbitrary, especially when they hold all the legal cards. This law re-deals the cards: it gives people of faith the right to have government take burdens on their religion seriously. In most cases, this avoids litigation.

All of my examples involve believers who are easy to root for. But what about those who we simply can't root for? Put another way: can someone use this law to evade justice if he says his religious beliefs support discrimination or domestic violence?

No. Absolutely not. We now have a 20 year record with this law in federal and state courts. No bigot and no violent offender has ever evaded justice with these laws. If they had, you would be certain that the law's opponents would bring them to your attention.

This isn't just my opinion. I have on your desks a letter, signed by 14 of the nation's leading First Amendment and religion law legal scholars. They strongly endorse this legislation and rebut the notion that this proposal is somehow "different" from the other similar laws in ways that will lead to injustice.

As these scholars make clear, very few of the laws you ever consider will be as much of a known quantity as this one. No human-made law will ever achieve perfect justice. But if one of you says what if this or that

happens, read the letter before you and ask yourself has your hypothetical ever happened anywhere as a result of these laws?

I want to put on the record today that to allay any further concerns that I believe are unwarranted as to the current language of the bill—I am willing to offer a floor amendment adjusting the language slightly to comport more closely with the federal RFRA which I believe would resolve any remaining objections members may have.

I can't promise you that every exercise of religion this law protects is one you'll agree with. But that's a point in the law's favor. We need to protect the freedom of religion for the same reason we protect freedom of speech: these rights don't need protection until they are unpopular with someone who has the power to punish.

This impacts members of all faiths. In our diverse nation, everyone is a religious minority in one place or another.

All of our great social movements—from women's suffrage to the civil rights movement—were led by people of faith whose convictions were initially unpopular until they ended up on the right side of history.

Protecting—not punishing—religious freedom—is on the right side of history. SB 377 is the single best way you can accomplish that. Shame on us if we allow this sacred body to be bullied into inaction on this vitally important issue—to protect the first freedom of Georgians—the freedom that brought so many of our forebearers to these shores in the first place, the freedom to exercise our faith without intrusion from the government.

Thank you Mr. President I yield the well.