



Republicans plan to bring back religious freedom bill

Jessica Yarvin

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Congressional Republicans are planning to reintroduce a bill aimed at protecting religious groups and individuals who oppose same-sex marriage.

Sen. Mike Lee (R-Utah) and Rep. Raul Labrador (R-Idaho) are planning to reintroduce an “updated version” of the First Amendment Defense Act in the House and Senate, an aide to Lee said Friday.

The bill, which was first proposed in 2015, would limit the federal government’s ability to punish individuals and organizations who oppose same-sex marriage on religious grounds. Supporters say the bill protects religious freedom, while critics have argued it opens the door for discrimination against same-sex couples.

Lee’s spokesman, Conn Carroll, said the Utah Republican and Labrador did not have a timeline for when they plan to reintroduce the legislation, known as FADA.

“We plan to reintroduce an updated version of the bill, but no date has been set yet,” Carroll said.

Dan Popkey, Labrador’s spokesman, said his boss planned to introduce the bill “early this year.”

The bill, as introduced in 2015, would block the federal government from taking punitive action, like issuing fines, to people and organizations who discriminate based on a “religious belief or moral conviction,” according to language from the bill introduced two years ago.

That bill included provisions protecting people who believe that “sexual relations are properly reserved” for married couples consisting of a man and a woman.

It’s not clear how Republicans plan to update that legislation, if at all.

The measure got 172 Republicans co-sponsors in the House. The Senate bill drew 37 Republican co-sponsors, including Lee and Sen. Ted Cruz (R-Texas).

The proposal received a hearing in the House but not in the Senate, and died at the end of the congressional session last year. Supporters acknowledged the bill wouldn't pass while President Barack Obama was in office.

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But Lee and Cruz have both expressed hope that the bill will gain new momentum in the 115th Congress. President Donald Trump endorsed the bill last September, raising the prospects that he would sign it into law if it reaches his desk.

Yet despite Republican control of Congress and the White House, some conservatives said they didn't think the bill would be a slam dunk.

The uncertainty around same-sex marriage policy and LGBTQ rights under President Trump was underscored earlier this week, when the White House announced that it would enforce an executive order signed by President Obama that protects gay and transgender people working for federal contractors.

“President Trump continues to be respectful and supportive of LGBTQ rights, just as he was throughout the election,” the White House said in a statement. The statement noted that President Trump was “proud to have been the first ever GOP nominee to mention the LGBTQ community in his nomination acceptance speech.”

When it comes to the religious freedom bill, Walter Olson, a senior fellow at the right-leaning Cato Institute's Center for Constitutional Studies, said the bill goes further than other religious freedom laws that states, like Mississippi and Indiana have attempted to pass in recent years.

“[FADA] tries to do a lot of stuff that has never been done anywhere,” Olson said. “It is very radical, and would startle and scare middle-of-the-road Republicans.”

Olson argued that the law, as it was originally written, would protect people like Kim Davis, the Kentucky county clerk who grabbed headlines in 2015 when she denied a marriage license to a same-sex couple. The bill also extended protection to pharmacists who refuse to fill birth control prescriptions for unmarried women if they cite that “sexual relations are properly reserved to such a marriage.”

Because of those high-profile cases, some said parts of the legislation that would protect religious groups from losing federal funding and carrying out services that have nothing to do with marriage were overlooked.

Critics have characterized FADA as “a bill that encourages or allows discrimination,” said Richard Garnett, a law professor at the University of Notre Dame. But it also “allows religious institutions to continue participating in charitable public service,” Garnett added.

Still, progressive groups that opposed the original are gearing up for a new fight. The proposal “would legalize state sanctioned discrimination,” the Human Rights Campaign wrote in a memo last December.