



SJR 4: A Poor Solution in Search of a Problem

Amendment Undercuts Careful Protections in Existing Texas Religious Freedom Law

SJR 4 is essentially a heavily modified version of the Religious Freedom Restoration Act (RFRA), which the Legislature passed in 1999 with overwhelming bipartisan support (unanimously in the Senate and by non-record vote in the House). Texas RFRA has worked well for over a decade, making this constitutional amendment unnecessary and potentially problematic.

SJR 4 is NOT simply a codification of the Texas RFRA. It is different in many significant respects.

- Language is much broader than the Texas RFRA -- so broad, in fact, that it would undermine the carefully crafted provisions in RFRA, including important civil rights protections.
- Texas RFRA bars laws that "substantially burden" religious freedom. SJR 4 bars laws that simply "burden" religious freedom, lowering the standard so much as to open state and local governments almost certainly to extensive and expensive litigation.

SJR 4 could lead to a wide array of unintended consequences.

- SJR 4 could lead courts to overturn measures that protect military funerals from disruption by politically motivated religious protesters such as those from Fred Phelps' Westboro Baptist Church.
- SJR 4 could threaten reasonable zoning laws that protect residential neighborhoods by directing the construction of public and commercial buildings to nearby areas
- SJR 4 could substantially unsettle case law regarding existing civil rights protections in law.
- SJR 4 could lead to court challenges against security regulations and other policies in prisons that could be judged a "burden" to prisoners' religious practices.
- Some anti-abortion groups have even expressed concerns that SJR 4 could threaten laws intended to restrict abortion services.