

HOUSE BILL NO. HB0098

Government Nondiscrimination Act.

Sponsored by: Representative(s) Winters and Steinmetz and  
Senator(s) Barnard and Hicks

A BILL

for

1 AN ACT relating to administration of government;  
2 establishing the Government Nondiscrimination Act as  
3 specified; providing for the protection of the free  
4 exercise of religious beliefs and moral convictions;  
5 providing for judicial relief; amending the Wyoming  
6 Governmental Claims Act; providing definitions; and  
7 providing for an effective date.

8

9 *Be It Enacted by the Legislature of the State of Wyoming:*

10

11 **Section 1.** W.S. 9-21-101 through 9-21-105 are created  
12 to read:

13

14

CHAPTER 21

15

GOVERNMENT NONDISCRIMINATION ACT

1

2           **9-21-101. Short title.**

3

4 This act may be cited as the "Government Nondiscrimination  
5 Act."

6

7           **9-21-102. Definitions.**

8

9           (a) As used in this act:

10

11                   (i) "Benefit program" means any program  
12 administered or funded by the state of Wyoming, or by any  
13 person on behalf of the government of this state, that  
14 provides cash, payments, grants, contracts, loans or  
15 in-kind assistance;

16

17                   (ii) "Government of this state" means the state  
18 of Wyoming or any of its branches, agencies, departments,  
19 boards, instrumentalities, institutions or political  
20 subdivisions and includes any person acting under color of  
21 state law;

22

1           (iii) "Person" includes an individual,  
2 partnership, corporation, joint stock company or any other  
3 association or entity, public or private, provided that  
4 "person" does not include:

5

6           (A) A state employee acting within the  
7 scope of employment;

8

9           (B) A hospital, clinic, hospice, nursing  
10 home or other medical or residential custodial facility  
11 with respect to visitation, recognition of a designated  
12 representative for health care decision making or the  
13 provision of emergency medical treatment necessary for  
14 treatment of an illness or injury.

15

16           **9-21-103. Protection of the free exercise of**  
17 **religious beliefs and moral convictions.**

18

19           (a) Notwithstanding any other provision of law, the  
20 government of this state shall not take any discriminatory  
21 action against a person, wholly or partially on the basis  
22 that the person believes or acts in accordance with a  
23 religious belief or moral conviction that:

1

2 (i) Marriage is or should be recognized as the  
3 union of one (1) man and one (1) woman; or

4

5 (ii) That "man" and "woman" mean an individual's  
6 biological sex as objectively determined by anatomy and  
7 genetics at the time of birth.

8

9 (b) As used in this section "discriminatory action"  
10 means any action taken by the state to:

11

12 (i) Alter in any way the tax treatment of, or  
13 cause any tax, penalty or payment to be assessed against,  
14 or deny, delay or revoke an exemption from taxation of, any  
15 person referred to in subsection (a) of this section;

16

17 (ii) Withhold, reduce, exclude, terminate or  
18 otherwise deny any state grant, contract, subcontract,  
19 cooperative agreement, loan, license, certification,  
20 accreditation, employment or other similar position or  
21 status from or to any person referred to in subsection (a)  
22 of this section;

23

1           (iii) Withhold, reduce, exclude, terminate or  
2 otherwise deny any benefit under a benefit program from or  
3 to any person referred to in subsection (a) of this  
4 section;

5

6           (iv) Disallow, deny or otherwise make  
7 unavailable any deduction for state tax purposes any  
8 charitable contribution made by or to a person referred to  
9 in subsection (a) of this section;

10

11           (v) Withhold, reduce, exclude, terminate or  
12 otherwise deny access or an entitlement of a person  
13 referred to in subsection (a) of this section to any state  
14 property, facility, educational institution, charitable  
15 fundraising campaign or speech forum, including  
16 traditional, limited and nonpublic forums; or

17

18           (vi) Otherwise discriminate against any person  
19 referred to in subsection (a) of this section.

20

21           (c) The government of this state shall consider  
22 accredited, licensed or certified for purposes of state law  
23 any person who would be accredited, licensed or certified,

1 respectively, but for a determination against the person  
2 wholly or partially on the basis that the person believes  
3 or acts in accordance with a religious belief or moral  
4 conviction that marriage is or should be recognized as the  
5 union of one (1) man and one (1) woman.

6

7 **9-21-104. Judicial relief.**

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9 (a) A person may assert a violation or attempted  
10 violation of this act as a claim or defense in a judicial  
11 or administrative proceeding and if successful may obtain  
12 compensatory damages, injunctive relief, declaratory relief  
13 or any other appropriate relief, together with costs and  
14 attorney's fees against the state. Any payment under this  
15 section shall not exceed the limits provided by W.S.  
16 1-39-118.

17

18 (b) Notwithstanding any other provision of law, an  
19 action under this section may be commenced, and relief may  
20 be granted, without regard to whether the person commencing  
21 the action has sought or exhausted available administrative  
22 remedies.

23

1           (c) The attorney general may bring an action for  
2 injunctive or declaratory relief against any agency,  
3 instrumentality or political subdivision of this state to  
4 enforce compliance with this act. Nothing in this  
5 subsection shall be construed to deny, impair or otherwise  
6 affect any right or authority of the attorney general, the  
7 state, or any agency, officer or employee of this state,  
8 acting under any law other than this subsection, to  
9 institute or intervene in any proceeding.

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11           **9-21-105. Rules of construction.**

12

13           (a) This act shall be construed in favor of a broad  
14 protection of free exercise of religious beliefs and moral  
15 convictions, to the maximum extent permitted by the terms  
16 of this act and the constitutions of this state and the  
17 United States.

18

19           (b) The protection of free exercise of religious  
20 beliefs and moral convictions afforded by this act are in  
21 addition to the protections provided under federal law,  
22 state law and the state and federal constitutions. Nothing  
23 in this act shall be construed to preempt or repeal state

1 law that is equally or more protective of free exercise of  
2 religious beliefs and moral convictions. Nothing in this  
3 act shall be construed to narrow the meaning or application  
4 of any state or federal law protecting free exercise of  
5 religious beliefs and moral convictions. Nothing in this  
6 act shall be construed to prevent the state or federal  
7 government from providing, either directly or through a  
8 person not seeking protection under this act, any benefit  
9 or service authorized under law.

10  
11 **Section 2.** W.S. 1-39-104(a) and 1-39-116(a) are  
12 amended to read:

13  
14 **1-39-104. Granting immunity from tort liability;**  
15 **liability on contracts; exceptions.**

16  
17 (a) A governmental entity and its public employees  
18 while acting within the scope of duties are granted  
19 immunity from liability for any tort except as provided by  
20 W.S. 1-39-105 through 1-39-112 and limited by W.S.  
21 1-39-121. Any immunity in actions based on a contract  
22 entered into by a governmental entity is waived except to  
23 the extent provided by the contract if the contract was



1 within the powers granted to the entity and was properly  
2 executed and except as provided in W.S. 1-39-121. The  
3 claims procedures of W.S. 1-39-113 apply to contractual  
4 claims against governmental entities. Nothing in this  
5 section shall be deemed to provide immunity from liability  
6 for a violation of the Government Nondiscrimination Act,  
7 W.S. 9-21-101 through 9-21-105, and the claims procedures  
8 of W.S. 1-39-113 shall not apply to any claim for judicial  
9 relief under W.S. 9-21-104(a) or (b).

10  
11 **1-39-116. Exclusiveness of remedy.**

12  
13 (a) Except as otherwise provided in W.S. 9-21-104(a)  
14 and (b), the remedy against a governmental entity as  
15 provided by this act is exclusive, and no other claim,  
16 civil action or proceeding for damages, by reason of the  
17 same transaction or occurrence which was the subject matter  
18 of the original claim, civil action or proceeding may be  
19 brought against the governmental entity. No rights of a  
20 governmental entity to contribution, indemnity or  
21 subrogation shall be impaired by this section. Nothing in  
22 this section prohibits any proceedings for mandamus,  
23 prohibition, habeas corpus, injunction or quo warranto.

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2       **Section 3.** This act is effective July 1, 2016.

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(END)