Religious Freedom | Arizona Religious Freedom Laws

Overview

Religious freedom is our first freedom guaranteed by the United States Constitution. Yet, in recent years, religious freedom has come under attack, and our freedom has been slowly whittled away. Protecting and upholding religious freedom in our state laws is as important as ever.

Since 1995, Center for Arizona Policy (CAP) has supported 14 bills that have been signed into law that promote and preserve religious freedom. For many of the protections listed below, CAP has played a leading role in seeing them enacted into law. Upholding religious freedom is a top priority for CAP and our supporters across the state.

Over 350 Arizona statutes address religion in some way, although not all are directly protecting religious freedom. Some specifically ensure that the government does not hinder religious practice, while others exempt religious entities from requirements that might interfere with their church doctrine or structure. Here is a summary of the current laws on the books in Arizona that protect religious freedom.

Constitutional Provisions

Protecting the Practice of Religion

- Religious Freedom (Art. 20, sec. 1) – “Perfect toleration of religious sentiment shall be secured to every inhabitant of this state, and no inhabitant of this state shall ever be molested in person or property on account of his or her mode of religious worship, or lack of the same.”

- Oaths (Art. 2, sec. 7) – Oaths shall be administered in the manner most consistent with a person’s conscience.

- No Religious Tests (Art. 2, sec. 12; Art. 11, sec. 7) – No religious qualification can be required for any public office or employment or for admission to a public educational institution. (Note: these sections also contain provisions that limit religious freedom.)

- Property Tax Exemption (Art. 9, sec. 2) – The property of a religious association or institution may be exempted from property tax.
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Statutory Provisions

Basic Protection

- **Religious Freedom Restoration Act (A.R.S. §§ 41-1493 through 41-1493.02)** – Protects the free exercise of religion from government interference, unless there is a compelling reason and the government uses the least restrictive means.

Protection for Individuals

- **Parents’ Rights (A.R.S. § 1-602)** – Parents have the right to direct the religious upbringing of their children.
- **Foster Children (A.R.S. § 8-529)** – Foster children have the right to attend religious services (if within their case plan and suitable transportation is available).
- **Prisoners (A.R.S. § 31-206)** – Chaplains shall provide moral and religious instruction for prisoners.
- **Doctors and Other Medical Personnel (A.R.S. §§ 32-3212; 36-112; 36-2154; 36-3205)** – Healthcare professionals are not required to provide services that conflict with their religious beliefs, including abortion, abortion-inducing medication, emergency contraception, end of life care, and collection of umbilical cord blood.
- **Patients (A.R.S. §§ 36-114, 36-184, 36-754, 36-787, 36-2208)** – State and county health departments may not impose or require treatment against a person’s religious beliefs as long as sanitary, preventative, and quarantine measures are followed to protect against the spread of disease. A person also is not required to be transported or provided emergency medical treatment if the person objects on religious grounds.
- **Mental Health Patients (A.R.S. §§ 36-514, 36-520)** – Patients in state mental health facilities are still entitled to free exercise of religion, as long as it does not interfere with the operation of the facility.
- **Licensed Professionals (A.R.S. § 41-1493.04)** – The state may not suspend or revoke a person’s occupational license, registration, or certification because the person refuses to provide a service that conflicts with their religious beliefs or because of the person’s expression of religious beliefs.

Protection for Churches and Religious Organizations

- **Buffer Zones (A.R.S. §§ 4-207, 13-1422)** – The law prohibits issuance of new liquor licenses within 300 feet of a church or school and prohibits locating a sexually oriented business (e.g., a strip club) within one-quarter mile of a church or school.
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- **Liquor Use (A.R.S. §§ 4-226, 4-244, 4-249, 28-3309)** – Churches are exempt from most laws regulating liquor, and underage consumption of alcohol is permitted as part of bona fide religious services.

- **Corporate Structure (A.R.S. §§ 10-3180, 10-3621, 10-3720, 10-3810, 10-3830, 10-3842, 10-3864, 10-11202, 10-11430, 10-11602, 10-11901 through 10-11908, 14-10405, 20-864, 44-1843)** – The law exempts religious organizations from certain provisions dictating corporate governance and structure (including termination and suspension of corporate members and directors, conflict of interest policies, preparation of financial statements, etc.); also allows certain structures to be created for religious purposes (sole corporation, charitable trust, and fraternal benefit society).

- **Protecting Clergy-Parishioner Relationships (A.R.S. §§ 13-3620, 13-4062)** – Confession to a member of the clergy is privileged and may be exempt from child abuse reporting requirements if reasonable and necessary in the concepts of the religion.

- **Political Activity (A.R.S. § 16-922)** – Churches are not required to register as a political committee for engaging in an insubstantial amount of political activity (as permitted by the IRS).

- **Contraceptive Mandate Exemption (A.R.S. §§ 20-826, 20-1057.08, 20-1402, 20-1404, 20-2329)** – Churches and religiously-affiliated employers are not required to provide health insurance coverage for contraception and sterilization if doing so would violate their religious beliefs or tenets.

- **Tax Exemptions (A.R.S. §§ 23-615, 28-5432, 42-5069, 42-5070, 42-5703, 42-11109, 42-11132.01, 42-12009, 43-1201, 43-1215, 43-1242)** – Churches and religious organizations are exempt from income tax. Church property is exempt from property tax if it is owned by the church and used primarily for religious worship. Property that is leased by a church and used primarily for religious worship may be reclassified to be assessed at a 1% property tax rate. Churches and church-run schools and preschools are exempt from unemployment tax. Some transactions involving churches are exempt from sales tax.

- **Exemptions from Nondiscrimination Laws (A.R.S. §§ 41-1462, 41-1491.03, 41-1491.14, 41-1492.07)** – Churches and religious organizations are permitted to act in accordance with religious beliefs in the areas of public accommodations, employment, and housing – doing so is not considered discrimination.

- **Land Use (A.R.S. § 41-1493.03)** – This provision ensures that zoning and land use laws treat religious assemblies (churches) the same as nonreligious assemblies.

**Education-Related Rights**

- **Parental Rights (A.R.S. § 15-102)** – The law allows parents to opt their child out of any school assignment or activity that conflicts with their religious beliefs.
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- **K-12 Students (A.R.S. §§ 15-110, 15-843, 15-1042)** – Protects the constitutional rights of public school students to pray, engage in religious activities, and express religious beliefs. Pupil disciplinary rules may not be based on religion, and student recordkeeping systems may not include religious affiliation.

- **Teachers (A.R.S. § 15-541)** – Religious (or political) beliefs are not good cause for suspension or dismissal of a certified teacher unless the beliefs are in violation of the oath of a teacher. (Note that current court interpretations of the Constitution and a separate statute limit teachers’ rights to speak about religious issues – see CAP’s Policy Page regarding Freedom of Religion for Teachers and Professors for further explanation.)

- **Bible Class (A.R.S. § 15-717.01)** – Schools may offer an elective course on the history and literature of the Bible and its influence on Western culture.

- **Middle School Equal Access (A.R.S. § 15-720)** – Religious student groups of middle school students may use school facilities on the same terms as non-religious student groups (federal law provides the same protection to high school students).

- **Release Time (A.R.S. § 15-806)** – School districts may allow students to leave school for religious purposes or religious instruction with parental permission.

- **Lease of School Property (A.R.S. § 15-1105)** – School districts may lease property to outside groups and may not deny use of their facilities to groups based on their religious beliefs or association.

- **University and Community College Students (A.R.S. §§ 15-1861 through 15-1864)** – Protects the constitutional rights of university and community college students to pray, engage in religious activities, and express religious beliefs; prohibits religious student groups from being denied access to campus facilities on the basis of their religious beliefs or practices; permits a student in counseling, social work, or psychology programs to refuse to counsel a client about goals that conflict with the student’s religious beliefs.

- **University and Community College Faculty (A.R.S. § 15-1896)** – Employment decisions about university or community college faculty and staff may not be based on religious (or political) beliefs.

**Prohibiting Discrimination on the Basis of Religion**

- **Private Entities May Not Discriminate on the Basis of Religion** – The following may not discriminate against a person on the basis of religion:
  - Car insurers (A.R.S. §§ 20-1631, 20-1632.01)
  - Insurance underwriters (A.R.S. § 20-2110)
  - Real estate covenants (A.R.S. § 32-2107.01)
  - Domestic violence shelters (A.R.S. § 36-3005)
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- Providers of public accommodations (A.R.S. § 41-1442)
- Employers (A.R.S. § 41-1463)
- Landlords and other housing providers (A.R.S. §§ 41-1495.05 through 41-1495.21)

Government May Not Discriminate on the Basis of Religion – The government may not discriminate against a person on the basis of religion, including in the following contexts:

- Benefits programs that require proof of citizenship (A.R.S. §§ 1-501, 1-502, 15-232, 15-1825, 46-140.01)
- Foster parents (A.R.S. § 8-530)
- Family literacy programs (A.R.S. § 15-191.02)
- Admission to the Arizona State School for the Deaf and Blind (A.R.S. § 15-1342)
- Workers’ compensation and long-term disability benefits (A.R.S. §§ 23-1601.01, 38-797.07) – A person does not lose benefits if he or she chooses to rely solely on prayer and spiritual healing.
- State personnel system (A.R.S. § 41-742)
- Government contracts (A.R.S. § 41-3751) – Public bodies shall contract for goods and services without discriminating against religious organizations because of their beliefs or practices.
- Voting (A.R.S. § 41-1421)
- Child care assistance (A.R.S. § 46-803)

Licensing Requirements

- Exemptions for Individuals – The following exemptions are provided to accommodate religious beliefs:

  - Faith healers (A.R.S. §§ 32-1421, 32-1631, 32-2911, 32-3102) – Faith healers are exempt from medical licensing, and medical licensing laws are not intended to interfere with religious practice or prayer.
  - Real estate licensee (A.R.S. § 32-2123) – An applicant for a real estate license may use a number other than his or her Social Security number if the applicant has a bona fide religious belief against having a Social Security number.
  - Physician assistant (A.R.S. § 32-2523) – Renewal deadline may be extended if licensee was on a religious mission.
  - Clergy (A.R.S. § 32-3271) – The counseling activities of clergy are exempt from behavioral health licensing.
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- Sign language interpreters (A.R.S. § 36-1971) – Sign language interpreters who interpret at religious services are not required to be licensed.

**Exemptions for Churches and Religious Organizations** – The following exemptions are provided to prevent interference with governance of religious organizations:

- Debt management companies (A.R.S. § 6-702) – Religious organizations that provide counseling to their own members (and meet other minimal requirements) are exempt from licensing.
- Cemeteries (A.R.S. § 32-2194) – Church cemeteries are not subject to state regulations.
- Private postsecondary institutions (A.R.S. § 32-3022) – A religious institution that grants religious degrees solely for religious purposes does not need to be licensed.
- Religious residential institution (A.R.S. § 33-1308) – Residence at a religious residential institution is not subject to the rules of Residential Landlord Tenant Act.
- Religious home or institution (A.R.S. § 36-402) – A religious home or institution that relies solely on spiritual means to care for residents is not subject to licensing as a health care institution.
- Sunday schools (A.R.S. §§ 36-884, 36-897.04) – Sunday schools are not required to be licensed as day care centers.

**Other Exemptions and Defenses**

- Slaughtering Rules (A.R.S. §§ 3-2016, 3-2162) – Exemptions from slaughtering rules for religious rituals of Jewish faith or similar rituals as well as exemptions for handling poultry in accordance with recognized religious dietary laws.
- Peyote (A.R.S. § 13-3402) – A person who uses peyote for bona fide religious practice has a defense from criminal prosecution.
- Tobacco, Vapor, and Shisha (A.R.S. § 13-3622) – A person who provides tobacco, vapor, or shisha to a minor as part of a bona fide religious practice has a defense from criminal prosecution.
- Care of Vulnerable Adult (A.R.S. §§ 14-5310.01, 46-451) – It is not abuse or neglect of a vulnerable adult to rely solely on religious method of healing in lieu of medical treatment.
- Smoking (A.R.S. § 36-601.01) – Exemption from smoking ban for Native American religious services.
Talking Points

- Arizona’s laws on religious freedom recognize the importance of protecting and upholding our first freedom. Laws like the Students’ Religious Liberties Act and Rights of Conscience for Licensed Professionals ensure that religious freedom is specifically protected in Arizona law.

- Religious freedom extends beyond the four walls of a church building. Arizona law recognizes that citizens must be able to practice their religious beliefs in every aspect of their lives.

Conclusion

Arizona has a strong record for protecting religious freedom and continues to be a leader in the nation. While there is still much work to be done to fully protect religious freedom, Center for Arizona Policy remains committed to seeing this battle through to the end.

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