

POLICY PAGES

Arizona Religious Liberty Laws 2023

September

OVERVIEW

Religious liberty is our first freedom guaranteed by the United States Constitution. Yet, in recent years, religious freedom has come under attack. Protecting and upholding religious freedom in our state laws is as important as ever. Since 1995, Center for Arizona Policy (CAP) has supported 24 bills that have been signed into law that promote and preserve religious freedom.

Over 350 Arizona statutes address religion in some way, although not all directly protect religious freedom. Some laws 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. The policy page provides a summary of the current laws, both constitutional and statutory, in Arizona that protect religious freedom.

ANALYSIS

CONSTITUTIONAL PROVISIONS

- **Religious Freedom** ([Art. 20, sec. 1](#)) – All inhabitants of Arizona have a right to perfect toleration of religious sentiment and cannot be bothered in their person, property, or on account of their mode of religious worship, or lack of worship.
- **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, for jury or witness service, 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 legislature may exempt the property of a religious association or institution from taxation.



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STATUTORY PROVISIONS

Basic Protection

- **Religious Freedom Restoration Act** (A.R.S. §§ [41-1493](#), [-1593.01](#), [-1493.02](#)) – States that the free exercise of religious is a fundamental right and 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' Bill of Rights** ([A.R.S. §§ 1-602](#)) – Parents have the right to direct the moral and religious training 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).
- **Foster and Adoptive Parents** ([A.R.S. § 8-921](#)) – State government may not take discriminatory action against a foster or adoptive parent on the basis that the person guides, instructs, or raises a child, or intends to guide, instruct, or raise a child based upon, or in a manner consistent with, a religious belief or exercise of religion. State government may consider whether a person shares the same religion or faith tradition as a foster or adoptive child when considering placement of the child, to prioritize placement with a person of the same religion or faith tradition.
- **Prisoners** ([A.R.S. § 31-206](#)) – Chaplains shall provide moral and religious instruction to prisoners.
- **Doctors and Other Medical Personnel** (A.R.S. §§ [32-3212](#), and [36-112](#), [-1322](#), [-2154](#), [-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](#), [-184](#), [-407.01](#), [-407.02](#), [-787](#), [-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. A patient has the right to see clergy in-person at a hospital if the hospital's visitation policy allows in-person visitation of any kind; otherwise, the hospital must facilitate a virtual clergy visit. A resident of a living center, assisted living facility, hospice, nursing care institution, or residential care institution has the right to see clergy in-person if the institution's visitation policy allows in-person visitation of any kind, even during a state of emergency.
- **Mental Health Patients** (A.R.S. §§ [36-514](#), [-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. A person is exempt from a court-ordered mental health evaluation if the person is being treated by "prayer or spiritual means alone in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner of that church or denomination" and is not a risk of danger to self or others.

- **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, refuses to affirm a statement or oath contrary to sincerely held religious beliefs, expresses religious belief in a professional context, provides faith-based professional services, or makes business decisions guided by religious beliefs.

Protection for Churches and Religious Organizations

- **Buffer Zones** ([A.R.S. § 13-1422](#)) – Prohibits locating a sexually oriented business (*e.g.*, a strip club) within one-quarter mile of a church or school.
- **Liquor Use** (A.R.S. §§ [4-226](#), [-244](#), [-249](#), and [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](#), [-3621](#), [-3720](#), [-3810](#), [-3830](#), [-3842](#), [-3864](#), [-11202](#), [-11430](#), [-11602](#), [-11901](#) through [-11908](#), and [14-10405](#), [20-864](#), [44-1843](#)) – 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](#), [-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 That concepts of the religion. A clergy member cannot be examined as a witness regarding a confession made to the clergy unless the person making the confession consents.
- **Political Activity** (A.R.S. §§ [16-901](#), [-905](#)) – A religious organization, assembly, or institution is not considered to be organized for the primary purpose of influencing elections, and does not need 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](#), [-1057.08](#), [-1402](#), [-1404](#), [-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.
- **Off-Label Health Care Exemption** ([A.R.S. § 32-3221](#)) Religiously-affiliated health care institution may limit how employees advise or educating patients about health care services that violate the entity’s sincerely-held religious beliefs.
- **End-of-life Issues** (A.R.S. §§ [36-1321](#), [-1322](#), [-1323](#)): The law prohibits work-related discrimination against healthcare institutions that exercise their conscience rights by declining to "provid[e] any health care item or service for the purpose of causing or assisting in causing the death of any individual, such as by assisted suicide, euthanasia or mercy killing."
- **Tax Exemptions** (A.R.S. §§ [23-615](#), [28-5432](#), [42-5069](#), [42-5070](#), [42-5703](#), [42-11109](#), [42-11132.01](#), [42-12009](#), [43-1201](#), [43-1242](#)) – 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, and some transactions involving churches are exempt from sales tax.

- **Exemptions from Nondiscrimination Laws** (A.R.S. §§ [41-1462](#), [-1491.03](#), [-1491.14](#), [-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](#)) – Ensures that zoning and land use laws treat religious assemblies (churches) the same as nonreligious assemblies.
- **Protection of Religious Services During Public Emergencies** (A.R.S. §§ [41-1495](#), [-1495.01](#), [-1495.02](#), [-1495.03](#), [-1495.04](#)) – Religious services are essential operations and may continue to run during a public emergency to the same or greater extent as other businesses or services declared essential. Government may implement neutral health and safety requirements applicable to all essential businesses and services unless the rules substantially burden the ability of a religious service to exercise its faith.
- **Adoption and Foster Care** ([A.R.S. § 8-921](#)) – State government may not take discriminatory action against any individual, religious organization, business, or organization that is involved with foster or adoption care services because the entity provided, or declined to provide, services based on or consistent with the entity's religious belief.

Education-Related Rights

- **Parental Rights** ([A.R.S. § 15-102](#)) – Allows parents to opt their child out of any school assignment or activity that conflicts with their religious beliefs.
- **K-12 Students** (A.R.S. §§ [15-110](#), [-843](#), [-1042](#)) – Protects the constitutional rights of public school students to pray, engage in religious activities, and express religious beliefs in school assignments. 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 (buildings, grounds, busses, and equipment) to outside groups and may not deny use of their facilities to groups based on their religious beliefs or association.
- **Selling or Leasing School Buildings** ([A.R.S. § 15-119](#)) – School districts must allow private schools to negotiate to buy or lease vacant or partially used buildings in the same manner as other buyers/lessees.
- **Private School Zoning** (A.R.S. §§ [9-462.01](#), [11-820.01](#)) – A municipality or county may not adopt or enforce a land use regulation that requires the property on which a private primary or secondary school operates to be larger than one acre.
- **University and Community College Students** (A.R.S. §§ [15-1861](#), [-1862](#), [-1863](#), [-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. See CAP’s Policy Page regarding [Religious Freedom for College Students](#) for further explanation)
- **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](#), [-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](#))
 - Providers of public accommodations ([A.R.S. § 41-1442](#))
 - Employers ([A.R.S. § 41-1463](#))
 - Landlords and other housing providers (A.R.S. §§ [41-1491.05](#) through [-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](#), [46-140.01](#))
 - Foster parents ([A.R.S. § 8-530](#))
 - Issuing special education institutional vouchers ([A.R.S. § 15-1204](#))
 - Classes for adults ([A.R.S. § 15-232](#))
 - 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. §§ [23-1061.01](#), [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](#))
- Childcare 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](#), [-1631](#), [-2911](#), [-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.
- **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](#), [-2162](#)) – Exemptions from slaughtering rules for religious ritual of Jewish faith or similar ritual and 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.
- **Arizona lawmakers have strengthened religious protections in the face of growing hostility toward religion.** It is vital that we know our rights and practice them as efforts to diminish and disparage them continue.

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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