

FREEDOM FROM RELIGION *foundation*

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Statement by Atty. Patrick Elliott

Joint Resolution 38, if enacted, poses substantial problems for the State of Wisconsin.

This change has no regard for how well our religious protections have functioned. The substance of Article 1, Section 18, has been unchanged for 165 years, since Wisconsin's 1848 Constitution. It explicitly protects from interference with rights of conscience. To amend Section 18 permanently, particularly when the amendment is unquestionably vague, is an insult to the founding document of our state.

Supporters of this Constitutional amendment claim that it only is restating current judicial opinions. This is not true. The wording in the Amendment is expansive. It turns a shield into a sword. A protection is now something that can be wielded against others. The Amendment includes any purported burden on conscience, not just *substantial burdens*. A person may allege any trivial burden and could violate the law as long as religion was used as a justification. It also covers "indirect burdens," which reaches a wide gamut of lawful state actions. Each person would be a law unto themselves.

The consequences in changing Section 18 will be far reaching. The wording is so broad that any state enforcement, state statutes, and local ordinances would be impacted. Protections from discrimination in places of public accommodation, housing, and employment could be gutted. The expanse of the provision would reach Wisconsin schools, correctional institutions, and law enforcement, including prosecution for possession of illegal drugs.

All areas of public policy would be impacted, including a person's right to obtain medications without obstruction. A pharmacist could claim he has no duty to refer to an alternative provider if the pharmacist objects to filling a doctor's prescription. A student not wanting to take a biology exam would be exempted because of her creationist beliefs.

This amendment is a solution to a problem that does not exist. It changes our original 1848 establishment clause and free exercise protections. The amendment must be rejected.

My name is Robert J. Loggans

- I pastor Calvary Baptist Church in Watertown, Wisconsin
 - We are a member of the Wisconsin Fellowship of Baptist Churches a fellowship of about 100 churches
- I am the president of the Wisconsin Association of Christian Schools
 - Representing 19 Schools across the state; serving 1,200 students

Thank you for allowing me to share my thoughts concerning Senate Joint Resolution 38 also known as the “Religious Liberty Restoration Amendment”

George Mason was a famous American Revolutionary statesman and delegate from Virginia to the Constitutional Convention. He wrote the following on June 12, 1776 *“All Men are equally entitled to the free exercise of Religion, according to the Dictates of Conscience.”* (Federer pg. 422-423)

As citizens of the United States and in particular the state of Wisconsin, we have enjoyed wonderful religious freedom for much of our history. Those I represent definitely appreciate such freedom and have flourished in part because of this freedom.

The right to believe a religion is hollow without the right to practice such religion, therefore our forefathers pushed for full and equal liberty for all. In recent years we have become more and more aware that this constitutional freedom cannot be taken for granted. It is therefore wise to be pro-active in developing a constitutional amendment. It is my opinion that the “Religious Liberty Restoration Amendment” is worthy of unanimous approval by this committee. While it may be true that laws are in place, a constitutional amendment would solidify and clarify such laws. This provides the best protection for religious liberty in Wisconsin compared to relying on case law or the whims of the courts. The United States claims religious liberty as one of our greatest contributions to the world. There are good reasons it is our first freedom. The amendment under consideration prohibits the state of Wisconsin from burdening the right of conscience unless it proves it has a compelling interest, insisting that such burden is the least restrictive alternative. The best way to formulate the question is whether the state or local government interest compellingly outweighs the religious interest. What is at stake is whether people can be penalized for practicing their religion in the State of Wisconsin. Religious conservatives, religious liberals, and secular civil libertarians ought to support such an amendment. Meaningful

religious liberty requires allowing people to practice their faith, not just to believe it. Being able to operate our Wisconsin Association of Christian Schools and our independent churches according to the dictates of our faith is crucial. Securing the very best legal language available in our state constitution gives us a strong measure of confidence that here in Wisconsin we will be able to enjoy religious freedom for years to come

Thank you for your time; I encourage each of you to support Senate Joint Resolution 38 as a pro-active way toward religious liberty for our children and grandchildren in the days ahead. Now is the time for this measure to be passed in the legislature and eventually given to the voters of Wisconsin on which to take action.