

THRIVING
VALUES™



RELIGIOUS FREEDOM

Protecting how we practice our faith

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PAYING A HIGH PRICE

The U.S. Supreme Court [ruling in *Obergefell v. Hodges*](#),¹ handed down on June 26, 2015, made same-sex marriage the law of the land and created a “new” set of constitutional rights. By a vote of 5-4, the millennia-old, one-man, one-woman definition of marriage was tossed aside in favor of sexual liberty—a decision that will have profound effects on American life and the freedoms we often take for granted.

In 2016, the *Obergefell* impact spread to the issue of “gender identity” as the U.S. Department of Education issued an edict to the nation’s schools, saying that boys who claim to “identify” as girls (and vice versa) can choose to use the restrooms, locker rooms, and shower facilities of the opposite sex. Common sense, public safety, and the [orthodox Christian view](#)² that “male and female He created them” have been rejected in the government push for the new sexual orthodoxy made possible by the *Obergefell* ruling. Although the Department of Education edict was revoked by the Trump Administration in 2017, activists nevertheless continue to push this policy through local school administrators, as well as through the courts.

Even before the *Obergefell* decision, government hostility toward Christianity was evident due to the rise of homosexual activism. Consider these recent cases, which paint a picture of serious concern

today for religious freedom in the U.S. (and not just in regard to marriage):

- [Aaron and Melissa Klein](#)³ are a Christian couple from Gresham, Oregon, who owned a bakery. They were fined \$135,000 by the state for failing to bake a cake for a same-sex wedding, and have been forced to close their bakery due to the controversy.



- [Barronelle Stutzman](#),⁴ a florist in Washington State, and another baker in Denver, Colorado, named [Jack Phillips](#),⁵ have been found guilty of “discrimination” for declining, on conscience grounds, to provide services that would celebrate a same-sex ceremony.
- [Andrew Cash](#),⁶ an aspiring counselor, was expelled from Missouri State University in 2014 for expressing his opinion in a class

presentation that because of his religious beliefs, he would refer a homosexual couple to another counselor to deal with relationship issues, although he would be willing to counsel homosexuals individually.

- **Wes Modder**⁷ was a decorated military chaplain with a 19-year service record who faced a Navy discharge for offering his biblical views on sex and marriage in private counseling sessions. After months of legal wrangling, the Navy **exonerated**⁸ Modder, and he was able to retire in good standing.

Religious freedom rights are in **jeopardy**¹⁰—and the 2015 *Obergefell* ruling will only make things more difficult for people of faith, their businesses and their organizations. Similar scenarios will increase in frequency, and new challenges to religious freedom will arise. However, it's not all bad news.

People of faith still have rights; **state legislatures are regularly adding new protections**;¹¹ and religious-freedom lawyers and organizations stand ready and willing to intervene, so as to safeguard those rights.

But you need to know what those rights are!

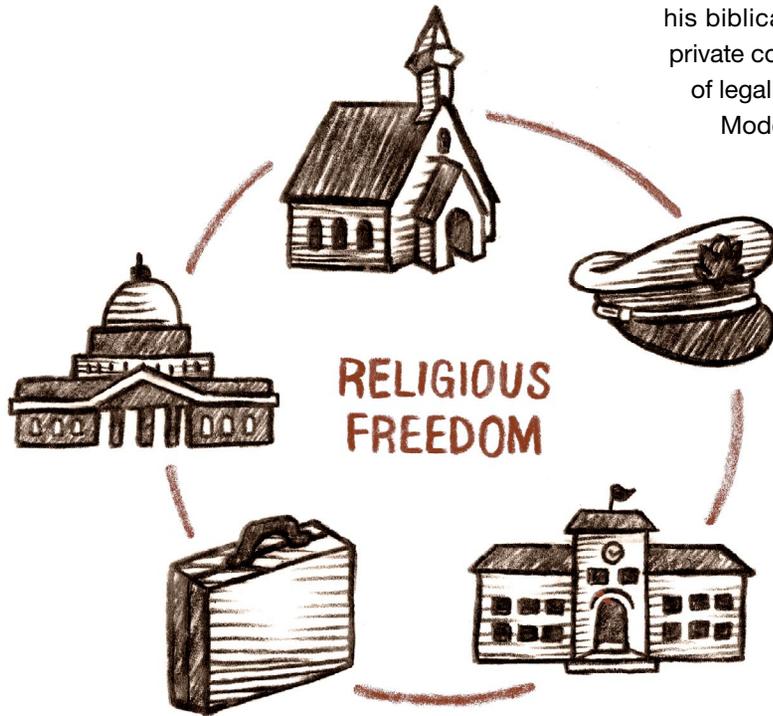
To help you, Focus on the Family created this Thriving Values *Religious Freedom* resource to help you better understand and respond to threats in five key areas of culture:

1. churches and religious organizations
2. the military
3. public schools
4. the workplace
5. government and the public square

RELIGIOUS FREEDOM FOR CHURCHES AND RELIGIOUS ORGANIZATIONS

The U.S. was founded on religious liberty, so you might assume churches and religious organizations are the most protected of any of this country's institutions, and their rights are easiest to explain.

It's more complicated than that, however, due to the cumulative effect of more than 200 years of court cases, legislation and the ever-increasing size and encroachment of government into our daily lives.



While specific laws exist to protect the rights of churches and religious organizations, legal challenges remain.

SAME-SEX WEDDINGS—MINISTERS AND CHURCH FACILITIES

Does the Supreme Court decision in *Obergefell v. Hodges* mean ministers will have to perform same-sex wedding ceremonies and churches will have to rent out facilities for such weddings?

Church pastors will probably not be at personal risk for the foreseeable future, although recent history suggests ministers who operate “for-profit”¹² wedding chapels may have a harder

time resisting requests to officiate same-sex ceremonies. Due to the increasing prevalence of “sexual orientation/gender identity” (SOGI) **nondiscrimination laws**¹³ churches will need to pay attention to their facility use policies. For example, churches that allow non-members to rent church facilities may be open to demands from same-sex couples who want to hold a wedding reception or demands from gay and lesbian groups for access, followed by lawsuits if they are refused. At some point, churches and organizations that continue to

follow God’s design for marriage may find their **tax-exempt status**¹⁴ in jeopardy. This was a topic of discussion during the *Obergefell* oral arguments before the Supreme Court.

A couple of states have gone so far as to suggest that certain church functions that are “open to the public” must comply with SOGI laws. This creates opportunities for churches to be targeted and sued for “discrimination” by LGBT activists.

Alliance Defending Freedom¹⁵ and **Christian Legal Society**¹⁶ each has a helpful resource for churches concerned about these issues.

GOVERNMENT PROGRAMS

In the important 2017 **Trinity Lutheran**¹⁷ decision, the U.S. Supreme Court held that a state government cannot deny the benefits of a generally available public program or benefit to a church—**simply because it is a church**. This principle would also apply favorably to other religious organizations, such as religious schools and charities.

HIRING AND EMPLOYMENT ISSUES

Churches and religious organizations have the right, under **Title VII**¹⁸ of the U.S. Code and similar state laws, to give employment preference to members of their own religion. There’s also the right to select

“All of which, I assume is little comfort to the Huguenins, who now are compelled by law to compromise the very religious beliefs that inspire their lives. Though the rule of law requires it, the result is sobering.... In short, I would say to the Huguenins, with the utmost respect: **It is the price of citizenship.**”

—JUSTICE BOSSON
NEW MEXICO STATE SUPREME COURT
THE ELANE PHOTOGRAPHY CASE⁹

ministers and other religious leaders free from any government interference via typical employment laws.

ZONING LAWS

Churches¹⁹ have the right to be treated similarly to other community groups in situations like **rental of government buildings**²⁰ or **zoning and land-use**²¹ issues. There is a history of local governments discriminating against churches—either because of hostility to religion, or the fear of losing tax revenue (churches are typically exempt from state and local sales taxes).

OBAMACARE'S ABORTION DRUG MANDATE

The Little Sisters of the Poor²² is a congregation of Catholic sisters who run homes for the poor and elderly of every race and denomination. The sisters face huge government fines for refusing to include contraception and possible abortion-causing drugs in their employee health-care plan, as part of the Affordable Care Act (also called “ObamaCare”). Their challenge has reached the U.S. Supreme Court, which ordered the parties in May 2016 to go back to the negotiating table and reach a compromise acceptable to both sides.



In a previous case, religiously owned, **for-profit** companies won an important victory against the U.S. Health and Human Services (HHS) mandate in 2014, in *Burwell v. Hobby Lobby*. (See “Religious Freedom in Government and the Public Square,” pp.11-13.)

OTHER PROTECTIONS

Churches and religious organizations have additional protections from government laws that affect their free exercise of religion under **federal**²³ and state versions of the **Religious Freedom Restoration Act (RFRA)**.²⁴ Under these RFRA statutes, courts try to balance any burdens placed on religion with the compelling interest of the government behind its law or action. Some states are actively **protecting**²⁵ churches and pastors from the effects of the *Obergefell* same-sex marriage decision by forbidding government from penalizing them for holding fast to God’s design for marriage and sexuality.

RELIGIOUS FREEDOM IN THE MILITARY

Court cases involving military personnel and religious freedom are often outside of the public eye because the military is covered primarily by its

own internal justice system, policies and procedures.

But since the repeal of “**Don’t Ask, Don’t Tell**,”²⁶ a policy that prohibited openly practicing homosexuals from serving in the military, as well as the U.S. Supreme Court’s rulings in 2013 (striking down federal law defining marriage) and 2015 (striking down every remaining one-man, one-woman state marriage law in the nation), military

life and religious freedom continue to clash in a big way.

Members of the military share the same First Amendment rights as civilians, with some restrictions civilians don’t have. The demands of unit readiness, cohesion and morale must trump some of the rights civilians take for granted. For example, a soldier has the right to free speech; however, he can be court-martialed for criticizing a superior officer. Religious freedom is also subject to restrictions for the same reasons, but in recent years, more shocking and disappointing examples have surfaced.

Air Force Senior Master Sergeant **Phillip Monk**,²⁷ for example, found himself under the command of a lesbian officer, who demanded that Monk, a Christian, affirm his support for same-sex marriage, which he declined to do.

She relieved him of his duties and he was investigated for possible court-martial. In a surprise ending to this story, Monk was later honored by the Air Force for his service, rather than punished for his politically incorrect views on marriage.



Nevertheless, this story is disturbing and one that is being repeated in various ways in other parts of the military.

Chaplains²⁸ have been especially hard hit. In addition to the Wes Modder story (see p.3), other stories have been **documented**,²⁹ including a chaplain stripped of his authority over a military chapel for refusing to allow it to be used for same-sex ceremonies. Another was threatened with “early retirement” and then reassigned for standing firm for biblical values concerning marriage.

And then there are watchdog groups, including the Military Religious Freedom Foundation, which seem to have the Pentagon’s ear and have **lobbied**³⁰ for punishment of Christian soldiers who

“I never imagined that using my God-given talents and abilities, and doing what I love to do for over three decades, would become illegal.... I certainly don’t relish the idea of losing my business, my home, and everything else that your lawsuit threatens to take from my family, but my freedom to honor God in doing what I do best is more important.”

—**BARRONELLE STUTZMAN**
IN A LETTER TO WASHINGTON STATE
ATTORNEY GENERAL BOB FERGUSON

attempt to share their faith with others. They have successfully stopped **charitable outreaches**,³¹ oaths that include “**so help me God**,”³² and even the display of **Nativity scenes**³³ on military bases.

On an encouraging note, in response to this unprecedented attack on religious liberty in the military, the U.S. Congress attached an amendment to the 2013 Defense Appropriations bill, which reads:

“Government pressure on religious communities has clearly increased in our country in recent years.

“The United States has no magic immunity attached to its liberties. The Constitution, as great as it is, is still just a piece of paper unless the people vigorously protect their rights.

“For religious believers, that means defending their faith in the courts and the legislatures. It also means living their faith with joy and conviction, publically as well as privately.”

—**ARCHBISHOP CHARLES CHAPUT,**
**“THE MORE THAT GOV’T MANDATES
EVIL ACTIONS, THE MORE LIKELY
CIVIL DISOBEDIENCE BECOMES”**

Sec. 533. The armed forces shall accommodate the beliefs of a member of the armed forces reflecting the conscience, moral principles, or religious beliefs of the member and, in so far as practicable, may not use such beliefs as the basis of any adverse personnel action, discrimination, or denial of promotion, schooling, training, or assignment.

The U.S. Department of Defense (DOD) released an “**Instruction**”³⁴ for the implementation of Sec. 533 in early 2014, which initially looked promising. Congress further strengthened Sec. 533 with language added in the **2014 Defense Appropriations bill**.³⁵ However, as recent examples indicate, the DOD has not yet realized its goal of true religious freedom in the military.

RELIGIOUS FREEDOM IN PUBLIC SCHOOLS

Public schools are government-run schools. As such, they are subject to the First Amendment’s rights and restrictions in a way that private schools are not. How those rights and restrictions play out in practice, however, differs from students to teachers to school administrations. Let’s take a look at each of these in turn:

STUDENTS

The U.S. Supreme Court has **famously said**.³⁶ “[I]t can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech and expression at the schoolhouse gate.” Religious freedom in schools is usually exercised through speech or other forms of expression. That liberty, however, has to be viewed in light of the needs of the special setting of schools, and the need to prevent disruptions that would impede the educational process.

Focus on the Family has produced easy-to-understand **explanations**³⁷ of students’ rights. We encourage you to watch these videos, download the accompanying resources and discuss these issues with your high-school and college-age children. In the aftermath of the *Obergefell* same-sex marriage decision, students

may find an increasingly hostile atmosphere in the classroom toward biblical values, especially regarding marriage and human sexuality.

Post *Obergefell*, you can expect to see public high-school and middle-school textbooks and lesson plans include favorable treatment of homosexuality, as is now required in California. Parents may soon find such teaching to start as early as kindergarten, with no “opt-out” rights for parents who object to such curriculum. As homosexuality and same-

sex marriage become a standard of state-supported education curriculum, look for students' rights to be challenged when they try to express biblical truths on campus. It will take a combination of courage and a working knowledge of our freedoms of speech and religion to navigate the halls of education.

Colleges and universities³⁸ have become, in many cases, a threat to religious liberty. The wise parent or student should investigate the state of religious freedom at their school of choice, in order to avoid unwelcomed surprises.

“IT CAN HARDLY BE ARGUED THAT EITHER STUDENTS OR TEACHERS SHED THEIR CONSTITUTIONAL RIGHTS TO FREEDOM OF SPEECH AND EXPRESSION AT THE SCHOOLHOUSE GATE.”

SPOTLIGHT: THE FIRST AMENDMENT

‘Establishment’ & ‘Free Exercise’ Clauses

The religious freedom portion of the First Amendment to the U.S. Constitution has two parts:

“Congress shall make no law respecting the establishment of religion...”

This portion of the First Amendment is referred to as the “Establishment Clause,” and it means neither the states nor the federal government can create an “official” religion or favor one religion or denomination over another.

“...or prohibiting the free exercise thereof.”

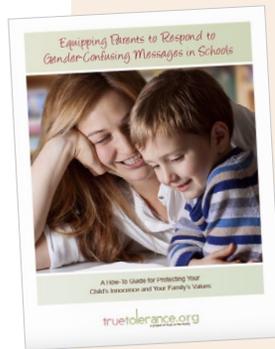
Called the “Free Exercise” clause, this applies to organizations and individuals in all areas of American culture. It’s the flip side of the Establishment Clause.

In summary, the Establishment Clause prohibits the government from creating or favoring a religion, while the Free Exercise clause forbids government from preventing or outlawing how we practice our faith, within reason.

TRUE TOLERANCE

With all the talk about marriage and sexuality in the headlines, you might be wondering what's happening in your child's school. What are the schools teaching on these topics?

Here's a tool that gives you easy ways to start learning more about what's happening in the classroom. **Equipping**



Parents to Respond to Gender-Confusing Messages in Schools⁴³

helps equip parents so they can talk to their children about God's design for sexuality and gender.

For more information, go to TrueTolerance.org.⁴⁴

TEACHERS

Teachers' First Amendment rights are more complicated than students', because of their multiple roles as citizen, employee and representative of government.

As a citizen, a teacher has all the same First Amendment rights as any other citizen, even at school. However, as an employee, the teacher needs to perform the duties he or she was hired for and cannot, for example, teach a comparative religion curriculum if the school hasn't adopted such a curriculum.

As a government employee, a public school teacher cannot do certain things, such as initiate prayer or evangelize students (or conversely, denigrate the faith of students), which would violate the First

Amendment. Outside the presence of students, however, teachers can exercise the same religious rights as anyone else.

Here are a **couple**³⁹ of good **resources for teachers**⁴⁰ that address religious issues, from treatment of religious holidays in the classroom, to the expression of personal beliefs, to wearing religious symbols.

SCHOOL ADMINISTRATION

School administrators who get into trouble when handling religious freedom-related issues in schools seem to fall into one of three categories:

1. They're openly hostile to religion and any religious expression in schools;
2. They're neutral; however, they're ill-informed about religious rights of students and teachers. They then inadvertently, or because of legal threats from outside secular groups, violate the rights of students and teachers in the name of the Establishment Clause (see p.6); or
3. They enthusiastically support religious expressions to the point where they cross the line into advocating, endorsing or participating in a particular religion or religious activity.

All school administrators should become familiar with the U.S. Department of Education **guidelines**⁴¹ for dealing with the issue of religious expression in schools.

Finally, it should be noted there are many good, secular reasons for incorporating religious elements into public school curricula, such as studying the effect of religion on the founding of America and performing religious music in well-

rounded music programs. The Supreme Court has held that having a secular basis for including a religious element in a government activity, whether it's in public education or a town **Christmas display**,⁴² makes the inclusion perfectly fine and not a violation of the Establishment Clause.

RELIGIOUS FREEDOM IN THE WORKPLACE

The protections for employees are simple and long-standing; the protections for some business owners, on the other hand, are contentious, and the Supreme Court has had to step in to sort things out.

EMPLOYEES

Under **Title VII**⁴⁵ of the 1964 Civil Rights Act, and similar state laws, employers cannot discriminate in their hiring, firing and other employment practices on the basis of religion, unless they are religious organizations themselves. That ought to be straightforward; however, the reality has been that religiously motivated speech and actions can still get you fired when it comes to homosexuality and same-sex marriage (see “Fired For Being a Christian”).

The other right granted to employees under this federal law is the right to a “reasonable

accommodation” of an employee’s religious beliefs or practices. For example, if employees consider it their religious duty to attend church on Sunday mornings, but their work schedule prevents them from doing so, they can ask their employer to accommodate their religious practice and schedule work hours around their Sunday religious duties.

Employers don’t have to automatically grant these requests, if doing so would create an “undue hardship” for them. Learn more about “reasonable accommodation” requirements from the **Equal Employment Opportunity Commission**.⁴⁶

FIRING FOR BEING A CHRISTIAN

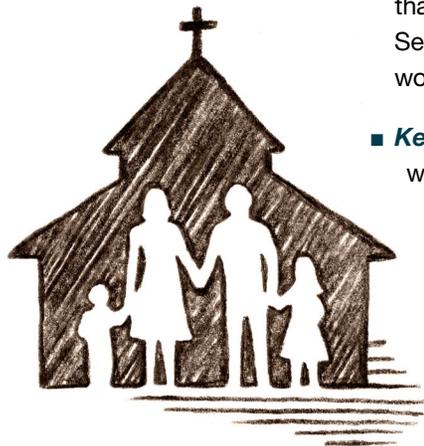
Christian employees are finding the secular workplace increasingly hostile, as more and more companies embrace values that are at odds with biblical teaching on sexual morality and marriage. Though state and federal laws prohibit the firing of employees because of their religion, companies attempt to sidestep the law by firing Christian employees for not complying with politically correct “tolerance” policies.

- **Brendan Eich**, the co-founder and former CEO of Mozilla, the computer technology giant that created the Firefox web browser and the JavaScript programming language, was **forced out of his own company in 2014**.⁴⁷ Why? In 2008, he had donated \$1,000

to help pass California's Prop 8, a grassroots-driven attempt to codify in the state's constitution that marriage is between one man and one woman. After Eich's donation became public knowledge, gay activists and other companies put on the pressure by calling for a boycott of Mozilla. In response, Eich stepped down, saying, "under the present circumstances, I cannot be an effective leader."

- **Craig James** was a former NFL running back and U.S. Senate candidate from Texas prior to being hired in 2013 by FOX Sports Southwest as a college football broadcaster. Just days later, **James was fired**⁴⁸ when FOX learned that James, while campaigning for U.S. Senate, had advocated for one-man, one-woman marriage.

- **Kelvin Cochran**, Atlanta's fire chief, was fired by the city for publishing a book in which he **affirmed a biblically orthodox understanding of human sexuality**.⁴⁹ Two sentences in the 162-page book mentioned homosexuality, which provoked agitators to call for his termination.



THE LESSON HERE FOR CHRISTIANS IS ONE OF CAUTION: STANDING UP FOR WHAT WE BELIEVE WILL ENTAIL RISKS; BUT, STAND WE MUST.

The lesson here for Christians is one of caution: Standing up for what we believe will entail risks; but, stand we must. Several Christian legal organizations stand ready to defend our rights, such as **First Liberty**⁵⁰ and **Alliance Defending Freedom**.⁵¹

RELIGIOUS FREEDOM IN GOVERNMENT AND THE PUBLIC SQUARE

BUSINESS OWNERS

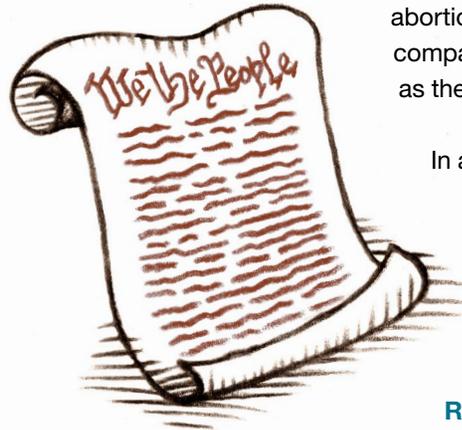
Even before *Obergefell*, this was an uncertain time in our nation's history to be a business owner and live out one's faith in the operation of a business. **Florists**,⁵² **bakers**⁵³ and **photographers**⁵⁴ with conscientious objections to using their talents and skills to participate in same-sex weddings have found their religious freedom threatened.

After *Obergefell*, with all 50 states required to license and recognize same-sex marriages, more business owners of faith may be forced to choose between their livelihood and their conscience.

Other threats to businesses' religious freedom came via federal healthcare regulations. Similar to the problems created by the federal government for nonprofit ministries, such as Little Sisters of the Poor (see p.5), for-profit businesses, including

Hobby Lobby⁵⁵ and **Conestoga Wood**

Specialties,⁵⁶ were also ordered (as part of ObamaCare) to provide possible abortion-causing drugs through company health-care plans (known as the "HHS mandate").



In a big win for religious freedom, however, the U.S. Supreme Court issued its **Hobby Lobby decision**⁵⁷ in June 2014, which upheld the right of Christian business owners under the **Religious Freedom Restoration Act (RFRA)**⁵⁸ to refuse the government's coercive mandate.

In doing so, the Court specifically ruled that business owners do not forfeit their religious-freedom rights when they choose to organize their businesses as corporations.

Here are the basic rules government has to respect when it comes to its citizens' freedom of religion:

The First Amendment⁵⁹ prohibits government, in what is known as the "Establishment Clause"

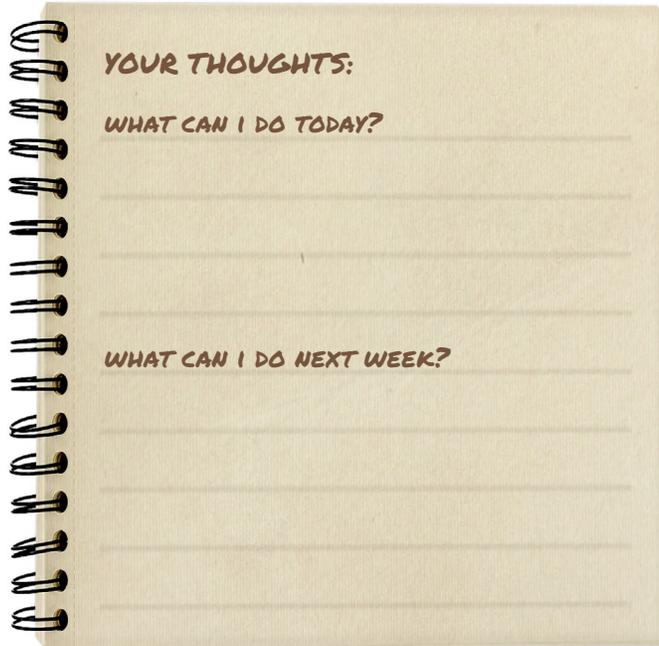
(i.e., "Congress shall make no law respecting an establishment of religion..."), from creating a state-supported religion, or favoring one religion or sect over another. In the subsequent "Free Exercise" clause (as seen on p.8, "...or prohibiting the free exercise thereof...") government generally cannot interfere with how people of faith work out their beliefs in daily life, otherwise called the "free exercise" of religion.

The Religious Freedom Restoration Act⁶⁰

(federal and in 21 states) prohibits government from passing laws that restrict religious liberty unless there's a really important purpose that cannot be achieved in a less burdensome way. It's important for citizens to be aware of these protections.

There are a few other issues that arise regularly and cause lawsuits. These are the types of cases where good legal representation is vital:

- **Religious Speech in Public, Government-Owned Areas.** If it's private speech (*i.e., not initiated by the government*) in an area that is traditionally reserved for public expression, like public parks, sidewalks and other areas, then government can't restrict or prohibit it except for reasonable time, place and manner rules (*e.g., not in the middle of the night under your neighbor's bedroom window*).
- **Legislative Prayer.** Can your city council begin its meetings with prayer? Can people



pray “in Jesus’ Name” at those meetings? Is there a problem if nobody except Christians ever pray at the meetings? These types of questions often end up in courtrooms, but the Supreme Court long ago held, and recently reaffirmed, that “**legislative prayer**”⁶¹ before the proceedings of deliberative bodies is a time-honored practice in America, beginning with the Framers, who drafted the First Amendment and also hired the first chaplain for Congress to lead it in prayer before every session.

- **Religious Symbols.** Can local governments put up a **Nativity scene**⁶² in their Christmas season displays? Can they post a copy of the Ten Commandments in the courthouse, or a monument outside on the lawn? The answer is “yes” they can, if they are part of a larger display that has a secular purpose, such as celebrating a seasonal holiday or explaining the origins of our nation’s laws.

WHAT CAN I DO TO PROTECT RELIGIOUS FREEDOM?

Our freedoms require diligent protection. Educated and engaged citizens are a key component in protecting the freedoms we enjoy and want to pass on to the next generation. Here are some suggestions to help keep our religious freedoms intact:

1. **Understand it is biblical to stand on your rights as citizens.** Consider the example set by the Apostle Paul. On at least two occasions, he claimed the benefit of his rights as a Roman citizen. See Acts 22:25 (Paul was about to be unlawfully flogged) and Acts 25:11 (Paul appeals his legal case to Caesar).
2. **Make it a point to study the issues and stay informed.** You’ve already made a great start by reading these materials, but we’ve barely scratched the surface. Bookmark Focus on the Family’s **Social Issues**⁶³ site, which is full of articles, videos, toolkits and more on religious freedom and related cultural issues.
3. **Get and share accurate information.** Some of the greatest threats to religious

liberty have arisen from federal and state laws and regulations passed in recent years. But if you follow only national media outlets, chances are you won't hear about it at all. Or worse, the reporting is skewed to criticize the people fighting for freedom. Here are some ways to get the real story and act on it:

OUR FREEDOMS REQUIRE DILIGENT PROTECTION.

a. **Sign up for our weekly, mobile-friendly e-newsletter.** **The Thriving Values™ newsletter**⁶⁴ brings you fresh, Christian commentary, as well as timely resources and engagement ideas on a wide range of hot-button, cultural topics.

b. **Share on social media.** Use platforms, such as Facebook®, Twitter® and Pinterest®, to help raise awareness when religious freedom is threatened. Start today by joining our active **Thriving Values Facebook**⁶⁵ community, and then sharing this resource kit with your friends and family!



c. **Subscribe to Focus on the Family Citizen® magazine.**⁶⁶ While the mainstream media report on cultural issues, such as marriage, life, sexuality and religious freedom, from a perspective that's contrary to the biblical worldview most Christians hold, Focus on the Family's **award-winning** policy magazine sets the record straight on the issues affecting your family, your community and your church!

d. **Educate your family.** Use books, radio and movies to teach your family, your children and grandchildren about the **founding of our great nation**⁶⁷ and the principles of freedom that set it apart from the rest of the world.

4. **Get involved in your state. People and organizations who**⁶⁸ work to suppress religion usually start with local and state governments, so your efforts to defend religious freedom should start there, too! If your state has a **family policy council associated with Focus on the Family**,⁶⁹ get on their mailing list. Also, consider becoming an active member of your community!

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Endnotes

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