

HOUSE BILL NO. 1476

Introduced by

Representative Jones

1 A BILL for an Act to create and enact a new chapter to title 14 of the North Dakota Century
2 Code, relating to nonsecular self-asserted sex-based identity narratives, to prohibit the state
3 from creating or enforcing policies that directly or symbolically respect nonsecular self-asserted
4 sex-based identity narratives or sexual orientation orthodoxy pursuant to the establishment
5 clause of the First Amendment to the United States Constitution and section 3 of article I of the
6 Constitution of North Dakota; to provide for the continued enforcement of secular marriage
7 policies; to prohibit discrimination for nonsecular beliefs pursuant to the free exercise clause of
8 the First Amendment to the United States Constitution and section 3 of article I of the
9 Constitution of North Dakota.

10 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

11 **SECTION 1.** A new chapter to title 14 of the North Dakota Century Code is created and
12 enacted as follows:

13 **Definitions.**

14 As used in this chapter:

- 15 1. "Biological female" means a person who was born with female anatomy and with two x
16 chromosomes in the person's cells.
- 17 2. "Biological male" means a person who was born with male anatomy and with x and y
18 chromosomes in the person's cells.
- 19 3. "Community standards of decency" means standards based on the reasonable
20 observer perspective which are violated by appeals to the prurient interest or the
21 patently offensive to the extent the appeals harm the general decency, safety, health,
22 and welfare of the community. Acts of licentiousness are antithetical to this standard.
- 23 4. "Conversion therapy" means a therapeutic practice in which a licensed mental health
24 expert, acting under authorized consent, assists the expert's client in realigning the

- 1 client's sexual preference to cultivate attraction for individuals of the opposite sex who
2 have corresponding reproductive anatomy.
- 3 5. "Drag queen story time" means a nonsecular event where men dress up as women
4 and display an inherently sexualized performance targeting minors with the purpose of
5 promoting and normalizing the faith-based beliefs and practices that stem from the
6 secular humanist religion. The term describes an event that targets children and
7 promotes licentiousness in attempts to justify practices inconsistent with the peace or
8 safety of the state from the reasonable observer perspective.
- 9 6. "Emotional appeal" means a method of persuasion through sentiment, not logic,
10 designed to create an emotional response.
- 11 7. "Lemon test" means a three-prong test originally created by the United States
12 Supreme Court and now adopted by this state which is used to determine whether
13 government action is unconstitutional under the establishment clause. Government
14 action violates the establishment clause if the action fails to satisfy any of the prongs.
15 The test requires that state action or government policy:
- 16 a. Have a valid secular purpose;
17 b. Not have the effect of advancing, endorsing, or inhibiting religion; and
18 c. Not foster excessive entanglement with religion.
- 19 8. "Logical nexus" means some minimal relevant or rational connection and is a
20 low-threshold standard.
- 21 9. "Nonsecular" means faith-based, not proven, predicated on naked assertions, or
22 emotional feelings, not self-evident objective fact.
- 23 10. "Nonsecular self-asserted sex-based identity narrative" means an unproven
24 faith-based identity implicitly religious moral stance that is not predicated on
25 self-evident neutral truth and is a story that provides the individual with a sense of
26 purpose and serves as a commentary on sexual practices, sexual preference, faith,
27 morality, and life. The term includes expressions and speech that are controversial,
28 sexualized, questionably moral, questionably plausible, and have a tendency to erode
29 community standards of decency and promote licentiousness.
- 30 11. "Nonsecular marriage" means any form of so-called marriage which does not involve a
31 man and a woman and is inseparably linked to the religion of secular humanism. The

1 term refers to so-called marriages between more than two people, persons of the
2 same sex, a person and an animal, or a person and an object.

3 12. "Promote" means to advocate for, assist with, encourage, or popularize through
4 advertising or publicity.

5 13. "Public funds" means any funds received or controlled by this state or any agency or
6 political subdivision of the state, including funds derived from federal, state, or local
7 taxes; gifts or grants from any source, public or private; federal grants or payments; or
8 intergovernmental transfers.

9 14. "Reasonable observer" means a person of ordinary prudence who views a policy or
10 action from an objective standpoint in the context of the state's longstanding practice
11 and through the lens of self-evident neutral, natural, and noncontroversial transcultural
12 morality.

13 15. "Religion" means a set of unproven answers to greater questions such as why are we
14 here, what should we be doing as humans, how do we get our identity, and what
15 happens after death. The term means a closed system and group or community that is
16 organized, full, and provides a comprehensive code by which individuals may guide
17 their daily activities. Religion involves an ultimate concern or sincere belief and can be
18 nontheistic or theistic belief.

19 16. "Secular humanism" means a faith-based worldview that is also referred to as
20 postmodern-western-individualistic moral relativism or expressive individualism, and
21 antitheism, and is often the mirror opposite of theism. The term refers to a religion
22 which has a doctrine of worshiping man as the source of all knowledge and truth. The
23 term includes a belief system that is centered on the unproven assumptions there are
24 no moral absolutes and no one moral doctrine should be used as the superior basis
25 for law and policy. The term includes a series of unproven faith-based assumptions
26 and naked assertions that suggest that morality and truth are man made conventions
27 and that at the heart of liberty is man's ability to define his own meaning of the
28 universe. The term refers to a religion that tends to promote licentiousness and to
29 justify practices that are inconsistent with the peace and safety of the state. The term
30 refers to the belief that man is merely a bundle of chemicals, animated pieces of meat,
31 or accidental particles, and that nature is all there is. Nonsecular self-asserted

1 sex-based identity narratives and sexual orientation orthodoxy are doctrines that are
2 inseparably linked to this religion. The term refers to a religion that has many different
3 denominational sects and is expressed in widely varying ways.

4 17. "Secular marriage" means a legal union that represents an intended lifelong
5 commitment between one person who was born a biological male and one person who
6 was born a biological female as husband and wife, who are of equal but opposite
7 genders, who become spouses of the opposite sex, and who have corresponding
8 sexual anatomy that if coalesced have the actual or symbolic potential to create
9 offspring who likely will have the input of the two spouses with whom the offspring
10 share the same genetic code and unbroken ancestral chain. A policy that respects or
11 promotes this form of marriage constitutes a secular policy.

12 18. "Secular policy" means a course or principle of action adopted or proposed by a state
13 actor which is natural, neutral, and noncontroversial and is based on self-evident
14 morality and objective truth from the reasonable observer perspective. The term
15 includes government procedure or state action that generally accomplishes its goals
16 and does not tend to put religion over nonreligion or one religion over another or does
17 not convey to a reasonable observer that the government favors one particular
18 religion. The term includes a course of government action where the pre-eminent and
19 primary force driving the policy is genuine, not a sham, and not merely secondary to a
20 religious objective.

21 19. "Sex reassignment surgery" means a nonsecular medical procedure where a person
22 undergoes cosmetic surgery to cause the person's physical appearance to more
23 closely align with the person's nonsecular self-asserted sex-based identity narrative.

24 20. "Sexual orientation" means a mythology, dogma, doctrine, ideology, or orthodoxy that
25 is inseparably linked to the religion of secular humanism. The term includes
26 self-asserted sex-based identity narratives that are often predicated on a series of
27 unproven faith-based assumptions and naked assertions that are implicitly religious
28 and have a tendency to erode community standards of decency and promote
29 licentiousness. The term is synonymous with gender identity.

30 21. "Taxpayer standing" means the standing of a taxpayer to file a lawsuit against the
31 government actor that is directly or symbolically engaging in practices that violate the

1 establishment clause of the First Amendment to the United States Constitution or
2 section 3 of article 1 of the Constitution of North Dakota after the government actor
3 actually or prospectively engaged in action that potentially failed at least one prong of
4 the lemon test. The term includes a test that requires a minimal logical nexus in order
5 to be invoked by a taxpayer when the government is directly or symbolically endorsing
6 a religion in a coercive manner in violation of the lemon test. A person who pays sales
7 tax in this state can successfully assert this form of standing.

8 **Prohibition of state action that respects nonsecular self-asserted sex-based identity**
9 **narratives.**

- 10 1. Pursuant to the First Amendment to the United States Constitution and section 3 of
11 article I of the Constitution of North Dakota, the state may not directly or symbolically
12 create, enforce, or endorse a policy that respects or promotes nonsecular
13 self-asserted sex-based identity narratives, sexual orientation orthodoxy, or
14 nonsecular marriage doctrine because the policy fails the lemon test for:
- 15 a. Constituting a nonsecular sham.
 - 16 b. Cultivating indefensible legal weapons against nonobservers of the religion of
17 secular humanism; and
 - 18 c. Having the effect of excessively entangling the government with the religion of
19 secular humanism.
- 20 2. Pursuant to the First Amendment establishment clause of the United States
21 Constitution and section 3 of article I of the Constitution of North Dakota, and the
22 state's compelling interest to discourage licentiousness, an agent of the state may not
23 directly or symbolically create or enforce policies that respect or recognize nonsecular
24 self-asserted sex-based identity narratives or sexual orientation orthodoxy, by:
- 25 a. Issuing or recognizing a marriage license that does not involve a secular
26 marriage;
 - 27 b. Appropriating, distributing, or awarding public funds in a manner that directly or
28 indirectly respects, promotes, or endorses the plausibility of nonsecular
29 self-asserted sex-based identity narratives, sexual orientation orthodoxy, or
30 nonsecular marriage ideology;

- 1 c. Appropriating, distributing, or awarding a grant of public funds to cover the cost of
- 2 sex reassignment surgery;
- 3 d. Prohibiting or unduly restricting conversion therapy;
- 4 e. Displaying a flag that promotes nonsecular self-asserted sex-based identity
- 5 narratives or sexual orientation orthodoxy in a manner that would be
- 6 unconstitutional for the same state actor to display a flag that respects or
- 7 promotes the edicts of an institutionalized religion;
- 8 f. Promoting the use of puberty blockers, especially to minors;
- 9 g. Permitting a person who was born as a biological male to change the person's
- 10 gender to female on the person's birth certificate, driver's license, or any other
- 11 official government form;
- 12 h. Permitting a person who was born as a biological female to change the person's
- 13 gender to male on the person's birth certificate, driver's license, or any other
- 14 official government form;
- 15 i. Assigning or housing an inmate who was born as a biological male in a ward or
- 16 cell designated for inmates who were born as biological females;
- 17 j. Assigning or housing an inmate who was born as a biological female in a ward or
- 18 cell designated for inmates who were born as biological males; or
- 19 k. Mandating pronoun changes.
- 20 3. Pursuant to the First Amendment establishment clause of the United States
- 21 Constitution and section 3 of article I of the Constitution of North Dakota, and the
- 22 state's compelling interest to discourage licentiousness, a public school or a public
- 23 school's agent may not create or enforce policies that respect or recognize nonsecular
- 24 self-asserted sex-based identity narratives or sexual orientation orthodoxy, by:
- 25 a. Exposing students to a curriculum concerning nonsecular self-asserted
- 26 sex-based identity ideology or sexual orientation orthodoxy unless the
- 27 programming is part of a sex education program and only after a student's
- 28 parents have:
- 29 (1) Intentionally opted their child into participating in the programming in writing;

- 1 (2) Received a warning from the school or department of public instruction that
2 the messaging could expose their child to licentiousness and one particular
3 religious worldview.
- 4 b. Permitting a student who was born as a biological male to participate in sports
5 designated for biological females;
- 6 c. Permitting a student who was born as a biological female to participate in sports
7 designated for biological males;
- 8 d. Permitting a person who was born as a biological male to enter or use a locker
9 room or restroom designated for biological females;
- 10 e. Permitting a person who was born as a biological female to enter or use a locker
11 room or restroom designated for biological males;
- 12 f. Mandating pronoun changes; or
- 13 g. Hosting or sponsoring drag queen story time for children or similar programming.
- 14 4. Pursuant to the First Amendment establishment clause to the United States
15 Constitution and section 3 of article I of the Constitution of North Dakota, and the
16 state's compelling interest to discourage licentiousness, a taxpayer of this state or a
17 political subdivision of the state has taxpayer standing to bring suit in a court of
18 competent jurisdiction to enforce this section. The prevailing party may seek attorney's
19 fees, costs, and other forms of equitable relief.
- 20 5. Sincerity of belief or emotional appeals may not constitute a valid defense for a
21 violation under this section.
- 22 6. An officer or employee of the state who knowingly violates this section may be
23 dismissed from the person's office or position, and the person's employment may be
24 terminated immediately.
- 25 7. All members of the legislative assembly and all executive and judicial officers who
26 violate this section may be declared to be in violation of the oath of office established
27 under clause 3 of article VI of the United States Constitution.
- 28 **Continued enforcement of secular marriage policies.**
- 29 Policies that respect and endorse a secular marriage between a man and a woman must be
30 enforced, recognized, and respected, and agents of the state may issue and recognize only
31 secular marriage licenses because man-woman marriage policies:

- 1 1. Are natural, neutral, noncontroversial, and secular in nature;
- 2 2. Fulfill their actual purpose;
- 3 3. Fulfill a narrowly tailored compelling state interest by upholding community standards
4 of decency; and
- 5 4. Do not:
 - 6 a. Violate the United States Constitution or section 3 of article I of the Constitution of
7 North Dakota;
 - 8 b. Fail the lemon test;
 - 9 c. Promote licentiousness;
 - 10 d. Attempt to justify practices that are inconsistent with the peace or safety of the
11 state;
 - 12 e. Put religion over nonreligion;
 - 13 f. Constitute a nonsecular sham, calculated ploy, power grab, or political power
14 play.

15 **Free exercise of religion.**

16 Pursuant to the free exercise clause of the First Amendment to the United States
17 Constitution and section 3 of article I of the Constitution of North Dakota, a person may believe
18 in and practice secular humanism and formulate any nonsecular self-asserted sex-based
19 identity narrative as long as the practices do not violate state or federal law. A state actor may
20 not discriminate against any person for believing in or failing to believe in the plausibility of
21 secular humanism, sexual orientation orthodoxy, or nonsecular self-asserted sex-based identity
22 narratives.

23 **Construction.**

24 This chapter is constructed on the premise that:

- 25 1. The United States is a constitutional republic that the state of North Dakota is part of;
- 26 2. The United States Constitution is the supreme sovereign law of this country that
27 preempts all state and federal law;
- 28 3. The First Amendment to the United States Constitution applies to the states through
29 the Fourteenth Amendment of the United States Constitution;
- 30 4. The First Amendment establishment clause of the United States Constitution and
31 section 3 of article I of the Constitution of North Dakota were not merely designed to

1 prevent the state from respecting the edicts of institutionalized religions but those of
2 noninstitutionalized religions.

3 5. Pursuant to clause 3 of article VI of the United States Constitution, all members of the
4 general assembly and all executive and judicial officers are bound by oath or
5 affirmation to not create or enforce policies that violate the establishment clause or
6 free exercise clause of the First Amendment to the United States Constitution
7 regardless of the members' or officers' party affiliation or personal religious beliefs.

8 6. Emotional appeals, even good ones, may not be used to usurp the establishment
9 clause of the First Amendment to the United States Constitution or section 3 of article I
10 of the Constitution of North Dakota in an effort to justify the government's creation or
11 enforcement of policies that respect nonsecular self-asserted sex-based identity
12 narratives, sexual orientation orthodoxy, or nonsecular marriage beliefs and practices.

13 7. All policies that respect or recognize nonsecular self-asserted sex-based identity
14 narratives, sexual orientation orthodoxy, and nonsecular marriage doctrine fail the
15 lemon test first established by the United States supreme court and thereby are
16 preempted by the establishment clause of the First Amendment to the United States
17 Constitution and section 3 of article I of the Constitution of North Dakota in their
18 making and enforcement and must be repealed and enjoined from enforcement
19 because the policies:

20 a. Constitute nonsecular shams;
21 b. Cultivate indefensible legal weapons against nonobservers of the religion of
22 secular humanism; and
23 c. Have the effect of excessively entangling the government with the religion of
24 secular humanism.

25 8. In the wake of the decisions by the United States supreme court that forced the state's
26 entanglement with the religion of secular humanism, there has been a landrush on:
27 a. The social marginalization and systematic persecution of nonobservers of the
28 religion of secular humanism; and
29 b. Public elementary schools and public libraries by devout secular humanists for
30 the sole purpose of targeting and indoctrinating minors with the licentious religion

- 1 of secular humanism with the government's stamp of approval at the taxpayers'
2 expense.
- 3 9. It is not proven or disproven whether sexual orientation is predicated on immutability
4 and genetics and is therefore a matter of religious faith that falls within the exclusive
5 jurisdiction of the establishment clause balanced with the free exercise clause of the
6 First Amendment to the United States Constitution and section 3 of article I of the
7 Constitution of North Dakota.