Minnesota Atheists' Public Policy Positions

PROLOGUE

The Religion Clauses of the First Amendment comprise two parts. The Establishment Clause of the First Amendment is the foundation of the political policies of Minnesota Atheists: "Congress shall make no law respecting an establishment of religion." Together with the Free Exercise Clause, "nor restrict the free exercise thereof," the religion clauses built, according to Thomas Jefferson's 1802 *Letter to the Danbury Baptists*, a "wall of separation between Church & State."

When the constitution was written, 'rights' were understood as restrictions on government's authority to regulate the freedom of individuals. The Establishment Clause prohibited Congress to make any law regarding religion of the sort that governments with established religions do. It prohibited Congress to declare any religious orthodoxy, thereby reserving such questions to the individual judgment and conscience of the citizens. The Free Exercise Clause guaranteed the freedom to accept any religious beliefs, and to engage in religious rituals. These Religion Clauses were regarded to be complementary, defining a uniquely American religious freedom.

The Supreme Court made almost no decisions regarding the Establishment Clause until the 1940s, when it ruled that the 14th Amendment applied the Establishment Clause to the States. Until the early 21st Century, its rulings were highly consistent, clear and strict restrictions on government.

The Supreme Court created several tests for Establishment Clause violations. In the 1968 case *Epperson v. Arkansas*, Justice Abe Fortas created the Neutrality Test, that government may not favor one religion over any other, and that it may not favor religion over irreligion. The three-pronged Lemon Test was established in the 1971 *Lemon v. Kurtzman* Supreme Court case:

1. The government's action must have a legitimate secular purpose;
2. The government's action must not have the primary effect of either advancing or inhibiting religion; and
3. The government's action must not result in an "excessive entanglement" of the

government and religion.

In the 1984 case *Lynch v. Donnelly*, Justice Sandra Day O'Connor created the Endorsement Test, that there has been a violation of the Establishment Clause if a reasonable observer would conclude that an act of government had endorsed religion.

Each of these tests contains an important insight into an aspect of the Establishment Clause, and a violation should be proved if a government action fails any of these tests. Additionally, many states had non-assistance clauses in their constitutions, which forbade the states to spend any money to support churches and church-run programs such as schools. This protected the religious freedom of taxpayers. Jefferson's wall stood strong, and religious liberty was robust.

Nevertheless, not everyone was happy. America has always had a reactionary strain of theists who want to return America to a mythicized origin as a Christian nation, in which government is closely wedded to sectarian dogma. This movement gained political momentum in reaction to the *Roe v. Wade* Supreme Court decision in 1973 that made abortion a constitutional right. It developed into a significant, organized and consistent threat to secular government. Minnesota Atheists addresses particular effort to opposing the political agenda of these religious groups. The salient objectives of this political movement have been opposition to reproductive rights such as abortion and birth control; opposition to the legal rights of homosexuals, such as civil marriage and non-discrimination in employment; and the introduction of religious teaching and advocacy in the public education curriculum, such as Intelligent Design, Creationism and abstinence-only sex education.

The Republican Party became obsessed with appointing conservative Justices to overturn the Roe decision. A casualty of this project has been *Jefferson's Wall*, as well as individual rights that the Court had recognized over decades.

From 1969 through 1992, Republican Presidents Nixon, Ford, Reagan and George H. W. Bush appointed 12 Supreme Court Justices, and presidents in the Democratic Party none. Nevertheless, the separation of State and Church remained well supported on the Court until 2005, when Sandra Day O'Connor retired. She was a conservative appointed by Ronald Reagan in 1981 who was usually the swing vote between the conservative and liberal wings. She was a reliable supporter of the Establishment Clause, and her retirement in 2005 tipped the balance on the court to the opponents of separation.

At first the attacks upon the Establishment Clause were incremental, but a torrent breached Jefferson's Wall when Amy Coney Barrett was appointed to the Court in 2020 after the death of Ruth Bader Ginsburg. In the last two years, the Supreme Court has, as Justice Sotomayor observed, reduced the separation of Church and State from a constitutional commitment to a constitutional slogan to a constitutional violation. In the term concluding in 2022 alone, the court ruled in *Casey v. Makin* that Maine must offer vouchers for religious high schools even though their curriculum is permeated with religious dogma; in *Kennedy v. Bremerton School District* that a public school football

coach may utilize his government employment to proselytize his players and the public with prayer; and in *Shurtleff v. Boston*, that, since the city of Boston grants requests to fly flags of secular organizations, it must comply with a request to fly the Christian flag.

Also, the Court in *Dobbs v. Jackson Women's Health Organization* overturned the constitutional right to an abortion. Besides Establishment Clause support, Minnesota Atheists takes public policy positions to oppose religious arguments that dominate the debate of many legal issues. These issues include reproductive rights such as abortion and birth control and the legal rights of homosexuals, such as civil marriage and protection against discrimination in employment.

These are rights that earlier Supreme Courts found to be constitutionally protected based on a right to privacy implied by the due process clause of the Fourteenth Amendment. Justice Thomas, in his concurring opinion in the *Dobbs* case, notes that there is no right to privacy mentioned in the Constitution. He urges the Court to take up cases in which the right to privacy, and all rights based upon it, can be overturned. He contends that if a right is not mentioned in the constitution, it can only be protected by it if it has a strong historical basis. This view clearly prevents the social evolution of rights and restricts rights to those which are expressly protected by the constitution. This view directly conflicts with the Ninth Amendment, which states "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

Minnesota Atheists opposes every use of religious arguments in defining American laws. We hold that public policy decisions should instead address benefit to society and the rights of individual autonomy. We are a politically diverse community that welcomes as members everyone who opposes religious thinking in public policy, and who advocates consequentially for policies that promote the public good.

We realize there are many worthy causes we could support that have no connection to state/church separation or religious intrusion into our daily lives. While we applaud those who strive to make this a better secular world, and while Minnesota Atheists may sponsor or participate in such events ourselves (e.g., charitable activities that help the poor), our public policies are limited to issues of state/church separation.

I. GOVERNMENT ENTANGLEMENT WITH RELIGION

Government endorsement of religion

Minnesota Atheists is committed to rigorous adherence to the Establishment Clause of the First Amendment: "Congress shall make no law respecting an establishment of religion." As this principle has been extended to all branches of government by the 14th Amendment, and interpreted by court decisions, it guarantees that government may not prefer one religion over another, nor religion over non-religion.

Display of religious symbols on public property

Opponents of the Establishment Clause work to create symbolic government endorsement of their religion by placing religious symbols prominently on public property. Most common among these displays are Ten Commandments monuments, Christian crosses as war memorials and Christmas nativity scenes. While we believe that these displays should always be considered an unconstitutional endorsement of religion, courts have ruled that they are permissible as part of a larger display of diverse content, as long as its history has shown that it has not created the perception that it is an endorsement of religion. They have also ruled that a religious monument acquires a presumption of Establishment Clause compliance if it has stood for a long time.

We believe that these displays should be challenged if feasible. Responses to be considered include litigation, if a plaintiff can be found. Then we may work with groups that specialize in First Amendment cases, such as the American Civil Liberties Union of Minnesota, the Freedom from Religion Foundation and Americans United for Separation of Church and State, or even religious groups that also support the Establishment Clause. Alternately, we may offer a comparable secular monument to create content balance.

Prayer at government sessions

In the 2014 case *The Township of Greece v. Galloway*, the Supreme Court decided that since legislative invocations were practiced when the Bill of Rights was adopted, the practice is justified by tradition and impervious to an Establishment Clause challenge. It further ruled that neither the legislature nor the courts may review the content of legislative prayer, as to do so would violate the prayer-giver's freedom of religion. According to this ruling, therefore, to require the invocations to be non-sectarian and inclusive is a constitutional violation.

Minnesota Atheists holds that the *Greece* decision is incompatible with Establishment Clause precedent for over half a century. We therefore oppose legislative prayer more than ever before. If, however, a representative of Minnesota Atheists should ever have an opportunity to provide the invocation for a government meeting, the invocation should be respectful of the body and its members, and appeal for sound judgment and to universal values such as justice and human rights.

Government funding of church-based programs

Minnesota Atheists supports the blanket prohibition against payment to any religious society as stated in Article 1, Section 16 of the Minnesota State Constitution: "... nor shall any money be drawn from the treasury for the benefit of any religious societies or religious or theological seminaries." We oppose also federal funding of social welfare programs that are run by church-based organizations, and would like the courts to recommit to the standards of the *Lemon Test*. Even if government funds are strictly segregated so that none go directly to religious activities, the tax-paid subsidy permits the organization to divert other funds away from the social program.

We therefore call for closing the White House Office of Faith-Based and Neighborhood Partnerships. We are also opposed to all earmarks for religious societies in funding bills and call for whatever action is needed to provide legal standing to affected taxpayers to litigate against establishment clause violations.

Included in the Coronavirus Aid, Relief, and Economic Security (CARES) Act, a $2.2 Trillion Covid-19 relief package, was the Paycheck Protection Program (PPP). Administered by the Small Business Administration, the PPP provided loans to help companies survive the economic lockdown. If, after eight weeks, the companies had retained their headcount at the time of the loan, it would be converted into a grant.

The Small Business Administration regulations forbade it to make loans or grants to churches. The Trump White House held secret conference calls with church leaders, to let them know that they would be eligible for the grants, and to teach the church leaders how to apply for them. Before the public comment period had run out, the SBA announced that the regulation against loans or grants to churches would be waived. Having been prepared by the White House, the churches jumped to the front of the applicant line. The total amount of loans to religious organizations was $7.3 billion dollars. The loans were used for paying the salaries of priests and ministers, the rent or mortgage payments for church buildings, and other related expenses. Minnesota Atheists maintains that loans and grants to churches violate the Establishment Clause.

Thirty-eight state constitutions have more stringent safeguards against government funding religion than are implied by the Establishment Clause. They have no-aid clauses, which expressly forbid the public funding churches. These no-aid provisions in state constitutions are often referred to as "Blaine Amendments," after an amendment to the US Constitution proposed by James Blaine that narrowly failed to get the needed two-thirds vote in the Senate.

These no-aid clauses have apparently been struck down by the Supreme Court in its decision in the case *Espinoza et al. v. Montana Department of Revenue*. That case concerned a private school voucher program the state enacted, which violated the no aid clause in Montana's constitution. The Montana Supreme Court therefore struck down the entire voucher program. The US Supreme Court reversed the decision by Montana because the "no aid" provision violates freedom of religion of the parents applying for the vouchers. That is the "no-aid" provision "bars religious schools from public benefits solely because of the religious character of the schools." This will have the effect of striking down the no-aid provisions in all other states.

Government Funded Adoption Discrimination

The House Appropriations Committee inserted an amendment into the 2018 Labor, Health and Human Services and Education Appropriations Bill that requires states to allow taxpayer-funded foster care and adoption providers to discriminate based on religious beliefs, and allows the federal government to cut child welfare funding for states that refuse to comply. This affects atheists, nonbelievers, religious minorities, single

parents, LGBTQ people, and any other group of people if they don't follow the agency's religious views.

We believe that while private adoption agencies have the right to follow the moral guidelines of their religion, they should be ineligible for taxpayer funding if those guidelines cause them to discriminate against otherwise eligible people. Minnesota Atheists contends that for the federal government to require the states to utilize and fund agencies that practice such discrimination unconstitutionally privileges religion, in violation of the Establishment Clause.

Religious Freedom in the Military

Service members may be stationed at bases where there are no colleagues who share their worldview who can satisfy their needs for guidance and counseling. Chaplaincy programs are therefore justified to satisfy these needs, but they must be designed to meet the needs of both religious and secular soldiers. Chaplaincy programs may not favor one religion over any other, nor favor religion over non-religion. If religious chaplains are employed, then an opportunity must be available for secular counselors to serve as chaplains.

All religious activities provided on military bases must be voluntary and non-coercive. Proselytizing by military commanders and clergy must be prohibited. Since, in the military setting, it is sometimes not possible for soldiers to walk away from an unwelcome religious conversation, a policy permitting religious discussion only with mutual consent must be enforced.

Standing

The ability of citizens to challenge Establishment Clause violations in the courts has been restricted by increasingly stringent requirements for legal standing. In cases regarding appending "so help me God" to the presidential oath of office, state requirements that public-school children recite the Pledge of Allegiance including "under God," the National Day of Prayer, and tax credits for donations to religious schools, the courts have been able to avoid considering whether constitutional violations exist by holding that merely being a taxpayer does not confer standing to plaintiffs. The effect of these rulings is to deny any possibility of judicial correction of even blatant violations of the Establishment Clause. Minnesota Atheists believes that simply being a taxpayer in the jurisdiction affected should suffice to prove legal standing in any case over an alleged Establishment Clause violation.

Anonymity of Establishment Clause Plaintiffs

A bill introduced in Missouri that is likely to surface in other states would prevent plaintiffs in Establishment Clause cases from assuming anonymity. Judges currently are permitted to grant plaintiffs the right to file cases anonymously, with initials only, or under pseudonyms such as "John Doe" if the plaintiff has a well-founded fear of harm if their role in the case becomes publicly known. These bills would prevent this in one type

of case only, those in which the separation of church and state is at issue.

Proponents assert that it is unfair that the individuals on one side of a case must be disclosed in the interest of government transparency, while those on the other side are permitted to remain anonymous. Clearly, though, the litigants on the two sides are not comparable. The defendants in these cases are government officials, who are usually happy to build their *bona fides* with their conservative Christian electoral base. This is not a case of suppression of Christianity or favoritism for atheists and religious minorities.

However, those arguing against placing Christian monuments on government land, for example, risk social disapproval, economic harm, bullying and physical attacks on themselves and their families. Some Establishment Clause case plaintiffs have been threatened with murder if they did not drop their case.

The author of the Missouri bill stated that it "will hopefully reduce the number of frivolous lawsuits." His true concern is not that the lawsuits are frivolous, but that they are successful. If the fears the plaintiffs claim to justify their anonymity are not justified, why would this bill discourage the suits?

Minnesota Atheists opposes any proposal to restrict the anonymity of plaintiffs in Establishment Clause cases.

Blue Laws

Minnesota Atheists opposes laws with the sole or primary purpose to advance religious views, especially at the expense of those who don't hold those views. Minnesota Atheists opposes government-enforced restrictions of trade that are based solely or primarily on actions that are perceived as religiously "sinful" or days that are perceived as "holy." These are commonly called "blue laws." Minnesota Atheists opposes such blue laws unless a compelling secular justification can be demonstrated.

Minnesota Atheists opposes the current state law that prohibits car dealerships from selling cars on Sundays.

Taxation of Churches and other nonprofit Corporations

This discussion should be viewed in the context of our country's history that surrounds the writing and enforcement of the First Amendment of the U.S. Constitution. "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." When we read the principles expressed in this statement, how should we view the taxation of religious property? It is a question that has a long history in our government debate. We will separate our position into two areas of taxation: income and property.

Income: IRS tax exempt status provides churches an exemption from income taxes and allows donors to claim a deduction for funds they donate. Currently, without much review, the IRS gives most religions nonprofit status upon application. The church, however, gives up its right to participate in partisan politics and must not endorse candidates for public office. Secular nonprofits have similar restrictions, although the application and filing process is more in-depth, requires filing an IRS 990 tax form, and provides for annual review of financial statements. Time and again churches violate the requirement to stay out of politics. We call for the IRS to step up enforcement of violations and for all nonprofits to be held to the same standard of reporting.

Property: Today most church property is exempt from taxation. Some states tax church property that is used to generate income, and some do not. Secular nonprofit holdings have a similar exemption but must meet more requirements, while some states that exempt churches from property taxes do not exempt the properties of secular nonprofits. The prevailing law of the land was decided by the U.S. Supreme Court in *Walz v. Tax Common of the City of New York 1970*, which established that churches should be exempt from property taxation because they provide a public benefit with their charitable works. The court held that this does not violate the Establishment Clause because it does not take money out of the treasury. The *Walz* decision assumes that religions provide a greater good than the costs to society of the lost tax revenue. Consider that most property taxes are used to pay for police and fire services and, in some communities, public schools. We contend that the tax should go with the land, and that all properties should pay their fair share, thereby lowering the tax rate of each owner as a way of providing for the good of each owner.

We find support for this argument in the following:

President James A. Garfield addressing Congress on June 22, 1874:

> The divorce between Church and state ought to be absolute. It ought to be so absolute that no church property anywhere, in any state, or in the nation, should be exempt from equal taxation, for if you exempt the property of any church organization, to that you impose a tax upon the whole community.

Elizabeth Cady Stanton, womens' suffrage campaign, circa 1877:

> For every dollar of church property untaxed, all other properties must be taxed one dollar more, and thus the poor man's home bears the burden of maintaining costly edifices from which he & his family are as effectively excluded -- as though a policeman stood to bar their entrance, and in smaller towns all sects are building, building, building, not a little town in the western prairies but has its three & four churches & this immense accumulation of wealth is all exempt from taxation. In the new world as well as the old these rich ecclesiastical corporations are a heavy load on the shoulders of the people, for what wealth escapes, the laboring masses are compelled to meet. If all the church property in this country were taxed, in the same ratio poor widows are today, we could soon roll off the national debt.

In 1875, President Ulysses S. Grant's message to Congress:

> We demand that churches and other ecclesiastical property shall be no longer exempt from taxation. I would also call your attention to the importance of correcting an evil that, if permitted to continue, will probably lead to great trouble in our land....it is the

> accumulation of vast amounts of untaxed church property....In 1850, the church properties in the U.S. which paid no taxes, municipal or state, amounted to about $83 million. In 1860, the amount had doubled; in 1875, it is about $1 billion. By 1900, without check, it is safe to say this property will reach a sum exceeding $3 billion....so vast a sum, receiving all the protection and benefits of government without bearing its portion of the burdens and expenses of the same, will not be looked upon acquiescently by those who have to pay the taxes....I would suggest the taxation of all property equally, whether church or corporation.

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The Johnson Amendment

The Johnson Amendment is an insertion into IRS Code section 501(c)(3) adding to the requirements of an organization eligible for tax-exempt status that it "does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office." The bill was introduced into the Senate by Minority Leader Lyndon Baines Johnson, passed without discussion, and was enacted into law.

It had been noncontroversial until the conservative Christian legal group Alliance Defending Freedom initiated the first Pulpit Freedom Sunday in 2008. The ADF contended that prohibiting churches from supporting or opposing political candidates violates the First Amendment's guarantee of freedom of speech. The ADF encourages ministers to openly support and oppose electoral candidates in their sermons each year on Pulpit Freedom Sunday. Since 2008, there have been over 2000 reports to the IRS of churches endorsing candidates, yet the IRS has not revoked the tax-exempt status of a single one. Prior to this, we know of only one case, *Branch Ministries v. Rossotti* (2000), where a church has lost its tax-exempt status for violating the Johnson Amendment.

The Johnson Amendment came into the political spotlight when Donald Trump, early in his presidency, promised to "totally destroy" it. Trump later issued an executive order to federal agencies to revise their regulations to eliminate burdens on the political speech of churches. The Johnson Amendment is a law, however, not a regulation, and was not affected by Trump's executive order.

The ADF's assertion that the Johnson Amendment violates the free speech rights of

churches is debatable. What is at stake is not a right but a government benefit, their tax exemption. Churches are free to endorse and oppose candidates if they relinquish their 501(c)(3) status. A better argument for opposing the Johnson Amendment is that government monitoring the content of sermons represents an excessive entanglement of government and religion, in violation of the *Lemon* test for Establishment Clause violations.

Current law permits 501(c)(3) organizations to take positions on laws and political issues consistent with their tax-exempt purpose. Our public policy positions are consistent with our tax exemption, for example. A reasonable observer might conclude, however, that by publishing it online we are encouraging people to vote for candidates who support its positions and against candidates who oppose them. The boundary of violations of this restriction is vague and invites abuse by politically motivated enforcement.

The proper use of the tax code to ensure the separation of church and state is to guarantee that tax-free charitable contributions cannot be used to fund political campaigns. This requires a clear prohibition against spending money on electoral activity. Political expenditures by churches and other tax-exempt organizations must be minor and insignificant. If a minister announces in a sermon that it is a requirement of faith that the congregants vote against a certain candidate who supports abortion rights, there is no expense and there should be no offense to the law. If they print flyers for their preferred candidate to insert into their newsletter, or expand their newsletter from 12 to 16 pages to accommodate political endorsements, or if they donate money to any political campaign or PAC, there should be sanctions. If anyone claims an itemized deduction for donations to this church, it should be scrutinized and perhaps disallowed. Our attention should be focused on strengthening safeguards against tax-free donations to churches making their way into political campaigns.

The important purpose of the Johnson Amendment is to prevent donations to political campaigns from becoming tax-deductible simply by washing them through a church or other nonprofit. The safeguards against mixing tax-free charitable donations with electoral political activity must be clear, robust and rigorously enforced. If a tax-exempt organization wishes to actively participate in an electoral campaign, including a referendum, it should be able to do so as long as it can document that it has segregated tax-deductible contributions from non-tax-deductible funding for their political activity. This may be done by establishing a separate, non-tax-exempt PAC.

The Parsonage Allowance: In 1954, Rep. Peter Mack Jr. (D-Ill.) introduced a bill creating in the tax code an income exemption for housing for “ministers of the gospel.” The bill passed, resulting in section 26 U.S.C. § 107 of the US tax code:

> In the case of a minister of the gospel, gross income does not include—
> (1) the rental value of a home furnished to him as part of his compensation; or
> (2) the rental allowance paid to him as part of his compensation, to the extent used by him to rent or provide a home and to the extent such allowance does not exceed the fair rental value of the home, including furnishings and appurtenances

such as a garage, plus the cost of utilities.

The congressional Joint Committee on Taxation has reported that the exemption amounts to $700 million a year in lost revenue. Wealthy ministers who live in multi-million-dollar mansions exclude hundreds of thousands of dollars from their income taxes. Since this exemption is available only to church employees, it is a subsidy of religion that clearly violates the Establishment Clause of the First Amendment. Minnesota Atheists therefore contends that it should either be ruled unconstitutional by the courts or else repealed by Congress.

Stem Cell Research

Stem cells have the capability of developing into specialized cells. There are high expectations that they will provide useful treatments for diseases such as Parkinson's, Alzheimer's, spinal cord injuries, stroke, burns, heart disease and diabetes. Research using fetal stem cells is, however, opposed by many religious groups because they are derived from aborted fetuses or excess fetuses produced for *in vitro* fertilization.

Minnesota Atheists holds that research with stem cells has the potential to benefit many people and should not be restricted. We oppose bans and restrictions on this research because laws should be based solely on secular reasons, and not on religious doctrines.

Public & Private Hospitals

No public hospital, clinic, or health care facility should fail to offer a health care service on the basis of religion. If a doctor or nurse on staff cannot be found to deliver a service that can be accommodated by that facility, admitting privileges must be granted to a qualified doctor or nurse of the patient's choice to perform that service.

Regarding private facilities, Minnesota Atheists supports a "Right to Know Act" such as the one developed by American Atheists that would "require health care providers to inform patients, insurance companies, and government agencies about any medical procedures and services the provider chooses not to perform because of the provider's religious beliefs. .. The health care providers and insurance issuers would then be required to make that information available online for potential patients."

As American Atheists states, "This is about disclosure, not about forcing providers to do anything they have a religious objection to. If a religiously affiliated hospital or health care provider has some objection to providing birth control, access to cancer therapies that could result in sterilization, mental health services, or hormone replacement therapy, they can continue to opt out of providing those services. What they can't do is pull a bait and switch on patients and potential patients."

In mergers between public and private (especially religious) hospitals, the full range of services that were offered by the public hospital before the merger should continue to be offered after the merger – otherwise the merger should not take place. If a doctor or nurse

on staff cannot be found to deliver a service, admitting privileges must be granted to a qualified doctor or nurse of the patient's choice to perform that service.

According to the American Medical Association's Code of Ethics, "Decisions regarding hospital privileges should be based upon the training, experience, and demonstrated competence of candidates, taking into consideration the availability of facilities and the overall medical needs of the community, the hospital, and especially patients.… Physicians who are involved in the granting, denying, or termination of hospital privileges have an ethical responsibility to be guided primarily by concern for the welfare and best interests of patients in discharging this responsibility."

Court-ordered attendance in addiction recovery programs
Sentencing guidelines in Minnesota for many alcohol and drug offenses include attendance and participation in privately run addiction recovery programs, such as Alcoholics Anonymous. Most of these programs are religiously based, and at least demand of participants acceptance of a "higher power."

Courts have ruled that it violates the Establishment Clause to require participation in such a religious program. Therefore, secular options must be provided for those who dissent from a group's religious views. There are several such groups, so in heavily populated areas this does not usually present a problem. In some jurisdictions in rural Minnesota, however, secular alternatives are not always available. Minnesota Alternatives lists secular addiction recovery programs in only 10 cities in Minnesota. Lack of secular alternatives cannot justify the Establishment Clause violation of requiring, with the force of law, participation in a religious activity. Secular sentencing alternatives must be available that are no more burdensome or intrusive than the offered religious programs.

Most commonly, addiction recovery programs are privately funded, but in some cases they receive government funds. Groups that receive government funds should be required to provide an entirely secular program and should be monitored to ensure compliance with this requirement.

II. RELIGIOUS PRIVILEGE

The First Amendment guarantees that government shall make no law prohibiting the free exercise of religion. The American College of Catholic Bishops has asserted that this provision exempts them from the mandate in the Affordable Health Care Act of 2010 that employer-provided health insurance policies must cover preventive reproductive services because the Church is morally opposed to contraception.

When the government granted this exemption to churches, the Bishops demanded that it be extended to all enterprises that the Church operates, such as hospitals, colleges and charities. When the government tried to accommodate them by requiring the costs of this coverage to be borne by the insurer, they responded that it was still unacceptable that this coverage be included in any contract to which they were a party. They even demanded

that the exemption be extended to Catholic business owners, so that they individually will not be required to violate Church teachings.

This would give their businesses a competitive advantage to be able to provide employees a trimmed-down, lower-cost insurance plan than their secular competitors. Should a religious exemption to the insurance mandate be granted to a Christian Science business owner, who wants to pay only for prayer?

Freedom of religion guarantees the right of an individual to follow the dictates of his or her own conscience, but there is no right to force one's religious beliefs upon others. Thus, for example, the right to free exercise ensures a business owner of the right to refuse to use contraception, but no right to prevent others from doing so, or to deny them insurance coverage for it. If separation of Church and State means anything, no woman should find herself without access to contraception because of someone else's religious beliefs.

This demand by the Church is not for freedom of religion, but for special religious privilege. It has long been established that war protestors and pacifists may not withhold part of their tax payments because they object to funding the military, regardless of whether the source of their objection was religious belief.

Government policies should apply equally to religions as long as those policies have a secular purpose and serve a valid secular need. The burden must be on religion to show that the secular purpose can be satisfied in a way that is less offensive to their moral principles.

This principle of government even-handedness should also be applied to claims of "ministerial exception." The ministerial exception should apply only to the clergy and other employees whose work duties are primarily ministerial. For example, no Catholic Church should ever be penalized for not hiring a woman as a priest.

But except for this narrow "ministerial exception," federal and state laws designed to protect all employees should be broadly applied. We disagree with the ruling in the case of Hosanna-Tabor Church v. Equal Employment Opportunity Commission, where the U.S. Supreme Court ruled that the exception applies not just to ministers, rabbis and priests, but even to secular employees for whom activities related to ministering were a brief and insignificant portion of their job. The ruling has the potential to deny to practically all church employees the equal protection of civil law.

Religious Freedom Restoration Act and Anti-discrimination Statutes

Ever since the Civil War decided US policy on slavery, the First Amendment's prohibition on restricting the free exercise of religion has been a point of national pride. From the 1930s on, the courts consistently provided robust protection for religious liberty against government coercion. That is until consistency began to erode in the late '80s in cases such as *Employment Division v. Smith*.

In *Smith* the Court upheld the state of Oregon's refusal to give unemployment benefits to two Native Americans fired from their jobs at a rehabilitation clinic after testing positive for mescaline, a derivative of peyote which they used in a religious ceremony. The court ruled that because the Oregon regulation applies equally to everyone and was not targeted at Native American religious practice, it did not violate the constitutional protection of religious freedom.

The *Smith* decision outraged the public, both on the left and the right. Congress developed the Religious Freedom Restoration Act (RFRA) to overturn *Smith* and other laws that burden religious exercise. RFRA requires government action to meet *strict scrutiny* to determine if it satisfies the Free Exercise Clause. If a government action is challenged for violating the Free Exercise Clause, the government must prove:

1. that the law or action addresses a compelling state interest;
2. is narrowly tailored to meet that compelling state interest; and
3. uses the least possible restriction on religious exercise to achieve the objective.

RFRA passed the House unanimously and the Senate 97 to 3 and was signed into law by President Clinton. Everyone, it seemed, was pleased, including every national secularist organization. In time, however, the religious right realized that RFRA could be weaponized by using it to create religious exemptions to anti-discrimination laws.

The first federal anti-discrimination law was the 1964 Civil Rights Act, which prohibited discrimination in public accommodations on the basis of race, color, religion, sex and national origin. Since then, other classes, such as pregnancy, sexual orientation, gender identity, age, disability and genetic information (including family medical history) have been protected in federal laws.

In the Supreme Court's 1997 ruling in the case *Boerne v. Flores,* RFRA was ruled unconstitutional as applied to the states, but still valid with respect to the federal government and its agencies. For the states, the test for free exercise violations remained that from *Employment Division v. Smith.* As a result, several states and cities passed their own anti-discrimination laws. A conservative Christian legal campaign ensued to undermine anti-discrimination laws in state courts as well as federal. The Supreme Court has been supportive of the aggressive reinterpretation of religious freedom as an exemption to anti-discrimination laws.

In particular, Christian conservatives have used religious privilege as a culture wars cudgel against LGBTQ rights. After the Supreme Court's 2015 decision in the *Obergefell* case that requires all states to permit same-sex marriage, the religious right promoted RFRAs in several states with the intention of permitting individuals to deny service to same-sex couples on the basis of religious objections. Conservative Christian organizations not only encouraged merchants to deny commercial services to same-sex weddings, but also civil authorities to refuse to issue marriage licenses or to perform marriage ceremonies based on religious objections.

In the case *Masterpiece Cakeshop v. Colorado Civil Rights Commission* (2018) the US Supreme Court ruled that a Christian couple who owned a bakery could legally refuse to add an inscription to a cake ordered by a same-sex couple who were getting married. The court based the decision on apparent bias against religion by one of the commissioners in the hearing, to which the other commissioners did not object. To win similar cases in the future, the commissioners must avoid statements critical of religion. This decision has the effect of imposing a blasphemy law on government. No case has yet decided that federal, state or local RFRAs provide exemption to anti-discrimination laws on a generally applicable principle, but that is a concern with the currently constituted conservative Supreme Court.

A greater problem than RFRAs for discrimination against gays and lesbians results from inadequacies in state non-discrimination in public accommodations laws. In 28 states there is no state-wide protection on the basis of sexual orientation or gender identity, although they may be protected classes in city or county non-discrimination laws.

The expanded recognition of religious privilege requires legislators to draft anti-discrimination laws with particular care. In practically all non-discrimination statutes, there is a prohibition against discrimination on the basis of religion. Generally, prohibitions on discrimination on the basis of religion include atheists in their protection. However, there are some states and municipalities that have particular wording that needs revision. For instance, Madison, Wisconsin had an equal opportunities ordinance that included "religion" as a protected class and defined religion as "all aspects of religious observance and practice, as well as belief." This mirrors wording in the federal Civil Rights Act. On its face, that language is not inclusive of atheists, so the city added atheism separately as a protected class. Some state laws protect from discrimination on the basis of "creed," which is typically not defined in the law.

Depending on the definitions that a municipality uses, nonreligious persons may be excluded by the statutory language, and defiant landlords or business owners could try to claim that there is not a protection for atheists if their discriminatory practices are challenged. The best practice in law making is to make the law clear. This can be accomplished by using appropriate definitions for 'religion,' but there are benefits to including explicit protection, which include:

a) Ensuring equal protection of all citizens, both religious and non-religious
b) Establishing formal recognition that non-religious persons are part of the community
c) Informing landlords, local businesses, and employers as to what type of conduct is allowed
d) Providing a clear means to remedy discrimination

State-Supported Discriminatory Youth Groups

The Boy Scouts of America is chartered by the U.S. Congress, tax exempt and often given preferential access to government resources such as parks and recreation facilities.

Nevertheless, they require members and leaders to profess belief in God. Although this violates most state laws banning discrimination in public accommodations on the basis of religion, the courts have ruled that it is within their right as a private, "expressive" organization.

While it is their right to discriminate against atheists, they should be denied government benefits and preferences while doing so. Their congressional charter and tax exemption should be repealed. This principle should hold with all other youth groups.

Religious Exemptions to Children's Health Care

Parents do not have the right to 'dictate' 'religious-based' health care convictions for their children. The laws that govern parents' rights over children in terms of health care have traditionally been a matter of case law by individual state courts. Courts have the ultimate say over these issues on a state-by-state basis.

Current Child Health Care Law has its roots in these important cases:

The 1905 Supreme Court case of *Johnson vs Massachusetts*, the 1922 Supreme Court case of *Zucht v. King*, the 1944 Supreme Court case *of Prince v. Massachusetts*, and the 1947 Supreme Court case of *United Public Workers v. Mitchell*.

The religious right continues to try to get past this law in Minnesota. One example is the Juvenile court case of Daniel Hauser (court file No: JV-09-68) whose parents refused medical treatment for his Hodgkin's lymphoma and elected to give him religious based "alternative medicine." District Judge John Rodenberg found Daniel "medically neglected" and he was given the chemotherapy to save his life.

Minnesota Atheists agrees with the finding of these cases that the religious beliefs of parents should never exempt them from the responsibility to provide medically necessary care for their children.

Current Minnesota immunization law gives two exemption provisions (Statute 121A.15):

> **A Medical Exemption** if an immunization is medically contradicted for a child, or if there is a laboratory confirmation that a child is already immune to certain diseases against which immunization is normally required, the student may submit a statement to this effect, signed by a health care provider, in order to be considered exempt from the contraindicated or unnecessary immunization.
>
> **An Elective Exemption** if a child's parent or guardian, or the child (in the case of an emancipated minor), wishes to be exempt, based on their beliefs, from one or more immunization requirements, the parent or child may submit a statement to this effect, signed by the submitting person and notarized.

Minnesota Atheists objects to the Elective (philosophical and religious) Exemption for immunizations due to the compelling government interest that they compromise the health and well-being of the community. Beliefs that put the general public at risk should not qualify for a generally applicable policy. California and Mississippi serve as model states by allowing only Medical Exemptions. Medical evidence has shown that the Elective Exemption law puts at risk for the diseases and their complications not only the child who gets the exemption, but also infants and toddlers in day care settings, the elderly, and those who have a compromised immune system. The only valid reasons that should be considered for exemptions to the Minnesota immunization law are scientifically based ones.

Marriage Celebrants

Minnesota Atheists views long term, committed, loving relationships between adults as beneficial to most individuals and to the well-being of society. Some people desire to formalize these relationships with a civil marriage.

The following guidelines should apply to civil marriage celebrants:

1) A method should be available whereby eligible people can simply register themselves at a government clerk's office as civilly married in the eyes of the state. In this case, the clerk acts as, or takes the place of, a celebrant.

2) The state may choose to have government officials or employees conduct civil marriages. Minnesota Atheists takes no position as to which government officials or employees (e.g. judges, mayors, state representative, etc.) should be authorized.

3) The government may allow non-government people to act as agents of the state to perform civil wedding ceremonies, so long as no favoritism is shown to religion or atheism. If religious clergy are allowed to be agents of the state in this regard, then the same right should apply to representatives of the atheist and secular humanist community (and vice versa).

   Currently in Minnesota, the civil marriage celebrant laws allow for religious clergy but not for secular celebrants from atheist and secular humanist organizations. This favoritism is discriminatory and a violation of separation of church and state and must end.

   Celebrant registration is conducted by the counties. One county has allowed an atheist marriage celebrant to register so long as the standard form was filled out – a form that states that the applicant conforms to Minnesota state law. This has the effect of classifying atheism as a religion and is not a solution. Another county has allowed an atheist marriage celebrant to register without this form. This is potentially a solution, but we cannot know if all counties would always allow it, and thus it really is not a solution. A third county dropped a court challenge and allowed an atheist marriage celebrant to register. At best this would seem to apply only to that county. The two best solutions to ensure equal marriage celebrant

rights for atheists and secular humanists would be to either change Minnesota law or to get a court to overrule current law in such a way that it would be binding upon the whole state.

4) We recommend that notaries public and qualified representatives of nonprofit educational organizations also be allowed to be celebrants to perform civil weddings.

5) A method should be available whereby eligible people can simply register themselves at a government clerk's office as civilly married in the eyes of the state. Procedures such as these are already in place for domestic partnerships in some localities. In this case, the clerk acts as, or takes the place of, a celebrant.

6) The state may choose to have government officials or employees conduct civil marriages. Minnesota Atheists takes no position as to which government officials or employees (e.g. judges, mayors, state representative, etc.) should be authorized.

7) The government may allow non-government people to act as agents of the state to perform civil wedding ceremonies, so long as no favoritism is shown to religion or atheism. If religious clergy are allowed to be agents of the state in this regard, then the same right should apply to representatives of the atheist and secular humanist community (and vice versa).

   Currently in Minnesota, the civil marriage celebrant laws allow for religious clergy but not for secular celebrants from atheist and secular humanist organizations. This favoritism is discriminatory and a violation of separation of church and state and must end.

8) We recommend that notaries public and qualified representatives of nonprofit educational organizations also be allowed to be celebrants to perform civil weddings.

Religious Rights of Prisoners

Some prisons encourage inmates to participate in religious activities such as worship, study and communal meetings, apparently believing that they will result in a more moral life when the prisoners return to society. To this end they work with groups like Prison Fellowship Ministries to provide counseling, job training, and Bible studies. These groups inherently exclude nontheists because they do not offer secular alternatives for rehabilitation programs. While prisons have routinely promoted Christian activities, and rewarded inmates for participating in them, they have resisted allowing comparable activities for nontheistic prisoners. Prisons and courts have sometimes ruled that secular humanism is not a religion but a belief, and therefore its proponents are not covered by the First Amendment's religious protections.

Nontheist prisoners have not been allowed the same access to facilities to gather as a group and in addition to this, there has been censorship, banning of books, magazines and

publications that are critical of religion.

When a state or federal prison gives benefits to prisoners because of a specific religious participation and does not provide the same benefit to a non-religious inmate, it violates the Establishment Clause of the First Amendment to the US Constitution.

Minnesota Atheists supports the idea that all prisoners should have the same access and early release benefits regardless of their religious or nonreligious beliefs.

Courts have held that the Religious Land Use and Institutionalized Persons Act (RLUIPA) confers sweeping protections to the religious exercise of prisoners. In a case of prisoners trying to set up services in the Christian Nationalist faith, the courts ruled that the government's claims of pursuing a compelling interest using the least-restrictive means must be given the highest scrutiny. They rejected the claim by the Michigan Department of Corrections that the reaction to recognizing an expressly racist group would pose a threat to prison safety and security. Minnesota Atheists believes that the court should defer to the judgment of prison officials in managing the safety and security of their institutions.

Taxpayer Funded Chaplains

After leaving office, President James Madison examined the issue of U.S. Congressional chaplains in his "Detached Memoranda" (c. 1817):

> *Is the appointment of Chaplains to the two Houses of Congress consistent with the Constitution, and with the pure principle of religious freedom?*
>
> *In strictness the answer on both points must be in the negative. The Constitution of the U.S. forbids everything like an establishment of a national religion. The law appointing Chaplains establishes a religious worship for the national representatives, to be performed by Ministers of religion, elected by a majority of them; and these are to be paid out of the national taxes. Does not this involve the principle of a national establishment, applicable to a provision for a religious worship for the Constituent as well as of the representative Body, approved by the majority, and conducted by Ministers of religion paid by the entire nation.*

We believe that the same argument Madison used at the federal level should apply to the states.

Current Minnesota law directs that the State Senate and House of Representatives shall each elect a chaplain. (2018 Minnesota Statutes, Section 3.06). Minnesota Atheists holds that this is unconstitutional for the following reasons, though we acknowledge that the Supreme Court has ruled that chaplains and religious invocations are constitutional. (*Marsh v. Chambers*, 1983):

Public religious invocations should not occur in legislative chambers while state legislatures are convened. Neither should they occur in legislative chambers just before or just after legislatures are convened, as a ruse to say they are not occurring on official government time. Legislators are present in either case and such invocations will have the appearance of being officially state-sanctioned. These are all unconstitutional state endorsements of religion.

Unlike people who serve in the military, whose time and ability to leave their bases are regulated by the state, and who may be stationed or deployed far from clergy, legislators serve in state capitols – cities where they have free access to a variety of clergy. They may even invite clergy into their government offices for personal consultation. Thus the state has not created any hardship for legislators that needs to be remedied by providing a chaplain.

There are no duties that a chaplain needs to perform and the presence of a chaplain in any official capacity would be an unconstitutional state endorsement of religion. Thus there should be no legislative chaplains, whether paid or not paid by the state.

However, if opening invocations do occur at state legislatures, and they are presented by people from the religious community, then representatives from the non-religious community must be allowed to give secular invocations.

The scheduling of these invocations should be done by a civil servant. A member of the clergy should not be paid to do this.

Violations of Noise Ordinances (such as church bells and calls to prayer)

While religious people and organizations should be allowed to proselytize, they should not be allowed to do so in ways that violate laws that everyone else must follow. The only laws that governments should make are ones that have a secular purpose.

Noise ordinances are created by municipalities for the secular purpose of having quiet during the nighttime, when most people are trying to sleep, and relative quiet during the daytime, when people are trying to focus on tasks and not become distracted or irritated.

There are good secular exceptions to these laws, such as:

- loud sirens coming from police, ambulance, or fire trucks in a hurry, warning people to get out of the way;
- the testing and implementation (if necessary) of tornado warning sirens;
- a burglar alarm, which might frighten away a potential burglar before he can enter a property and do harm;
- a personal air horn that is used for the purpose of signaling distress;
- temporary noise from construction machinery that is unavoidable due to the nature of the machines or the task they are doing.

What secular purpose, apart from the kinds of emergency or unavoidable things listed

above, can there be to depart from these standards?

Laws regarding noises typically specify permitted locations, times, and maximum volumes (in decibels and distance). These are objective standards that can be measured. More noise is often permitted in commercial areas than in residential areas.

To allow a religious organization to make noise, through such things as church bells or calls to prayer, in a manner that violates noise ordinances, and in a manner that no other organization is allowed to do, is an example of religious privilege that benefits some religions over others and benefits religious organizations over nonreligious organizations.

Exemptions to Social Distancing

When the Covid-19 pandemic struck the United States, every state, and some cities enacted rules to try to contain it. Typically, large gatherings such as concerts, theater and sporting events were banned. Restaurants were restricted to take-out and delivery. "Essential" services like grocery stores and pharmacies could remain open.

In several cases, churches sued to be exempted from these restrictions. They claimed to be as "essential" as grocery stores, so that the restrictions were anti-religious discrimination in violation of the Free Exercise Clause. These claims were ended by the decision in *South Bay Pentecostal Church v. Newsom.* The Supreme Court ruled that churches are like concerts, theater, and sporting events, in that people remain in their seats, close together, for extended periods of time. In grocery stores and pharmacies, however, "people neither congregate in large groups nor remain in close proximity for extended periods." Minnesota Atheists agrees with this decision.

In a similar California case, *Tandon vs Newsom*, the Supreme Court ruled 5-4 in favor of Tandon for the right to hold indoor services. The court's majority said Governor Newsom's order violated the Constitution's protection of the free exercise of religion. Justice Kagan dissented, stating that "Because the majority continues to disregard law and facts alike, I respectfully dissent from this latest *per curiam* decision." Minnesota Atheists holds that the courts do not have the scientific knowledge or resources to decide complicated public health issues such as public meeting restrictions needed to cope with a pandemic. These are questions of life-and-death that cannot be answered in any holy book, law book or national constitution. The decisions should be left up to elected officials who are in a better position to scientifically assess the public health conditions and regulatory needs.

The use of expert testimony in U.S. courts is guided by Rule 702 of the Federal Rules of Evidence as clarified in *Daubert vs Merrell Dow Pharmaceuticals, Inc.* (1993). The expert testimony in *Tandom vs Newsom* met these standards and provided risk-based reasoning to differentiate between in-home gatherings and commercial transactions. It was not contested by Tandon, et al. Yet it was not referred to by the majority in their decision. Minnesota Atheists holds that the courts do not have the scientific knowledge or resources to decide complicated public health issues and, thus, have a responsibility to be guided by the

expert testimony they receive. We agree with Justice Kagan that "the court has no warrant to ignore in a case that (on its own view, see ante, at 2) turns on risk assessments."

III. Lesbian, Gay, Bisexual, Transgender, Queer, Intersex (LGBTQI) Rights

Minnesota Atheists supports equal rights for all citizens regardless of sexual orientation. This support is based on two rules of law:

1. **The Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution**.
   Section One of the Fourteenth Amendment to the United States Constitution states "…nor shall any State… deny to any person within its jurisdiction the equal protection of the laws."

   Thus the Equal Protection Clause demands that, lesbian, gay, bisexual, transgender, queer and intersex (LGBTQI) citizens be treated the same under the law as cisgender heterosexual citizens. We are particularly concerned with countering religious groups that wish to limit equal protection under the law due to their religious dogma.

2. **The Establishment Clause of the First Amendment to the U.S. Constitution**
   The Establishment Clause has been interpreted in Supreme Court decisions to place the following restrictions on government:

   a) **Civil laws must have a secular basis.**
   Any law that would reduce the rights of any class of citizens must have a secular justification. There is no secular reason to deny equal rights and equal protection under the law due to a person's sexual orientation.

   b) **Religious tenets for which the only basis is belief in the supernatural should not become civil law. To turn such religious tenets into civil law is to create a theocracy.**
   Religious arguments against equal rights and equal protection under the law for LGBTQI people are based solely on belief in a particular type of god who advocates limiting such rights and protections. As we cannot demonstrate that this god exists, much less confirm its instructions to humanity, we cannot base any secular laws on this supernatural belief.

The Principle of Equality in Practice

Minnesota Atheists' support for equal rights for all citizens regardless of sexual orientation includes, but is not limited to, the equal right to a civil marriage, with all the accompanying benefits and responsibilities; equal rights to fertility treatments and adoption; the right to openly identify one's sexual orientation and serve in the military; and the equal right not to be discriminated against in employment and housing.

Just as gays and lesbians are the victims of religiously driven bias because of their sexual

orientation, religious bias drives discrimination against transgender people because their sexual identity conflicts with their physical characteristics at birth. This animosity manifests in government action such as so-called "bathroom bills" that have been introduced in several states, including Minnesota. These bathroom bills, which permit people to use only the public bathrooms for the sex defined by their physical characteristics at birth, are justified by fear that trans-women will have the opportunity to assault cisgender women. However, there has never been an instance of such an assault. A 2015 study by the National Center for Transgender Equality shows, however, that one percent of transgender people are sexually assaulted in public restrooms because of their gender identity.

Alternately, bathroom bills have been justified by appeal to "natural modesty." This approach makes cisgender modesty decisive, while dismissing transgender modesty. Minnesota Atheists regards this as another case where a principle of equality should be applied. Government has a right to enforce sexual segregation to ensure people's safety. Where that is not an issue, people should have an equal right to decide for themselves which bathrooms they should utilize.

The U.S. Supreme Court & Same-Sex Marriage

Minnesota Atheists agrees with the U.S. Supreme Court's decision in *Obergefell v. Hodges* that:

> "The right of same-sex couples to marry that is part of the liberty promised by the Fourteenth Amendment is derived, too, from that Amendment's guarantee of the equal protection of the laws."
>
> "These considerations lead to the conclusion that the right to marry is a fundamental right inherent in the liberty of the person, and under the Due Process and Equal Protection Clauses of the Fourteenth Amendment couples of the same-sex may not be deprived of that right and that liberty."

IV. REPRODUCTIVE RIGHTS

The right for childbearing individuals and couples to plan their reproductive lives is the target of a broad range of continuous legal attacks by the religious right. Unfortunately, they are winning this battle.

Prior to June 24, 2022, *Roe v. Wade* was the landmark Supreme Court decision that established the right to choose abortion based upon an implied constitutional right to privacy. In the landmark decision of *Dobbs v. Jackson Women's Health Organization*, the Supreme Court held that the Constitution of the United State does not confer a right to abortion and *Roe v. Wade* and *Planned Parenthood v Casey* were overturned. This decision undermines the fundamental rights of childbearing individuals and puts their health at risk.

During the Trump administration, three conservative Supreme Court Justices were

appointed to the court allowing the 6-3 majority ruling on the case. The appointment of these Justices and this ruling are victories for the Christian Right.

The ruling allows the individual states to regulate access to abortion services. Abortion rights are protected in the state of Minnesota, and abortion access has been expanded. Prior restrictions (the waiting period and parental permission) have been temporarily lifted despite this ruling. Minnesota is a safe haven for individuals living in states that have banned abortion due to this ruling.

Minnesota Atheists supports the idea that all individuals have access to contraceptives and medically correct information about their use. Minnesota Atheists opposes so-called "abstinence only" sex education because it withholds from the sexually active student the information that they need for responsible decisions that can prevent unwanted pregnancies.

Many situations put childbearing individuals in situations where an abortion is the only option to save their lives. These may be due to medical issues like an ectopic pregnancy, or a miscarriage that can put the individual's life at risk for an infection or leave them unable to have more children. Medical risks can happen at any point in a pregnancy, so the individual should have the right to medical abortion at any time.

Bodily autonomy is the fundamental issue regardless of the reason for the decision to have an abortion. Abortions have low medical risks, and the majority can be done at home using medication and supervised by a physician.

It is important to note that the effect of pushing abortion out of reach falls disproportionately on those who are already impacted by systemic barriers to care. Those being communities of color, low-income families, undocumented immigrants, young people, LGBTQ+ Community and people with disabilities.

There is a political strategy to undermine childbearing individuals' reproductive rights with so-called "conscience clauses," which permit health care providers to refuse medical treatments on the grounds that they conflict with the provider's religious belief. Conscience clauses in some states address fetal research, such as on stem cells, and reproductive technologies such as *in vitro* fertilization. The most common type of conscience clause permits pharmacists and emergency room staff to refuse to provide contraception, including emergency contraception to rape victims. While proponents try to justify conscience clauses as necessary to protect religious liberty, their actual and intended effect is to authorize a religious privilege to health care providers to impose their religious beliefs on others. It is unethical for health care providers to create obstacles to a woman's access to safe, effective, and legal health care.

Public policy should ensure that medical care will be based upon the needs of the patient, and not be dictated by the religious beliefs and moral prejudices of caregivers. It should only be permissible to assert a right to refuse to fill a prescription when the patient is referred to a local pharmacy within a reasonable distance where the prescription will be

filled without delay.

Covid-19 restrictions adopted in many states provided abortion opponents with a new legal tactic. There were widespread fears that the rapidly spreading disease would overwhelm available medical services. States particularly feared that medical Protective Personal Equipment (PPE) used for unnecessary procedures would create a shortage for medical personnel fighting the pandemic. Several states enacted interim bans on non-essential, elective procedures including surgeries. Abortion opponents used this rule to impose a temporary ban on abortions.

Minnesota Atheists views this tactic as a legal bait-and-switch fraud to deprive childbearing individuals of a fundamental legal right. Abortion is an essential surgery because it is so time-restricted.

V. PUBLIC EDUCATION

The Constitution of the state of Minnesota draws clear guidelines for the separation of religion and government in Article 13, Section 2, by identifying the lines where government and religion must not intrude upon one another: "In no case shall any public money or property be appropriated or used for the support of schools wherein the distinctive doctrines, creeds or tenets of any particular Christian or other religious sect are promulgated or taught," and also Article 1, Section 16: "nor shall any money be drawn from the treasury for the benefit of any religious societies or religious or theological seminaries." Minnesota Atheists supports clear guidelines for separation of religion and government in all areas of public education (K- University) and asserts that it is better to err on the side of clear separation than to support a policy that violates these guidelines.

Opponents of the separation of church and state try to influence education policy in several areas:

1) **Religion in the curriculum**

   In the teaching of science, public schools need to adopt a curriculum that is approved by the scientific community. For example, evolution is a theory that has been accepted by established science. Religious stories of creation by supernatural means have no basis in accepted science and are matters of faith. Intelligent Design is a supernatural claim that cannot be verified empirically, makes no predictions, and is not falsifiable. Furthermore, the *Kitzmiller v. Dover* case clearly established that Intelligent Design is not science and should not be taught in science class.

   In the non-science curriculum, public education should not display any bias toward religion. Schools should teach about the influence of religion on culture and society, but without endorsing religion or religious ideology. In literature and history classes it is permissible to use religious texts as long as there is no promotion of religion over non-religion. In social studies classes the Declaration of Independence reference to "Creator-endowed rights" should be taught in the

context of enlightenment ideas, including deism; and discussion should be encouraged on the source of human rights.

2) Prayer

Prayer should follow established Federal guidelines for public schools (K – university). No public employee should lead or endorse prayer in the public schools. Prayer should be a private matter and not involved in any ceremony or activity promoted by a public school. Collective prayer is always coercive for elementary and high school students. A mandated moment of silence is only a thinly veiled collective prayer.

In the event that a public school should designate a room for prayer, meditation, or silence, the room should not be used for proselytizing. Anyone using the room should do so in silence when others of a different belief system are present. No symbols, books, or literature should be permanently displayed in the room. The room should not promote any religion over any other, nor religion over non-religion.

In *Kennedy vs. Bremerton School District (2022)* the US Supreme Court ruled that a public school coach's prayer on a football field after the game, where he invited players to join him, was a "personal religious observance." This, despite the fact that the prayer took place openly on public school property by a school official, and that such an invitation to the players to participate in the prayers could easily be viewed by them as coercive since the coach had control over who played and who did not.

Minnesota Atheists agrees with Associate Justice Sotomayor, who wrote in dissent: "Since Engel v. Vitale, 370 U.S. 421 (1962), this Court consistently has recognized that school officials leading prayer is constitutionally impermissible. … To the degree the Court portrays petitioner Joseph Kennedy's prayers as private and quiet, it misconstrues the facts. The record reveals that Kennedy had a longstanding practice of conducting demonstrative prayers on the 50-yard line of the football field. Kennedy consistently invited others to join his prayers and for years led student athletes in prayer at the same time and location. The Court ignores this history."

Since this ruling is unlikely to be reversed any time soon, Minnesota Atheists advocates that the free speech public forum standards of *Lynch v. Donnelly (1984)* be applied in this case: That where public high school athletic fields are used for religious events, that all viewpoints on religion are allowed expression, including Christian, Jewish, Muslim, Hindu, Buddhist, atheist, and the Satanic Temple.

3) Sex education in public school

Public schools should provide a sex education curriculum that is consistent with the research on what is effective and helpful to the health of students. An abstinence-only program that is taught with a religious motivation violates

separation. Abstinence may be advocated only in conjunction with instruction in safe prophylactic practices.

4) Religious activities in public schools

In 1990, in the case *Westside Community Schools v. Mergens*, the Supreme Court ruled that the Equal Access Act, which permitted public school students to form religious clubs that meet during non-instructional time if they permit secular clubs, was constitutional. The Court ruled in 2001 in the case *Good News Club v. Milford Central School* that if public schools rent out rooms to secular groups that they must rent them to religious groups on the same terms. In both cases, the court ruled that public schools may not discriminate against groups on the basis of religious content. Earlier courts came to contrary rulings by applying the Lemon Test, which Minnesota Atheists believes should be the governing precedent.

Accepting the decisions in the *Westside* and *Milford* cases, Minnesota Atheists believes that public schools must still take care to avoid violating the Establishment Clause. Rooms should be rented to religious groups at the same rate applied to secular groups, and strictly audited. No student or staff member may be required to participate in any religious activity. There may be no religious indoctrination during instructional time. Faculty may not promote or recruit for religious Equal Access Clubs or for outside religious groups meeting on school grounds, as this would give the appearance official endorsement. All school-sponsored activities must avoid in act and appearance promoting religion.

Minnesota Atheists opposes the practice of religious release time.

5) Teaching comparative religion and texts

Comparative religion and religious texts (Bible, Koran, etc.) may be taught if presented in an unbiased manner with text material that clearly has no presentation bias. Advocacy, both religious and atheistic, must be strictly avoided, even by outside presenters. The public school must balance the bias that may appear in such classes by performing a close scrutiny of the materials used and of the instructor. Instruction in comparative religion done from a secular approach may have a positive effect on students. A survey of world religions should include atheism and other non-theistic worldviews.

6) Vouchers and Tax Credits

Vouchers and tax credits are methods of giving parents a choice in the schools their children attend. It makes no difference regarding state/church separation whether the government subsidy is in the form of a direct payment or a tax credit. Public funds should not be used to pay for an education at a religious school. Funding school programs that include religious activity makes it difficult if not impossible to separate the funding of religious from nonreligious instruction. It is therefore our policy that vouchers or tax credits should not be used in any payment to attend a religious school.

7) Academic Freedom

Academic freedom should be a guideline for the presentation of material within the public school system (K – University). The teaching of any subject should protect the right of an educator to present their material without infringement. The guideline for academic freedom does not extend to the presentation of a religious bias in any curriculum presented in a public school. For example, Intelligent Design must not be taught as an alternative to evolution in a science classroom. ID might be presented along with other concepts of creation in a study of cultural differences, but not as science. The Bible may be taught as literature, but it should not be taught with any doctrinal bias, e.g., claiming that the virgin birth of Jesus or the Trinity are matters of fact and not faith. Academic freedom does not give a license to teach lies as truth, faith as fact, myth as science, or material not endorsed by sound educational practice. Education should teach critical thinking and not dogma.

8) Charter Schools

Charter schools are publicly financed schools designed for a specific need or curriculum. Charter schools should be bound by the same rules ensuring separation of church and state as conventional public schools. Even if the students of a charter school are of a single religion, the school must not be used as a vehicle of religious instruction. No school should be housed on the same grounds as a house of worship, and when school employees have church offices, there must be a clear delineation of responsibilities.

9) Secular Student Groups

The **Equal Access Act** is a United States federal law passed in 1984 to compel federally funded secondary schools to provide equal access to all extracurricular clubs. Lobbied for by Christian groups who wanted to ensure students the right to conduct Bible study programs during lunch and after school, it is also essential in litigation regarding the right of students to form gay–straight alliances; and to form groups focused on any religion or on secularism.

Due to schools across the country disregarding the Equal Access Act in regard to Atheist groups, the US Secretary of Education Arne Duncan issued "Guidelines for the Equal Access Act" in June 2011.

Minnesota Atheists supports the rights of students to have equal access to school facilities for all student groups. Minnesota Atheists supports the rights of nontheistic students to have equal access to public school facilities.

10) **Recitation of the Pledge of Allegiance** in public schools has two problems. One problem, of special interest to atheists, is the violation of separation of state and church:

• It asks the person reciting the statement to affirm a belief that the United States is a nation "under God."

What does it mean to be "under God"? Whose god? Which religion? And what

about citizens who are atheists or polytheists?

In public schools, nothing should divide and denigrate students, teachers, or administrators on the basis of their religion or lack thereof. The Pledge of Allegiance has this effect on atheists because it coerces them into supporting a particular religious viewpoint (monotheism), with which they disagree.

Because these are public schools, mandating the recitation of the Pledge constitutes an unconstitutional government endorsement of religion: "Congress shall make no law respecting an establishment of religion…" (Amendment I)

Public school teachers and administrators are in positions of public trust. As such, they are further protected by another section of the U.S. Constitution, which states that "no religious test shall ever be required as a qualification to any office or public trust under the United States." (Article VI, paragraph 3)

Recitation of the Pledge of Allegiance in public schools has another problem, the violation of a different part of the First Amendment, freedom of speech:

• It asks the person reciting the statement to pledge allegiance to a *symbol* of the United States – a flag.
How do you have allegiance to a symbol? Should people risk their lives for a piece of cloth or a drawing? If two pieces of cloth are about to be burned in a fire, an inexpensive American flag and a rare and valuable art tapestry, must the preservation of the flag take precedence over the art? And why should someone be pressured or obligated to do any of this? Pledging or not pledging allegiance to a symbol is protected by the First Amendment's guarantee of free speech.

• It asks the person reciting the statement to pledge allegiance to the United States of America.
This makes sense if a person has a position of public trust, such as with the police or military, or is an elected or appointed official, or is in any other position of upholding the law or protecting our country. Otherwise, why should a loyalty oath be imposed upon people? And what about immigrants who are not citizens? While they may appreciate this country, their actual allegiance may be to their home countries. Pledging or not pledging allegiance to America should be protected by the First Amendment's guarantee of free speech.

Therefore, due to the constitutional rights of separation of state and church and of free speech, as well as the coercive and divisive effects of the Pledge, school-sponsored group recitation of the Pledge of Allegiance should not occur in public schools. Involuntary individual recitation should not occur either. Rather, we encourage a study of the history of Pledge of Allegiance in civics, social studies, American history, comparative religion, or other similar classes.

If group recitation of the Pledge of Allegiance does occur, there should be

absolutely no pressure for any student, teacher, or school administrator to participate. In fact, a statement should be read before the Pledge that it is just as patriotic not to participate in its recitation as it is to participate in it.

VI. RELIGIOUSLY HOSTILE WORKPLACE ENVIRONMENT

No one should need to fear that he will lose a job, or be passed over for promotion, or given undesirable work assignments because the employer learns that he does not believe in supernatural gods. Discrimination in employment on the basis of religion was established by Title VII of the Civil Rights Act of 1964:

> *It shall be an unlawful employment practice for an employer -*
>
> *(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or*
>
> *(2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.*

These protections apply equally to atheists for their lack of religion. In addition, the Minnesota Human Rights Act states:

> *Except when based on a bona fide occupational qualification, it is an unfair employment practice for an employer, because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local commission, disability, sexual orientation, or age to:*
>
> *(1) refuse to hire or to maintain a system of employment which unreasonably excludes a person seeking employment; or*
>
> *(2) discharge an employee; or*
>
> *(3) discriminate against a person with respect to hiring, tenure, compensation, terms, upgrading, conditions, facilities, or privileges of employment.*

In addition, the courts have included a "hostile workplace environment" as a form of religious discrimination. This should protect workers from demands that the employee participate in religious practices, but also against harassment and unwelcomed proselytizing from co-workers, but no legislation adequately defines the "hostile

workplace environment." The most thorough attempt to do so was the publication by the Clinton Administration of "Guidelines On Religious Exercise And Religious Expression In The Federal Workplace." Minnesota Atheists advocates that certain principles laid out in those guidelines be extended by state law into the private workplace.

The law against workplace discrimination should protect employees from being subjected to a hostile environment, or religious harassment, in the form of religiously discriminatory intimidation, or pervasive or severe religious ridicule or insult, whether by supervisors or fellow workers. A hostile environment may also be created by unwelcome and persistent proselytizing or religious criticism. Employees must refrain from such expression when a fellow employee asks that it stop or otherwise demonstrates that it is unwelcome.

Because supervisors have the power to hire, fire, or promote, employees may reasonably perceive their supervisors' religious expression as coercive, even if it was not intended as such. This is most particularly the case with coercion of an employees' participation in religious activities, and business activities at which prayer and proselytizing take place. Therefore, supervisors should be careful to ensure that their statements and actions are such that employees do not perceive any coercion of religious behavior, and should, where necessary, take appropriate steps to dispel such misperceptions.

Employer liability for a hostile environment will usually depend upon the frequency or repetitiveness of religious harassment, as well as its severity. The use of derogatory language in an assaultive manner will constitute statutory religious harassment if it is severe or invoked repeatedly. A single incident, if sufficiently abusive, might also constitute statutory harassment.

Liability should also depend on the extent to which the employer was aware of the harassment and the actions taken to address it. Failure to take action after receiving a complaint from an employee should demonstrate employer negligence.

VII. END OF LIFE ISSUES

Laws regulating end-of-life issues must be based on individual freedom and secular consequences. Religious ideas – such as the belief that humans have "souls" or that a god's wishes must prevail – cannot be considered when making secular law. Such religious ideas may legitimately influence personal decisions, but they cannot be the basis for secular laws that must apply to everyone.

Minnesota Atheists supports the right of mentally competent, terminally ill people who are unable to find relief from their illness to have the voluntary options of self-termination, doctor-assisted suicide, or euthanasia. Consent of the patient in these end-of-life decisions shall be sufficient to shield doctors and others from legal prosecution in their efforts to fulfill the wishes of terminally ill patients.

Minnesota Atheists supports safeguards to ensure that the personal decision to end one's life is truly voluntary. We support efforts to make sure that the desire to self-terminate is not merely the result of depression that might be alleviated through medication or counseling, or of financial or emotional pressure being put on the person by relatives or others.

Minnesota Atheists encourages people to create living wills (advance care, end-of-life directives) to make their end-of-life desires clearly known to people they trust, who can, if necessary, act on their behalf if they become unable to communicate.

It is only by giving people the right to make such end-of-life decisions for themselves that we maintain human dignity.

VIII. DEALING WITH ISLAM

A core policy concern of Minnesota Atheists is to secure secular government from the superstitions, prejudices and dogma of religion. In the United States, most threats to the wall of separation between church and state come from Christianity, but worldwide, Islam is a far greater threat. It presents diverse problems for secular government that require specific analysis.

Terrorism
After the destruction of the World Trade Center, the U.S. government declared a vaguely defined “War on Terror.” We are at war not against a tactic of violence, but against a global network of paramilitary cells driven by hatred of Israel, the United States and modern culture, inspired by a fundamentalist form of Islam.

Many countries had been victims of terrorist attacks by this network before September 11, 2001, so support for the United States was uniquely deep and broad. The response by the United States focused on military action, which is inadequate to eliminate a religious threat.

Religious insurrection can never be defeated by bullets, because there will always be more of the faithful ready to take up arms. Paramilitary groups can only exist when they have support in their communities. Victory in this war depends much less on the action of armies than the contest of beliefs and values. Armies can never win the clash of cultures, though they will have occasional limited roles. We cannot make enemies of 1.2 billion people and expect to subjugate them militarily.

American policy must not view Muslims as a monolithic enemy out to destroy us. Treating them as such will only exacerbate the conflict. If we treat them all as Jihadists whom we must subjugate at the point of a gun, they will respond in kind.

Minnesota Atheists recognizes that most Muslims are peace-loving and tolerant. We urge them to join us in condemning people who use their faith to advocate or condone violence, and also in condemning violence and human rights abuses committed in the

name of their religion.

Muslim Nations
In nations where Islam is the established religion and law is dictated by Sharia we find severe human rights violations (particularly against women and gay people), legal suppression of non-believers (including criminalizing apostasy), and religious indoctrination that masquerades as education. These demonstrate the reduced quality of life for many vulnerable people within these nations.

We have to strengthen the world's commitment to the Universal Declaration of Human Rights. Especially we have to confront the effort of the Organization of the Islamic Conference to have defamation of religion recognized as an international crime.

Another concern in these countries is that public outbursts of anti-Western violence can be incited by government and by religious leaders. We must encourage cultural dialogue to eliminate violence incited by or in support of Islam.

Countries with Minority Muslim Populations
European nations with large populations of Muslim immigrants, who are not integrating smoothly with the culture of their new home, face an acute clash of cultures. A sense of victimization in the Muslim communities has led to violent riots over equal access to jobs and housing, but also in response to perceived insults to their religion. The response to these problems must be not only in police actions, but also in cultural outreach.

It is crucial that the West never compromise its secular values. We cannot abandon our commitment to equality and justice, or condone religious discrimination. To do so would expose us as hypocrites. Nor can we yield on freedom of speech and freedom of the press. We must not succumb to the self-censorship that plagues Europe and silences legitimate criticism of Islam for fear of violent retaliation. When the *Jyllands Posten* published the cartoons of Mohammed, Minnesota Atheists published all of the cartoons, with a paragraph describing each one, in our newsletter, but every US daily refused for fear of ruffling religious sensitivities.

Free Exercise in the US
Minnesota Atheists supports a strict application of the First Amendment to religion, not only the Establishment Clause but also the Free Exercise Clause. We should not abandon this principled stand by enacting special laws directed against Muslims, such as an immigration exclusion. However, religion shall not be used as a privileged basis for excluding legal investigation into terrorist activity.

In the United States, although there are immigrant Muslims communities, terrorist cells have had few successes. Cultural conflict has been at a low level. Here in the Twin Cities, for example, we have had a few cases that have been spotlighted by the local press: some Muslim Imams were ejected after boarding a flight because their Arabic prayers were considered suspicious; Somali cab drivers wanted to reject passengers at the airport who were carrying alcohol; clerks in grocery stores refused to handle pork products, and

Muslim students requested special foot-washing facilities and prayer rooms at public colleges. Incidents like these must be handled on their individual merits, and Muslims should be treated with sensitivity, but exactly like everyone else – no better and no worse.

The most important objective has to be winning the battle of ideas and values. We must be sure that the opportunities and civil rights of liberal society are within the reach and expectation of Muslim immigrants. Our most potent weapon is the quality of life in secular society.

IX. BLASPHEMY LAWS

Freedom of expression is an essential human right and a foundational principle of a free society, ensured in international law by the Universal Declaration of Human Rights:

> Article 19: *Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers.*

In the United States the Freedom of Expression is protected by the First Amendment:

> *Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.*

In many nations, however, there are laws forbidding defamation of the established religion. These are blasphemy laws, which inherently conflict with freedom of expression. These laws have been variously justified by:

1. a claim by religious institutions of a right to protection from offense,
2. by the state's interest in suppressing incitement to religious hatred, and
3. by the state's interest in preserving peace and public order.

Since offense is completely subjective, it is not an adequate legal ground for restricting freedom of expression. Doing so reduces a civil right to a mockery, and confines discussion of religion to the perspective supported by the state. It privileges government supported religious views above all others, and shields them from critical analysis.

Neither is suppressing religious hatred a sufficient justification for blasphemy laws. The application of these laws has been so broad that they are no different in practice from laws based on religious offense. The state has a responsibility to maintain peace and the safety of all citizens while respecting their human rights. This requires the state to protect an open marketplace of ideas.

Criticism of Islam in the West has been met with violent mob attacks in nations with a

predominantly Muslim population. This was the case, for example, with the "Cartoon Intifada." This has led to calls for legal action against those who created the offense, assigning to them the responsibility for the violence, rather than the people who actually committed the violence. Such a course of action rewards criminal violence and encourages its repetition. It is the responsibility of every nation to find the perpetrators of violence within their borders and to prosecute them. The nations that have suffered attacks upon their citizens, government offices and business interests should insist upon it.

The Organization of the Islamic Conference has made repeated attempts to internationalize laws to make blasphemy a crime with resolutions in the United Nations Human Rights Council and in the General Assembly. Minnesota Atheists commends the International Humanist Ethical Union (IHEU), a Non-Governmental Organization (NGO) accredited by the United Nations, for its opposition to these resolutions.

Minnesota Atheists concurs with the conclusion of the policy on freedom of expression issued by the Atheist Alliance International.

> *If a society is to value and equally respect all its citizens, it must unequivocally stand against those who seek to limit offence through violence, intimidation or legislation. No ideology, religious or otherwise, should be permitted to dictate that certain views are exempt from scrutiny, critical analysis, comment, satire or mockery. A view that cannot withstand such examination is not credible and should be re-considered by the holder, not protected by laws or defended with violence or intimidation.*
>
> *Any offense caused by views being challenged, criticized or even mocked – whether a person is religious or not – is the negligible, but vital, price of human freedom.*

Revision	Date	Rapporteur	Committee	Changes
Initial Release	6/18/2008	George Kane	George Kane August Berkshire Steve Petersen Cynthia Egli Grant Steves Shirley Moll	Initial Release
Revision A	8/20/2008	George Kane	George Kane August Berkshire Steve Petersen Cynthia Egli Grant Steves Shirley Moll	In the Gay Rights Policy on Page 5, in the section entitled "The Equal Right to Civil Marriage" Delete the first sentence reading "In the United States a currently contentious application of the principle of equal rights to GLBT citizens is marriage." Replace it with "A well known example in which GLBT people are denied equal rights is in marriage." Reformatted the Revision Control Table.
Rev B	10/21/2009	George Kane	George Kane Bjorn Watland August Berkshire Crystal Dervetski	In the Prologue, modified the first sentence to quote the Establishment Clause. Split the first paragraph. In the penultimate paragraph, changed the phrase "such as marriage" to read "such as civil marriage and non-discrimination in employment." In the section "Government Entanglement with Religion: Display of religious symbols on public property," deleted the statement "Our First Amendment Committee will

				recommend actions to the Board based on the individual merits of each case it comes upon." In the section "Taxation of Churches and other nonprofit Corporations," under "Income," changed the phrase "IRS tax exempt status provides an exemption" to read "IRS tax exempt status provides churches an exemption." Changed the Section Title "Gay Rights" to "Gay, Lesbian, Bisexual, Transgender (GLBT) Rights." In the first paragraph following, changed "This support is based on three rules of law" to read "This support is based on two rules of law." In the first list point, inserted "Fourteenth Amendment to the" before "U.S. Constitution." At the end of the Equal Protection Clause section, added the statement "We are particularly concerned with countering religious groups that wish to limit equal protection under the law due to their religious dogma." Changed what had been two principles, "Secular laws must have a secular basis" and "Religious tenets for which the only basis is belief in the supernatural should not become civil law. To turn such religious tenets into civil law is to create a theocracy" into two list items under the principle, "The Establishment Clause of the First Amendment to the U.S. Constitution," Deleted the entire section "The Equal Right to Civil Marriage," except for the sentence "Minnesota Atheists takes no position on what the state chooses to call its civil marriage contracts (e.g. "marriage," "civil union," "domestic partnership," etc.) so long as the same term is used equally for both straight and gay people." In the section on Reproductive Rights, changed "Their tactics to end abortion rights include excessive state and local regulation, federal legislation…." to "Their tactics to end abortion rights include local, state, and federal legislation and excessive regulation…." Moved the segment from "A common religious claim" through "only a *potential* person" from the 3rd paragraph to stand alone as the 2nd paragraph. To the next paragraph, added the concluding sentence "But basing personhood upon any innate attribute of the fetus introduces a subjective value, whereas law should only be based on consequences to people." To what remains of the next paragraph, delete the word 'however.' Change 'such as viability' to read 'such at heartbeat, brainwaves or viability.' In the next paragraph, delete the concluding sentences "Rather, as with all public policy questions, the decision of when the conceptus becomes a person must be decided by whether that policy produces net benefit for society. We can only justify a policy that abortion is illegal, for example, after the onset of the third trimester, by showing that society benefits from it." In the next paragraph, change "when that decision is made by the woman or couple" to read "when the decision to abort is made by the woman. Initial Release of the sections on Public Education and End-of-Life laws. Under the Heading "Government Entanglement with Religion," initial release of new sections on Threats to Secular Government and Religious Law.
Rev C	8/18/2010	George Kane	George Kane August Berkshire Steve Petersen Shirley Moll	In the section "Government Entanglement with Religion/Government funding of church-based programs", change "Office of Faith-Based and Community Initiatives" to "Council of Faith-based and Neighborhood Partnerships" Delete the sections "Threats to Secular Government" and "Religious Law"

				In the section “Gay, Lesbian, Bisexual, Transgender (GLBT) Rights/The Establishment Clause of the First Amendment to the U.S. Constitution,” change “Secular laws must have a secular basis.” to “Civil laws must have a secular basis.” Correct the first sentence of **Public Education** by inserting the preposition ‘in’ before ‘Article 13, Section 2.’ Initial release of the sections “Dealing with Islam” and “Religious Hostility in the Workplace.”
Rev D	6/15/2011	George Kane	George Kane August Berkshire Shirley Moll	To the section “Government Entanglement With Religion,” added a new concluding paragraph on Standing. Added a new section on Blue Laws. In the section on “Public Education,” revised the paragraph on Vouchers so that it also addresses tax credits.
Rev E	9/19/2012	George Kane	George Kane August Berkshire	Added a new section on Religious Privilege.
Rev F	9/18/2013	Heather Hegi	Heather Hegi George Kane August Berkshire Phil Cunliffe	Modified prominent sections to have roman numerals and converted text to all caps. Moved the sections on “Blue Laws” and on “Taxation of Churches and other nonprofit Corporations” to be in section I. Government Entanglement with Religion. Added text in the Prologue: “Free exercise clause violations will usually also violate the equal protection clause of the 14th amendment.” Also added a paragraph: “We realize there are many worthy causes we could support that have no connection to state/church separation or religious intrusion into our daily lives. While we applaud those who strive to make this a better secular world, and while Minnesota Atheists may sponsor or participate in such events ourselves (e.g. charitable activities that help the poor), our public policies are limited to issues of state/church separation.” Added subsection in section I. Government Entanglement with Religion: Religious Freedom in the Military [see document for full text]. Modified text in section IV. Reproductive Rights, the first sentence was changed from saying “legal attacks by conservative Christians”, to saying “legal attacks by religious conservatives.” Removed text in section IV. Reproductive Rights, the paragraph “American society is best served when the decision to abort is made by the woman in consideration of specific social and material circumstances. In many cases, the odds of a successful parenting outcome can be greatly improved by postponing childbirth for a few years. The state usurping reproductive decisions has the pernicious result of precluding the possibility of the woman or couple exercising social responsibility.” Additionally removed the word “also” from the following paragraph. This paragraph was determined to be redundant. Added text in section IV. Reproductive Rights, the paragraphs “There is a political strategy to undermine women’s reproductive rights with so-called “conscience clauses,” which permit health care providers to refuse medical treatments on the grounds that they conflict with the provider’s religious belief. Conscience clauses in some states address fetal research, such as on stem cells, and

				reproductive technologies such as in vitro fertilization. The most common type of conscience clause permits pharmacists and emergency room staff to refuse to provide contraception, including emergency contraception to rape victims. While proponents try to justify conscience clauses as necessary to protect religious liberty, their actual and intended effect is to authorize a religious privilege to permit health care providers to impose their religious beliefs on others. It is unethical for health care providers to create obstacles to a woman's access to safe, effective and legal health care." ¶"Public policy should ensure that medical care will be based upon the needs of the patient, and not be dictated by the religious beliefs and moral prejudices of caregivers. It should only be permissible to assert a right to refuse to fill a prescription when the patient is referred to a local pharmacy within a reasonable distance where the prescription will be filled without delay." Modified text in section V. Public Education, the first point was changed from "Science in the classroom" to "Religion in the curriculum". Added text in section V. Public Education under the first point, "In social studies classes the Declaration of Independence reference to "Creator-endowed rights" should be taught in the context of enlightenment ideas, including deism; and discussion should be encouraged on the source of human rights." Modified text in section VIII. Dealing with Islam, under the section on Terrorism, in the fourth paragraph, the word "Jihadis" was changed to "Jihadist" to please Microsoft Word. Modified text in section VIII. Dealing with Islam, under the section on Free Exercise in the US, "On the other hand, police investigation of terrorists should devote particular attention to Muslim communities, as this is where terrorist cells form and flourish. Restrictions on police "profiling" should not impede investigations that are necessary for public safety." was changed to say "However, religion shall not be used as a privileged basis for excluding legal investigation into terrorist activity." Added New Section, section IX. Blasphemy Laws [see document for full text].
Rev G	3/18/2015	Phil Cunliffe	Phil Cunliffe August Berkshire Georgia Hancock-Tsoi George Kane	Rewrote the Prologue by replacing "We further endorse the three-pronged test established in the 1971 *Lemon v. Kurtzman* Supreme Court case:" with "The Supreme Court has created several tests for Establishment Clause violations. In the 1968 case *Epperson v. Arkansas*, Justice Abe Fortas created the Neutrality Test, that government may not favor one religion over any other, and that it may not favor religion over irreligion. The three-pronged Lemon Test was established in the 1971 *Lemon v. Kurtzman* Supreme Court case:" Inserted the text "In the 1984 case *Lynch v. Donnelly*, Justice Sandra Day O'Connor created the Endorsement Test, that there has been a violation of the Establishment Clause if a reasonable observer would conclude that an act of government had endorsed religion. Each of these tests contains an important insight into an aspect of the Establishment Clause, and a violation should be proved if a government action fails any of these tests. All of these tests have been put into question by the Supreme Court decision in 2014 in the *Township of Greece v. Galloway* case. The court found that the invocations at Town Council meetings did not violate the Establishment

				Clause because they are traditional. The only test the decision found applicable is that of coercion to compel religious orthodoxy with the force of law and threat of penalty. The court rejected social and psychological pressure as having First Amendment significance. If we accept this reasoning, there would be no Establishment Clause violations. In a concurring opinion, Justice Antonin Scalia, joined by Justice Clarence Thomas, asserted that the Establishment Clause applies to the federal government alone, and is not extended to state and local governments by the Fourteenth Amendment. Minnesota Atheists rejects the decision in this case, and the ruling that government coercion is the only valid test for Establishment Clause violations. The argument that government actions in the early years after the passage of the Bill of Rights justify the constitutionality of those acts is invalid, because they sometimes violate the *prima facie* principles expressed in those amendments, and because the nation has greatly changed. Even if early government practices were thought to be consistent with the First Amendment, the violations are evident when they are practiced in today's religiously diverse nation. Even if early government practices were thought to be consistent with the First Amendment, the violations are evident when they are practiced in today's religiously diverse nation. We demand the restoration of the Neutrality, Lemon and Endorsement Tests." In Section I, Government Entanglement with Religion, replaced the subsection on Prayer at Government Sessions, which had read "The Supreme Court of the United States has given the federal and state legislatures the right to open their sessions with prayer, and prayer has generally been permitted at City Council meetings. Minnesota Atheists holds that in fact the practice is a *prima facie* violation of the Establishment Clause, but that if it is permitted it must be non-sectarian and non-denominational. It should be compatible with the views of the entire community, including the nonreligious. The presiding celebrant should be rotated among organizations representing the diverse beliefs of the community. If a representative of Minnesota Atheists should ever have an opportunity to provide the invocation for a government meeting, the invocation should be respectful of the body and its members, and appeal for sound judgment and to universal values such as justice and human rights." Also added new subsections on Stem Cell Research and RFRA. In Section II, Religious Privilege, added new sections on State Supported Discriminatory Youth Groups, Religious Exemptions to Children's Health Care and Secular Wedding Celebrants. To Section V., Public Education, added new subsections on Secular Student Groups recitations of the Pledge of Allegiance.
Revision H	2/17/2016	George Kane	August Berkshire Georgia Hancock Tsoi George Kane Mahad Muhammad	In Section I, Government Entanglement with Religion, subsection Religious Freedom Restoration Act, append to the subsection title "and Anti-discrimination Statutes." Append to the subsection the following text: After the Supreme Court's 2015 decision in the Obergefell case that requires all states to permit same-sex marriage, the religious right tried to promote RFRAs in several states with the intention of permitting individuals to deny service to same-sex couples on the basis of religious objections. Conservative Christian organizations not only encouraged merchants to deny commercial services to same-sex weddings, but also civil authorities to refuse to issue

				marriage licenses or to perform marriage ceremonies based on religious objections. Minnesota Atheists opposes religious exemptions to anti-discrimination laws, and contends that refusal of government services would violate the Establishment Clause of the First Amendment. A greater problem than RFRAs for discrimination against gays and lesbians results from inadequacies in state non-discrimination in public accommodations laws. These state laws typically prohibit discrimination in areas such as employment, housing, credit and retail goods and services, but they can differ from state-to-state in several ways. They all prohibit discrimination on the basis of race, sex, national origin and physical disability. These are known as "protected classes." In 28 states there is no state-wide protection on the basis of sexual orientation or gender identity, although they may be protected classes in city or county non-discrimination laws. In practically all non-discrimination statutes, there is a prohibition against discrimination on the basis of religion. Generally, prohibitions on discrimination on the basis of religion include atheists in their protection. However, there are some states and municipalities that have particular wording that needs revision. For instance, Madison, Wisconsin has an equal opportunities ordinance that includes "religion" as a protected class and defines religion as "all aspects of religious observance and practice, as well as belief." This mirrors wording in the federal Civil Rights Act. On its face, that language is not inclusive of atheists, so the city added atheism separately as a protected class. Some state laws protect from discrimination on the basis of "creed," which is typically not defined in the law. Depending on the definitions that a municipality uses, nonreligious persons may be excluded by the statutory language, and defiant landlords or business owners could try to claim that there is not a protection for atheists if their discriminatory practices are challenged. The best practice in law making is to make the law clear. This can be accomplished by using appropriate definitions for 'religion,' but there are benefits to including explicit protection, which include: a) Ensuring equal protection of all citizens, both religious and non-religious b) Establishing formal recognition that non-religious persons are part of the community c) Informing landlords, local businesses, and employers as to what type of conduct is allowed d) Providing a clear means to remedy discrimination *Thanks to Patrick Elliott, Staff Attorney for the Freedom of Religion Foundation, for assistance.*
Revision J	6/15/2017	George Kane	August Berkshire Georgia Hancock Tsoi George Kane Mahad Muhammad	To Section I, Government Entanglement With Religion, added the following subsection: **Public & Private Hospitals** No public hospital, clinic, or health care facility should fail to offer a health care service on the basis of religion. If a doctor or nurse on staff cannot be found to deliver a service that can be accommodated by that facility, admitting privileges must be granted to a qualified doctor or nurse of the patient's choice to perform that service. Regarding private facilities, Minnesota Atheists supports a "Right to Know Act" such as the one developed by American Atheists that would "require health care providers to inform patients, insurance companies, and government agencies about any medical procedures and

				services the provider chooses not to perform because of the provider's religious beliefs. .. The health care providers and insurance issuers would then be required to make that information available online for potential patients." As American Atheists states, "This is about disclosure, not about forcing providers to do anything they have a religious objection to. If a religiously affiliated hospital or health care provider has some objection to providing birth control, access to cancer therapies that could result in sterilization, mental health services, or hormone replacement therapy, they can continue to opt out of providing those services. What they can't do is pull a bait and switch on patients and potential patients." In mergers between public and private (especially religious) hospitals, the full range of services that were offered by the public hospital before the merger should continue to be offered after the merger – otherwise the merger should not take place. If a doctor or nurse on staff cannot be found to deliver a service, admitting privileges must be granted to a qualified doctor or nurse of the patient's choice to perform that service. According to the American Medical Association's Code of Ethics, "Decisions regarding hospital privileges should be based upon the training, experience, and demonstrated competence of candidates, taking into consideration the availability of facilities and the overall medical needs of the community, the hospital, and especially patients.… Physicians who are involved in the granting, denying, or termination of hospital privileges have an ethical responsibility to be guided primarily by concern for the welfare and best interests of patients in discharging this responsibility." To Section II, Religious Privilege, subsection Religious Exemptions to Children's Health Care, appended the following text: Current Minnesota immunization law gives two exemption provisions (Statute 121A.15): **A Medical Exemption** if an immunization is medically contradicted for a child, or if there is a laboratory confirmation that a child is already immune to certain diseases against which immunization is normally required, the student may submit a statement to this effect, signed by a health care provider, in order to be considered exempt from the contraindicated or unnecessary immunization. An Elective Exemption if a child's parent or guardian, or the child (in the case of an emancipated minor), wishes to be exempt, based on their beliefs, from one or more immunization requirements, the parent or child may submit a statement to this effect, signed by the submitting person and notarized. (http://www.health.state.mn.us/index.html). Minnesota Atheists objects to the Elective (philosophical and religious) Exemption for immunizations due to the compelling government interest that they compromise the health and well-being of the community. Beliefs that put the general public at risk should not qualify for a generally applicable policy. California and Mississippi serve as model states by allowing only Medical Exemptions. Medical evidence has shown that the Elective Exemption law puts at risk for the diseases and their complications not only the child who gets the exemption, but also infants and

				toddlers in day care settings, the elderly, and those who have a compromised immune system. The only valid reasons that should be considered for exemptions to the Minnesota immunization law are scientifically based ones.
Rev K	11/15/2017	George Kane	August Berkshire Georgia Hancock Tsoi George Kane	Appended to the end of Section I. Government Entanglement with Religion the following subsection: **Court-ordered attendance in addiction recovery programs** Sentencing guidelines in Minnesota for many alcohol and drug offenses include attendance and participation in privately run addiction recovery programs, such as Alcoholics Anonymous. Most of these programs are religiously based, and at least demand of participants acceptance of a "higher power." Courts have ruled that it violates the Establishment Clause to require participation in such a religious program. Therefore, secular options must be provided for those who dissent from a group's religious views. There are several such groups, so in heavily populated areas this does not usually present a problem. However, in some jurisdictions in rural Minnesota, however, secular alternatives are not always available. Minnesota Alternatives lists secular addiction recovery programs in only 10 cities in Minnesota. Lack of secular alternatives cannot justify the Establishment Clause violation of requiring, with the force of law, participation in a religious activity. Secular sentencing alternatives must be available that are no more burdensome or intrusive than the offered religious programs. Most commonly, addiction recovery programs are privately funded, but in some cases they receive government funds. Groups that receive government funds should be required to provide an entirely secular program, and should be monitored to ensure compliance with this requirement. **The Johnson Amendment** The Johnson Amendment is an insertion into IRS Code section 501(c)(3) adding to the attributes of an organization eligible for tax-exempt status the requirement that it "does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office." The bill was introduced into the Senate by Minority Leader Lyndon Baines Johnson, passed without discussion, and was enacted into law. It had been noncontroversial until the conservative Christian legal group Alliance Defending Freedom initiated the first Pulpit Freedom Sunday in 2008. The ADF contended that prohibiting churches from supporting or opposing political candidates violates the First Amendment's guarantee of freedom of speech. The ADF encourages ministers to openly support and oppose electoral candidates in their sermons each year on Pulpit Freedom Sunday. Since 2008, there have been over 2000 reports to the IRS of churches endorsing candidates, yet the IRS has not revoked the tax exempt status of a single one. The Johnson Amendment came into the political spotlight when Donald Trump, early in his presidency, promised to "totally destroy" it. Trump later issued an executive order to federal agencies to revise their regulations to eliminate burdens on the political speech of churches. The Johnson Amendment is a law, however, not a regulation, and was not affected by Trump's executive order.

				The ADF's assertion that the Johnson Amendment violates the free speech rights of churches is debatable. What is at stake is not a right but a government benefit, their tax exemption. Churches are free to endorse and oppose candidates if they relinquish their 501(c)(3) status. A better argument for opposing the Johnson Amendment is that government monitoring the content of sermons represents an excessive entanglement of government and religion, in violation of the *Lemon* test for Establishment Clause violations. Current law permits 501(c)(3) organizations to take positions on laws and political issues consistent with their tax-exempt purpose. Our public policy positions are consistent with our tax exemption, for example. A reasonable observer might conclude, however, that by publishing it online we are encouraging people to vote for candidates who support its positions and against candidates who oppose them. The boundary of violations of this restriction is vague and invites abuse by politically motivated enforcement. The proper use of the tax code to ensure the separation of church and state is to guarantee that tax-free charitable contributions cannot be used to fund political campaigns. This requires a clear prohibition against spending money on electoral activity. Political expenditures by churches and other tax-exempt organizations must be minor and insignificant. If a minister announces in his sermon that it is a requirement of faith that his congregants vote against a certain candidate who supports abortion rights, there is no expense and there should be no offense to the law. If they print flyers for their preferred candidate to insert into their newsletter, or expand their newsletter from 12 to 16 pages to accommodate political endorsements, or if they donate money to any political campaign or PAC, there should be sanctions. If anyone claims an itemized deduction for donations to this church, it should be scrutinized and perhaps disallowed. Our attention should be focused on strengthening safeguards against tax-free donations to churches making their way into political campaigns. The important purpose of the Johnson Amendment is to prevent donations to political campaigns from becoming tax-deductible. The safeguards against mixing tax-free charitable donations with electoral political activity must be clear, robust and rigorously enforced. If a tax-exempt organization wishes to actively participate in an electoral campaign, including a referendum, it should be able to do so as long as it can document that it has segregated tax-deductible contributions from non-tax-deductible funding for their political activity. This may be done by establishing a separate, non-tax-exempt PAC. Change the title of Section III from GAY, LESBIAN, BISEXUAL, TRANSGENDER (GLBT) RIGHTS to LESBIAN, GAY, BISEXUAL, TRANSGENDER, QUESTIONING, INTERSEX (LGBTQI) RIGHTS. Then appended to the end of the section the following text: Just as gays and lesbians are the victims of religiously driven bias because of their sexual orientation, religious bias drives discrimination against transgender people because their sexual identity conflicts with their physical characteristics at birth. This animosity manifests in government action such as so-called "bathroom bills" that have been introduced in several states, including Minnesota. These bathroom bills, which permit people to use only the public bathrooms for the sex defined by their physical characteristics at birth, are justified by fear that

				trans-women will have the opportunity to assault cisgender women, but there has never been an instance of such an assault. A 2015 study by the National Center for Transgender Equality shows, however, that one percent of transgender people are sexually assaulted in public restrooms because of their gender identity. Alternately, bathroom bills have been justified by appeal to "natural modesty." This approach makes cisgender modesty decisive, while dismissing transgender modesty. Minnesota Atheists regards this as another case where a principle of equality should be applied. Government has a right to enforce sexual segregation to ensure people's safety. Where that is not an issue, people should have an equal right to decide for themselves which bathrooms they should utilize.
Rev L	11/7/2018	George Kane	August Berkshire George Kane Georgia Tsoi	In Section I, sub-section Display of religious symbols on public property, first paragraph, inserted" Christian crosses as war memorials" after "Ten Commandment monuments." In Section I, after the sub-section "Government funding of church-based programs, inserted the following sub-section: **Government Funded Adoption Discrimination** The House Appropriations Committee inserted an amendment into the 2018 Labor, Health and Human Services and Education Appropriations Bill that require states to allow taxpayer-funded foster care and adoption providers to discriminate based on religious beliefs, and allows the federal government to cut child welfare funding for states that refuse to comply. This affects atheists, nonbelievers, religious minorities, single parents, LGBTQ people, and any other group of people if they don't follow the agency's religious views. We believe that while private adoption agencies have the right to follow the moral guidelines of their religion, they should be ineligible for taxpayer funding if those guidelines cause them to discriminate against otherwise eligible people. Minnesota Atheists contends that for the federal government to require the states to utilize and fund agencies that practice such discrimination unconstitutionally privileges religion, in violation of the Establishment Clause. In Section I in the sub-section of Blue laws, deleted the sentence "Minnesota Atheists opposes the current law that prohibits liquor stores from selling liquor on Sundays, Thanksgiving and Christmas." In Section I, to the subsection "Taxation of Churches and other nonprofit Corporations" appended the following sub-sub section: "The Parsonage Allowance: In 1954, Rep. Peter Mack Jr. (D-Ill.) introduced a bill creating in the tax code an income exemption for housing for "ministers of the gospel." The bill passed, resulting in section 26 U.S.C. § 107 of the US tax code: In the case of a minister of the gospel, gross income does not include— (1) the rental value of a home furnished to him as part of his compensation; or (2) the rental allowance paid to him as part of his compensation, to the extent used by him to rent or provide a home and to the extent such allowance does not exceed the fair rental value of the home, including furnishings and appurtenances such as a garage, plus the cost of utilities. The congressional Joint Committee on Taxation has

				reported that the exemption amounts to $700 million a year in lost revenue. Wealthy ministers who live in multi-million-dollar mansions exclude hundreds of thousands of dollars from their income taxes. Since this exemption is available only to church employees, it is a subsidy of religion that clearly violates the Establishment Clause of the First Amendment. Minnesota Atheists therefore contends that it should either be ruled unconstitutional by the courts or else repealed by Congress." In Section I sub-section "Court-ordered attendance in addiction recovery programs," second paragraph, delete 'However' beginning the 4th sentence. In Section I, sub-section on the Johnson Amendment, change the first 'his' to 'a' and the second 'his' to 'the' in the following fragment: "If a minister announces in his sermon that it is a requirement of faith that his congregants vote against a certain candidate…." In Section II, 7th paragraph, change "ministerial exemption' to 'ministerial exception.' In Section II, Sub-section III, change the title from "Lesbian, Gay, Bisexual, Transgender, Questioning, Intersex (LGBTQI) Rights" to "Lesbian, Gay, Bisexual, Transgender, Queer, Intersex (LGBTQI) Rights." Change references in the section from "gay, lesbian, bisexual and transgender (GLBT) to "lesbian, gay, bisexual, transgender, queer and intersex (LGBTQI)." And 'GLBT' to "LGBTQI." At the end of that sentence, insert 'cisgender' before 'heterosexual. In the later sub-sub section "The principle of equality in practice, delete the sentence "Minnesota Atheists takes no position on what the state chooses to call its civil marriage contracts (e.g., "marriage," "civil union," "domestic partnership," etc.) so long as the same term is used equally for both straight and gay people." In the next paragraph, end the long sentence after 'cisgender women.' Change the next word from 'but' to 'However.' Append at the end of this Section the following sub-section: "**The U.S. Supreme Court & Same-Sex Marriage** Minnesota Atheists agrees with the U.S. Supreme Court's dec *Obergefell v. Hodges* that: "The right of same-sex couples to marry that is part of liberty promised by the Fourteenth Amendment is deri from that Amendment's guarantee of the equal protecti laws." "These considerations lead to the conclusion that the ri marry is a fundamental right inherent in the liberty of t person, and under the Due Process and Equal Protectio Clauses of the Fourteenth Amendment couples of the s may not be deprived of that right and that liberty." In Section VI. RELIGIOUSLY HOSTILE WORKPLACE ENVIRONMENT, in the first sentence, insert 'to' before 'fear'; replace the first 'his' with 'a' and the second 'his' with 'the.' "
Rev M	10/2/2019	George Kane	August Berkshire	In Section I, subsection Government funding of church-

			George Kane Georgia Tsoi	based programs, changed “Council of Faith-Based and Community Partnerships” to “White House Faith and Opportunity Initiative.” Later in Section I, after the subsection on ‘Standing’, inserted the following subsection: **“Anonymity of Establishment Clause Plaintiffs** A bill introduced in Missouri that is likely to surface in other states would prevent plaintiffs in Establishment Clause cases from assuming anonymity. Judges currently are permitted to grant plaintiffs the right to file cases anonymously, with initials only, or under pseudonyms such as “John Doe” if the plaintiff has a well-founded fear of harm if their role in the case becomes publicly known. These bills would prevent this in one type of case only, those in which the separation of church and state is at issue. Proponents assert that it is unfair that the individuals on one side of a case must be disclosed in the interest of government transparency, while those on the other side are permitted to remain anonymous. Clearly, though, the litigants on the two sides are not comparable. The defendants in these cases are government officials, who are usually happy to build their bona fides with their conservative Christian electoral base. This is not a case of suppression of Christianity or favoritism for atheists and religious minorities. However, those arguing against placing Christian monuments on government land, for example, risk social disapproval, economic harm, bullying and physical attacks on themselves and their families. Some Establishment Clause case plaintiffs have been threatened with murder if they did not drop their case. The author of the Missouri bill stated that it “will hopefully reduce the number of frivolous lawsuits.” His true concern is not that the lawsuits are frivolous, but that they are successful. If the fears the plaintiffs claim to justify their anonymity are not justified, why would this bill discourage the suits? Minnesota Atheists opposes any proposal to restrict the anonymity of plaintiffs in Establishment Clause cases.” In Section II, ‘RELIGIOUS PRIVILEGE’ appended the following two subsections: **Religious Rights of Prisoners** Some prisons encourage inmates to participate in religious activities such as worship, study and communal meetings, apparently believing that they will result in a more moral life when the prisoners return to society. To this end they work with groups like Prison Fellowship Ministries to provide counseling, job training, and Bible studies. These groups inherently exclude nontheists because they do not offer secular alternatives for rehabilitation programs. While prisons have routinely promoted Christian activities, and rewarded inmates for participating in them, they have resisted allowing comparable activities for nontheistic prisoners. Prisons and courts have sometimes ruled that secular humanism is not a religion but a belief, and therefore its proponents are not covered by the First Amendment’s religious protections. Nontheist prisoners have not been allowed the same access to facilities to gather as a group and in addition to this, there has been censorship, banning of books, magazines and publications that are critical of religion.

				When a state or federal prison gives benefits to prisoners because of a specific religious participation and does not provide the same benefit to a non-religious inmate, it violates the Establishment Clause of the First Amendment to the US Constitution. Minnesota Atheists supports the idea that all prisoners should have the same access and early release benefits regardless of their religious or nonreligious beliefs. **Taxpayer Funded Chaplains** After leaving office, President James Madison examined the issue of U.S. Congressional chaplains in his "Detached Memoranda" (c. 1817): *Is the appointment of Chaplains to the two Houses of Congress consistent with the Constitution, and with the pure principle of religious freedom?* *In strictness the answer on both points must be in the negative. The Constitution of the U.S. forbids everything like an establishment of a national religion. The law appointing Chaplains establishes a religious worship for the national representatives, to be performed by Ministers of religion, elected by a majority of them; and these are to be paid out of the national taxes. Does not this involve the principle of a national establishment, applicable to a provision for a religious worship for the Constituent as well as of the representative Body, approved by the majority, and conducted by Ministers of religion paid by the entire nation.* We believe that the same argument Madison used at the federal level should apply to the states. Current Minnesota law directs that the State Senate and House of Representatives shall each elect a chaplain. (2018 Minnesota Statutes, Section 3.06). Minnesota Atheists holds that this is unconstitutional for the following reasons, though we acknowledge that the Supreme Court has ruled that chaplains and religious invocations are constitutional. (*Marsh v. Chambers*, 1983): Public religious invocations should not occur in legislative chambers while state legislatures are convened. Neither should they occur in legislative chambers just before or just after legislatures are convened, as a ruse to say they are not occurring on official government time. Legislators are present in either case and such invocations will have the appearance of being officially state-sanctioned. These are all unconstitutional state endorsements of religion. Unlike people who serve in the military, whose time and ability to leave their bases are regulated by the state, and who may be stationed or deployed far from clergy, legislators serve in state capitols – cities where they have free access to a variety of clergy. They may even invite clergy into their government offices for personal consultation. Thus the state has not created any hardship for legislators that needs to be remedied by providing a chaplain. There are no duties that a chaplain needs to perform and the presence of a chaplain in any official capacity would be an unconstitutional state endorsement of religion. Thus there

				should be no legislative chaplains, whether paid or not paid by the state. However, if opening invocations do occur at state legislatures, and they are presented by people from the religious community, then representatives from the non-religious community must be allowed to give secular invocations. The scheduling of these invocations should be done by a civil servant. A member of the clergy should not be paid to do this."
Rev N	9/2/2020	George Kane	August Berkshire George Kane Georgia Tsoi	In Section I, Government Entanglement with Religion, in the subsection "Display of religious symbols on public property," added at the end of the first paragraph the sentence "They have also ruled that a religious monument acquires a presumption of Establishment Clause compliance if it has stood for a long time." In the next paragraph, replaced In the later subsection "Government funding of church-based programs, appended at the end the following three paragraphs: "Included in the Coronavirus Aid, Relief, and Economic Security (CARES) Act, a $2.2 Trillion Covid-19 relief package, was the Paycheck Protection Program (PPP). Administered by the Small Business Administration, the PPP provided loans to help companies survive the economic lockdown. If, after eight weeks, the companies had retained their headcount at the time of the loan, it would be converted into a grant. The Small Business Administration regulations forbade it to make loans or grants to churches. The Trump White House held secret conference calls with church leaders, to let them know that they would be eligible for the grants, and to teach the church leaders how to apply for them. Before the public comment period had run out, the SBA announced that the regulation against loans or grants to churches would be waived. Having been prepared by the White House, the churches jumped to the front of the applicant line. The total amount of loans to religious organizations was $7.3 billion dollars. The loans were used for paying the salaries of priests and ministers, the rent or mortgage payments for church buildings, and other related expenses. Minnesota Atheists maintains that loans and grants to churches violate the Establishment Clause." In the Section II Religious Privilege, in the sub-section "Religious Rights of Prisoners," appended at the end the following paragraph: "Courts have held that the Religious Land Use and Institutionalized Persons Act (RLUIPA) confers sweeping protections to the religious exercise of prisoners. In a case of prisoners trying to set up services in the Christian Nationalist faith, the courts ruled that the government's claims of pursuing a compelling interest using the least-restrictive means must be given the highest scrutiny. They rejected the claim by the Michigan Department of Corrections that the reaction to recognizing an expressly racist group would pose a threat to prison safety and security. Minnesota Atheists believes that the court should defer to the judgment of prison officials in managing the safety and security of their institutions." Appended at the end of the section two new subsections,

				"Violations of Noise Ordinances (such as church bells and calls to prayer" and "Exemptions to Social Distancing." To IV. Reproductive Rights appended the following two paragraphs: Covid-19 restrictions adopted in many states provided abortion opponents with a new legal tactic. There were widespread fears that the rapidly spreading disease would overwhelm available medical services. States particularly feared that medical Protective Personal Equipment (PPE) used for unnecessary procedures would create a shortage for medical personnel fighting the pandemic. Several states enacted interim bans on non-essential, elective procedures including surgeries. Abortion opponents used this rule to impose a temporary ban on abortions. Minnesota Atheists views this tactic as a legal bait-and-switch fraud to deprive women of a fundamental legal right. Abortion is an essential surgery because it is so time-restricted by the Roe decision. It does not significantly impair the medical response to Covid-19. The regulation clearly imposes an undue burden on the right to abortion.
Rev P	5/4/2022	George Kane	August Berkshire Georgia Hancock George Kane Chris Matthews	In Section I Government Entanglement With Religion subsection Government funding of church-based programs. Change the name of the "White House Faith and Opportunity Initiative" to the "White House Office of Faith-Based and Neighborhood Partnerships." Append to this section the following two paragraphs: Thirty-eight state constitutions have more stringent safeguards against government funding religion than are implied by the Establishment Clause. They have no-aid clauses, which expressly forbid the public funding churches. These no-aid provisions in state constitutions are often referred to as "Blaine Amendments," after an amendment to the US Constitution proposed by James Blaine that narrowly failed to get the needed two-thirds vote in the Senate. These no-aid clauses have apparently been struck down by the Supreme Court in its decision in the case Espinoza et al. v. Montana Department of Revenue. That case concerned a private school voucher program the state enacted, which violated the no aid clause in Montana's constitution. The Montana Supreme Court therefore struck down the entire voucher program. The US Supreme Court reversed the decision by Montana because the "no aid" provision violates freedom of religion of the parents applying for the vouchers. That is the "no-aid" provision "bars religious schools from public benefits solely because of the religious character of the schools." This will have the effect of striking down the no-aid provisions in all other states. From Section I Government Entanglement with Religion delete the subsection Religious Freedom Restoration Act and Anti-discrimination Statutes. Add the rewritten subsection of the same name as the first subsection under Section II Religious Privilege the following text: Ever since the Civil War decided US policy on slavery, the First Amendment's prohibition on restricting the free exercise of religion has been a point of national pride. From the 1930s on, the courts consistently provided robust protection for religious liberty against government coercion. That is until consistency began to erode in the late '80s in cases such as Employment Division v. Smith. In Smith the Court upheld the state of Oregon's refusal to give unemployment benefits to two Native Americans fired

				from their jobs at a rehabilitation clinic after testing positive for mescaline, a derivative of peyote which they used in a religious ceremony. The court ruled that because the Oregon regulation applies equally to everyone and was not targeted at Native American religious practice, it did not violate the constitutional protection of religious freedom. The Smith decision outraged the public, both on the left and the right. Congress developed the Religious Freedom Restoration Act (RFRA) to overturn Smith and other laws that burden religious exercise. RFRA requires government action to meet strict scrutiny to determine if it satisfies the Free Exercise Clause. If a government action is challenged for violating the Free Exercise Clause, the government must prove: 1. that the law or action addresses a compelling state interest; 2. is narrowly tailored to meet that compelling state interest; and 3. uses the least possible restriction on religious exercise to achieve the objective. RFRA passed the House unanimously and the Senate 97 to 3 and was signed into law by President Clinton. Everyone, it seemed, was pleased, including every national secularist organization. In time, however, the religious right realized that RFRA could be weaponized by using it to create religious exemptions to anti-discrimination laws. The first federal anti-discrimination law was the 1964 Civil Rights Act, which prohibited discrimination in public accommodations on the basis of race, color, religion, sex and national origin. Since then, other classes, such as pregnancy, sexual orientation, gender identity, age, disability and genetic information (including family medical history) have been protected in federal laws. In the Supreme Court's 1997 ruling in the case Boerne v. Flores, RFRA was ruled unconstitutional as applied to the states, but still valid with respect to the federal government and its agencies. For the states, the test for free exercise violations remained that from Employment Division v. Smith. As a result, several states and cities passed their own anti-discrimination laws. A conservative Christian legal campaign ensued to undermine anti-discrimination laws in state courts as well as federal. The Supreme Court has been supportive of the aggressive reinterpretation of religious freedom as an exemption to anti-discrimination laws. In particular, Christian conservatives have used religious privilege as a culture wars cudgel against LGBTQ rights. After the Supreme Court's 2015 decision in the Obergefell case that requires all states to permit same-sex marriage, the religious right promoted RFRAs in several states with the intention of permitting individuals to deny service to same-sex couples on the basis of religious objections. Conservative Christian organizations not only encouraged merchants to deny commercial services to same-sex weddings, but also civil authorities to refuse to issue marriage licenses or to perform marriage ceremonies based on religious objections. In the case Masterpiece Cakeshop v. Colorado Civil Rights Commission (2018) the US Supreme Court ruled that a Christian couple who owned a bakery could legally refuse to add an inscription to a cake ordered by a same-sex couple who were getting married. The court based the decision on apparent bias against religion by one of the

				commissioners in the hearing, to which the other commissioners did not object. To win similar cases in the future, the commissioners must avoid statements critical of religion. This decision has the effect of imposing a blasphemy law on government. No case has yet decided that federal, state or local RFRAs provide exemption to anti-discrimination laws on a generally applicable principle, but that is a concern with the currently constituted conservative Supreme Court. A greater problem than RFRAs for discrimination against gays and lesbians results from inadequacies in state non-discrimination in public accommodations laws. In 28 states there is no state-wide protection on the basis of sexual orientation or gender identity, although they may be protected classes in city or county non-discrimination laws. The expanded recognition of religious privilege requires legislators to draft anti-discrimination laws with particular care. In practically all non-discrimination statutes, there is a prohibition against discrimination on the basis of religion. Generally, prohibitions on discrimination on the basis of religion include atheists in their protection. However, there are some states and municipalities that have particular wording that needs revision. For instance, Madison, Wisconsin had an equal opportunities ordinance that included “religion” as a protected class and defined religion as “all aspects of religious observance and practice, as well as belief.” This mirrors wording in the federal Civil Rights Act. On its face, that language is not inclusive of atheists, so the city added atheism separately as a protected class. Some state laws protect from discrimination on the basis of “creed,” which is typically not defined in the law. Depending on the definitions that a municipality uses, nonreligious persons may be excluded by the statutory language, and defiant landlords or business owners could try to claim that there is not a protection for atheists if their discriminatory practices are challenged. The best practice in law making is to make the law clear. This can be accomplished by using appropriate definitions for 'religion,' but there are benefits to including explicit protection, which include: a) Ensuring equal protection of all citizens, both religious and non-religious b) Establishing formal recognition that non-religious persons are part of the community c) Informing landlords, local businesses, and employers as to what type of conduct is allowed d) Providing a clear means to remedy discrimination The Equality Act of 2021 was introduced to defend anti-discrimination laws against claims of religious privilege that were opened by RFRA. At the time of release of Revision P of this document, the Equality Act had been passed by the House and been placed on the calendar of the Senate. Minnesota Atheists views this bill as the top legislative priority. To Section I, Government Entanglement with Religion, subsection Social Distancing, to the sentence “The Supreme Court ruled that churches are like concerts, theater, and sporting events,” append “in that people remain in their seats, close together, for extended periods of time.” Also, append the following paragraph at the end of this subsection: The use of expert testimony in U.S. courts is guided by Rule 702 of the Federal Rules of Evidence as clarified in Daubert vs Merrell Dow Pharmaceuticals, Inc. (1993). The

				expert testimony in *Tandom vs Newsom* met these standards and provided risk-based reasoning to differentiate between in-home gatherings and commercial transactions. It was not contested by Tandon, et al. Yet it was not referred to by the majority in their decision. Minnesota Atheists holds that the courts do not have the scientific knowledge or resources to decide complicated public health issues and, thus, have a responsibility to be guided by the expert testimony they receive. We agree with Justice Kagan that "the court has no warrant to ignore in a case that (on its own view, see ante, at 2) turns on risk assessments." • You can see the decision and dissent here: https://www.mtsu.edu/first-amendment/article/1901/tandon-v-newsom • Rule 702 is here: https://www.law.cornell.edu/rules/fre/rule_702 • Discussion of Daubert is here: https://www.expertinstitute.com/resources/insights/daubert-vs-fryenavigating-the-standards-of-admissibility-for-expert-testimony/ To Section VIII Dealing with Islam, make the following changes. In the subsection on Terrorism, in the sentence "Minnesota Atheists recognizes that many Muslims are peace-loving and tolerant" change 'many' to 'most'. Change "We urge them to join us in condemning those parts of their faith that advocate or condone violence, and to join us in condemning violence and human rights abuses committed in the name of their religion." to "We urge them to join us in condemning people who use their faith to advocate or condone violence, and also in condemning violence and human rights abuses committed in the name of their religion." In the subsection Muslim Nations, change "This clearly demonstrates that secular government leads to a higher quality of life." to "These demonstrate the reduced quality of life for many vulnerable people within these nations." In the subsection "Countries with minority Muslim populations," edit the statement "We cannot abandon our commitment to equality and justice, or condone religious discrimination, and not be recognized. as hypocrites." to "We cannot abandon our commitment to equality and justice, or condone religious discrimination. To do so would expose us as hypocrites." In the subsection "Free Exercise in the US," edit the text "Here in the Twin Cities, for example, we have had a few cases that have been spotlighted by the local press. Some" Change the period to a colon, and change 'Some' to 'some.
Rev R	2/1/2023	George Kane	August Berkshire Georgia Hancock George Kane Chris Matthews	Link to American Atheists' "State of the Secular States Report" for Minnesota Prologue extensively re-written to address the Supreme Court's project to nullify the Establishment Clause. In Government Entanglement with Religion, Display of religious symbols on public property, inserted 'if' before 'feasible.' In the subsection Taxation of Churches and other nonprofit Corporations, deleted the opening paragraph: This discussion should be viewed in the context of our country's history that surrounds the writing and enforcement of the First Amendment of the U.S.

				Constitution. “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.” When we read the principles expressed in this statement, how should we view the taxation of religious property? It is a question that has a long history in our government debate. We will separate our position into two areas of taxation: income and property. Other non-substantive changes were made for style and clarity. The subsection on the Johnson Amendment was moved from the end of the section on Government Entanglement with Religion to immediately following the subsection on taxation of churches and other non-profits. The following sentence was added to a statement of how rarely the IRS takes action against the tax status of churches: “Prior to this, we know of only one case, Branch Ministries v. Rossotti (2000), where a church has lost its tax-exempt status for violating the Johnson Amendment.” Non-substantive changes were made for style and clarity. In the Section Religious Privilege, subsection Religious Freedom Restoration Act and Anti-discrimination Statutes, the concluding paragraph was deleted: The Equality Act of 2021 was introduced to defend anti-discrimination laws against claims of religious privilege that were opened by RFRA. At the time of release of Revision P of this document, the Equality Act had been passed by the House and been placed on the calendar of the Senate. Minnesota Atheists views this bill as the top legislative priority. In the later subsection Religious Exemptions to Children’s Health Care, deleted unnecessary links. Also replaced the following paragraphs: In the 1905 Supreme Court case of Johnson vs Massachusetts. The court held that the states were justified in enacting mandatory vaccination programs to protect its citizens’ public health, safety and welfare. The Supreme Court revisited the Johnson case in Zucht v. King in 1922 when a group of parents claimed a constitutional right to refuse vaccinations for their children. The Supreme Court upheld the prior ruling and extended the original ruling to hold that public health officials and schools could decide the manner and types of mandatory vaccinations. In the 1944 Prince v. Massachusetts child labor case Supreme Court stated that “parents are free to become martyrs themselves; but it does not follow that they are free, in identical circumstances, to make martyrs of their children before they have reached the age of full and legal discretion when they can make the choice for themselves.” The United Public Workers v. Mitchell case of 1947 in Texas, has laid down a body of legal precedent concerning this right for parents. In general, it has upheld the parents’ right to refuse their own medical treatment, but not for their children.” They were replaced by the following paragraph: The 1905 Supreme Court case of Johnson vs Massachusetts, the 1922 Supreme Court case of Zucht v. King, the 1944 Supreme Court case of Prince v. Massachusetts, and the 1947 Supreme Court case of United Public Workers v. Mitchell. Added the Juvenile Court file case number to the case of

				Daniel Hauser. In the later subsection on Marriage Celebrants, in the opening paragraph deleted the sentence “If so, they should be allowed to choose between a governmental, religious, or secular representative of the state to act as a celebrant.” In the discussion of simply registering the marriage, deleted the sentence “Procedures such as these are already in place for domestic partnerships in some localities.” Inserted the following paragraph: Celebrant registration is conducted by the counties. One county has allowed an atheist marriage celebrant to register so long as the standard form was filled out – a form that states that the applicant conforms to Minnesota state law. This has the effect of classifying atheism as a religion and is not a solution. Another county has allowed an atheist marriage celebrant to register without this form. This is potentially a solution, but we cannot know if all counties would always allow it, and thus it really is not a solution. A third county dropped a court challenge and allowed an atheist marriage celebrant to register. At best this would seem to apply only to that county. The two best solutions to ensure equal marriage celebrant rights for atheists and secular humanists would be to either change Minnesota law or to get a court to overrule current law in such a way that it would be binding upon the whole state. In the later subsection Violations of Noise Ordinances, delete the sentence “If these laws have the secondary, unintended effect of benefitting or harming a religion, that is not the government’s concern.” In the final subsection to Religious Privilege, Exemptions to Social Distancing, delete the following bullet list: • You can see the decision and dissent here: https://www.mtsu.edu/first-amendment/article/1901/tandon-v-newsom • Rule 702 is here: https://www.law.cornell.edu/rules/fre/rule_702 • Discussion of Daubert is here: https://www.expertinstitute.com/resources/insights/daubert-vs-fryenavigating-the-standards-of-admissibility-for-expert-testimony/ The Section Reproductive Rights was extensively rewritten because of the decision to overturn *Roe.* In the Section Public Education, Subsection (2) Prayer, append the following paragraph: In Kennedy vs. Bremerton School District (2022) the US Supreme Court ruled that a public school coach’s prayer on a football field after the game, where he invited players to join him, was a “personal religious observance.” This, despite the fact that the prayer took place openly on public school property by a school official, and that such an invitation to the players to participate in the prayers could easily be viewed by them as coercive since the coach had control over who played and who did not. Minnesota Atheists agrees with Associate Justice Sotomayor, who wrote in dissent: “Since Engel v. Vitale, 370 U.S. 421 (1962), this Court consistently has recognized that school officials leading prayer is constitutionally impermissible. … To the degree the Court portrays petitioner Joseph Kennedy’s prayers as private and quiet, it

				misconstrues the facts. The record reveals that Kennedy had a longstanding practice of conducting demonstrative prayers on the 50-yard line of the football field. Kennedy consistently invited others to join his prayers and for years led student athletes in prayer at the same time and location. The Court ignores this history." Since this ruling is unlikely to be reversed any time soon, Minnesota Atheists advocates that the free speech public forum standards of Lynch v. Donnelly (1984) be applied in this case: That where public high school athletic fields are used for religious events, that all viewpoints on religion are allowed expression, including Christian, Jewish, Muslim, Hindu, Buddhist, atheist, and the Satanic Temple. In later subsection (6) Vouchers and Tax Credits, the following two sentences were deleted. "Funding school programs that include religious activity makes it difficult if not impossible to separate the funding of religious from nonreligious instruction. It is therefore our policy that vouchers or tax credits should not be used in any payment to attend a religious school." They were replaced by the following paragraph: In the case Espinoza v. Montana Department of Revenue (2020), the Supreme Court ruled that denying the benefits of a voucher program because of the religious status of the school violates the Free Exercise Clause. In Casey v Makin (2022) the Court went one step further, ruling that it violates the Establishment Clause to deny the benefits of a voucher program even when the educational curriculum is pervasively religious. The Court did not take notice of any significance of the Establishment Clause in voucher programs. It is therefore our policy that these decisions should be overturned. Vouchers or tax credits should not be used in any payment to attend a religious school because it is difficult if not impossible to separate the funding of religious from nonreligious instruction.