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DOCUMENTING DISCRIMINATION

How the Religious-Right Convinces Politicians to Enact Anti-LGBT Legislation



C A M P A I G N F O R
ACCOUNTABILITY

EXECUTIVE SUMMARY

Campaign for Accountability's new report, *Documenting Discrimination*, reveals how several right wing religious groups, namely Alliance Defending Freedom, Liberty Counsel, First Liberty, and the Family Research Council are spearheading a national movement to legalize discrimination against LGBT individuals through Religious Freedom Restoration Act ("RFRA") legislation.

In the fall of 2015, CfA filed dozens of open records requests in Arizona, Texas, and Kentucky to identify the national groups behind state efforts to pass RFRAs. Documents CfA obtained reveal that local groups often work under the direction of national groups like Alliance Defending Freedom and Family Research Council to secure passage of anti-LGBT bills in state legislatures in direct coordination with anti-LGBT elected officials. The bills are taken directly from national groups, which distribute them as model legislation to officials across the country.

Some of the key revelations include:

- In Arizona, CfA uncovered a close working relationship between state legislators, the Center for Arizona Policy, Alliance Defending Freedom, and the Family Research Council.
- In Texas, one of the governor's top staffers maintains a close working relationship with the head of Texas Values, a state religious right group. Emails between the two show Texas Values and another group, First Liberty, were behind the state's RFRA bill.
- In both Texas and Arizona, religious right groups coordinated with state officials on how to respond to the Supreme Court's decision in *Obergefell v. Hodges*.
- In Kentucky, a national religious right group intervened on behalf of Rowan County Clerk Kim Davis to prevent any documents from being released to CfA, drawing a rebuke from the state's attorney general.

INTRODUCTION

When Arizona Governor Jan Brewer vetoed a so-called "religious liberty" bill in February 2014, the head of a small religious-right group, Center for Arizona Policy (CAP), appeared in the press defending the bill.¹ CAP took credit for writing the legislation, and media outlets recognized the group's efforts accordingly.² CAP was not working on its own, however; larger national groups were actually calling the shots.

¹ Alia Beard Rau, [Activist Cathi Herrod a Political Force Behind the Scenes](http://www.azcentral.com/news/politics/articles/20140225activist-cathi-herrod-political-force.html), *The Arizona Republic*, March 1, 2014, available at <http://www.azcentral.com/news/politics/articles/20140225activist-cathi-herrod-political-force.html>.

² Bob Christie, [Arizona Gov. Jan Brewer Vetoes Controversial 'Religious Freedom' Bill](http://www.kansascity.com/news/politics-government/article340477/Arizona-Gov.-Jan-Brewer-vetoes-controversial-%E2%80%99religious-freedom%E2%80%99-bill.html), *Associated Press*, February 26, 2014, available at <http://www.kansascity.com/news/politics-government/article340477/Arizona-Gov.-Jan-Brewer-vetoes-controversial-%E2%80%99religious-freedom%E2%80%99-bill.html>.

Those pushing Religious Freedom Restoration Acts (“RFRA”), and similar legislation that discriminates against the LGBT community, follow a well-worn playbook. National religious- right groups orchestrate the whole process by drafting and distributing model legislation to state partners, helping with the actual drafting of specific state legislation, and providing testimony to manufacture a record that supports the hate legislation.³ In turn, these groups – like CAP – leverage their connections with state politicians to get bills introduced and funneled through the legislative process.⁴ The state groups then activate their members to drum up grass-roots support.⁵ In the end, the legislators take credit and receive the gratitude of the religious right when the legislation becomes law – a result that benefits both.

Observing this growing trend toward more and more discriminatory state legislation, Campaign for Accountability (CfA) sought to learn just which groups and individuals actually were pulling the strings. In the fall of 2015, CfA filed dozens of open records requests in Arizona, Texas, and Kentucky to identify those groups that have been behind state efforts to pass RFRA bills. Documents CfA obtained reveal that local groups like CAP in fact work under the direction of a national group, Alliance Defending Freedom (ADF), the decades-old, legal behemoth dedicated to advancing an agenda of intolerance. ADF has spearheaded the national movement to push for state laws like that enacted in Arizona, providing the legal underpinnings of the controversial legislation to give states and state legislators cover.

Documenting Discrimination details how the religious right secured passage of RFRA bills in Arizona and Texas, and touches on the groups’ efforts to enact discriminatory policies in Arkansas. The documents CfA obtained confirm that like other discriminatory legislation that preceded RFRA bills, the RFRA process was the combined work of state and national-level groups, working in tandem in an effort to establish a nationwide network of anti-LGBT laws.

Further, responses CfA received in response to open records requests made to clerk’s offices in Texas and Kentucky reveal the extent to which other organizations dedicated to advancing an agenda of intolerance, such as Liberty Counsel, have infiltrated and are even acting in the stead of state governments. While these documents do not represent a comprehensive account of RFRA battles, they provide a window into the nationally organized nature of the efforts to enact discriminatory legislation -- efforts that involve governors, state legislators, national groups like ADF, and local anti-LGBT groups working together to push an agenda of hate, intolerance, and discrimination.

³ Samantha Michaels, *We Tracked Down the Lawyers Behind the Recent Wave of Anti-Trans Bathroom Bills*, *Mother Jones*, April 25, 2016, available at <http://www.motherjones.com/politics/2016/04/alliance-defending-freedom-lobbies-anti-lgbt-bathroom-bills>.

⁴ Email from Cathi Herrod to Samantha Brooks, et. al., Feb. 10, 2015 (Ex. A); Email from Craig James to Jimmy Blacklock, Chip Roy, et. al., June 24, 2015 (Ex. B). The emails were provided to CfA in response to open records requests.

⁵ See Email from Jonathan Saenz to Ben Taylor, June 5, 2015 (Ex. C).

ARIZONA

SB 1062

For the last several years, CAP has been working alongside ADF to have the Arizona Legislature enact a religious freedom bill.⁶ In 2013, the legislature passed a bill that would have allowed individuals to bring lawsuits over potential violations of so-called religious freedoms.⁷ Gov. Brewer vetoed the bill, along with several others, stating she would not sign any legislation until the legislature agreed to expand Medicaid.⁸ The legislature did not attempt to override the veto.⁹

In January 2014, Arizona Senator Steve Yarbrough introduced a new RFRA bill, SB 1062, that would have allowed businesses in Arizona to deny services to LGBT customers on purported religious grounds.¹⁰ The Senate passed the bill on February 19, 2014, and the House followed a day later.¹¹ On February 26, 2014, Gov. Brewer vetoed the bill, declaring the legislation “does not address a specific and present concern” and that it “has the potential to create more problems than it purports to solve.”¹² The legislature again did not attempt to override the veto.¹³

As the Arizona bill gained momentum within the legislature, CAP was working behind the scenes at every step, often in tandem with ADF. Before the 2014 legislative session even started, CAP representatives discussed the legislation with aides to Gov. Brewer. On January 6, Josh Kredit, CAP’s legal counsel, emailed Michael Hunter, Gov. Brewer’s Director of Policy, and Joe Sciarrotta Jr., Gov. Brewer’s General Counsel, to thank them for meeting with him and Ms. Herrod, head of CAP. Mr. Kredit also noted that CAP would remove specific phrases from the RFRA bill, as requested by the Governor’s staff.

I also wanted to let you know that we have gone ahead and removed the phrases ‘OR IS LIKELY TO BE BURDENED’ and ‘OR IMPENDING VIOLATION’ from Section 2, subsection D of the religious liberty bill per the concerns raised today.¹⁴

⁶ Mary Jo Pitzl and Alia Beard Rau, *Back to Basics at Arizona Legislature*, *The Arizona Republic*, January 12, 2013, available at <http://www.azcentral.com/news/politics/articles/20121231arizona-legislature-basics.html>.

⁷ Mary Jo Pitzl, *Threats, Vetoes Fly as Tensions Rise Over Medicaid Expansion*, *The Arizona Republic*, May 24, 2013, available at <http://www.azcentral.com/news/politics/articles/20130523brewer-vetoes-senate-bills-medicaid-moratorium.html>.

⁸ *Id.*

⁹ http://www.azleg.gov/FormatDocument.asp?inDoc=/legtext/51leg/1r/bills/sb1178o.asp&Session_ID=110.

¹⁰ http://www.azleg.gov/DocumentsForBill.asp?Bill_Number=SB1062&Session_ID=112.

¹¹ *Id.*

¹² <http://archive.azcentral.com/ic/pdf/brewer-1062-prepared-remarks.pdf>.

¹³ http://www.azleg.gov/FormatDocument.asp?inDoc=/legtext/51leg/2r/bills/sb1062o.asp&Session_ID=112.

¹⁴ Email from Josh Kredit to Joe Sciarrotta and Michael Hunter, Jan. 6, 2014 (Ex. D).

The phrases do not appear in the version of the bill that was introduced by Sen. Yarbrough and read into the Senate on January 14.¹⁵ A pamphlet CAP sent on February 4, 2014, identified passage of SB 1062/HB2153 as “[t]he top legislative priority for CAP this year.”¹⁶

CAP officials apparently met again with the governor’s aides on January 21 and January 23, 2014. CAP officials arranged for Joe La Rue, legal counsel at Alliance Defending Freedom,¹⁷ to attend the second meeting, clearly intending to use the meeting to gain the governor’s support for the RFRA bill, SB 1062. Josh Kredit wrote in an email to Mr. Hunter on January 22:

Attached is the Arizona case from 2009 that deals with Arizona’s RFRA statute. We have developed several proposed changes to the current bill and responses to many of your questions. Would you like those in advance of a meeting? I believe Cathi emailed you earlier to see if tomorrow morning would work given that the Alliance Defending Freedom attorney will be down at the Capitol already. Just let us know.¹⁸

Also on January 22, Cathi Herrod wrote to Mr. Hunter and Lorna Romero, Gov. Brewer’s Director of Legislative Affairs, asking:

Any chance you all could meet again Thursday at 8:30? We would have Joe LaRue from Alliance Defending Freedom with us. I have typed up all your questions and concerns. He can go through those with us point by point. Joe already intends to be at [sic] Capitol Thursday morning.

I am assuming you would prefer an in person meeting rather than a written response.¹⁹

She added later in the email thread:

We also have gone through each of your concerns as best as we recorded them yesterday and have answers.²⁰

Thus, it appears CAP was unable to answer the aides’ questions during the meeting and instead sought ADF’s legal expertise to defend and explain the bill. For his part, Mr. La Rue played a major role in supporting Arizona’s religious freedom debate. On January 16, 2014, Sen. Yarbrough invited Mr. La Rue to testify before the Senate Committee on Government and Environment,²¹ where he told the committee:

¹⁵ <http://www.azleg.gov/legtext/51leg/2r/bills/sb1062p.pdf>.

¹⁶ Email from Cathi Herrod, Feb. 4, 2014 (Ex. E).

¹⁷ <https://www.adflegal.org/detailspages/biography-details/joseph-la-rue>.

¹⁸ Email from Josh Kredit to Michael Hunter, Jan. 22, 2014 (Ex. F).

¹⁹ Email from Cathi Herrod to Michael Hunter and Lorna Romero, Jan. 22, 2014 (Ex. G).

²⁰ *Id.*

²¹ http://www.azleg.gov/legtext/51leg/2R/comm_min/Senate/011614GE.PDF.

“We have been heavily involved with both federal and state RFRA. We provide testimony across the nation to states that are considering RFRA or considering amending RFRA such as Arizona is considering with this Senate bill.”²²

ADF appears to have directly drafted the legislation. A paragraph from the bill is nearly identical to a paragraph included in an Ohio RFRA bill in December 2013.²³ ADF told CNN’s Anderson Cooper that ADF helped write the Arizona bill, but ADF officials refused to be interviewed for his show.²⁴

After the legislature passed SB 1062, ADF distributed a press release highlighting a letter from 11 legal scholars to Gov. Brewer encouraging her to support the bill.²⁵ Mr. Kredit then forwarded the press release to a list of undisclosed recipients that included either Arizona Rep. John Allen or his assistant.²⁶ Mr. Kredit noted in his email that “Family Research Council, American Family Association, United Families Arizona, and many other organizations are stepping up to defend this bill.”²⁷

The groups, however, were dismayed when Gov. Brewer vetoed the bill. In her accompanying remarks, she detailed how the bill does not actually protect religious freedom, but instead risks damaging the state of Arizona.

Senate Bill 1062 does not address a specific and present concern related to religious liberty in Arizona. I have not heard of one example in Arizona where a business owner’s religious liberty has been violated. The bill is broadly worded and could result in unintended and negative consequences.....

I sincerely believe that Senate Bill 1062 has the potential to create more problems than it purports to solve. It could divide Arizona in ways we cannot even imagine and no one would ever want. Religious liberty is a core American and Arizona value, so is non-discrimination.²⁸

Both CAP and ADF took to the press to voice their objections to the veto. Cathi Herrod accused the bill’s opponents of fear-mongering, and a spokesman for ADF suggested the veto

²² Proceedings of Committee on Government and Environment, January 16, 2014, *available at*: http://azleg.granicus.com/ViewPublisher.php?view_id=24. Mr. La Rue’s testimony begins at 16:25.

²³ http://archives.legislature.state.oh.us/bills.cfm?ID=130_HB_376.

²⁴ Transcript, CNN, *Religious Freedom or License to Discriminate?*, February 25, 2014.

²⁵ Email from Josh Kredit, Feb. 26, 2014 (Ex. H). The email was provided to CfA in response to an open records request to Rep. Allen’s office.

²⁶ *Id.*

²⁷ *Id.*

²⁸ <http://archive.azcentral.com/ic/pdf/brewer-1062-prepared-remarks.pdf>.

constituted growing hostility to people of faith.²⁹ Arizona Sen. John McCain and the Arizona Chamber of Commerce thanked the governor for her veto.³⁰

CAP and ADF have a long history of working together to enact discriminatory policies in Arizona. In 2006, the groups joined together to support a state constitutional amendment that would have banned same-sex marriage.³¹ The measure failed then, but ADF and CAP passed it successfully in 2008. In 2012, the groups again worked together on a bill that enabled certain businesses to opt out of covering contraceptive care as a part of their health care plans.³² Ms. Herrod, a champion of the bill, credited ADF with writing the measure.³³ The groups have also worked together on legal measures. They jointly filed a lawsuit in 2003 to allow license plates in Arizona to carry an anti-abortion message.³⁴ In 2010, the groups submitted a friend-of-the-court brief arguing that the state of Arizona should not provide health care benefits to same-sex domestic partners.³⁵

Finally, CAP and ADF share a major donor. The National Christian Charitable Foundation, itself a shield for major religious right donors, has donated tens of millions of dollars to ADF in the last decade, including \$13 million in 2014.³⁶ The foundation also contributed more than \$1.5 million to CAP between 2004 and 2014.³⁷

Post Obergefell Actions

On June 26, 2015, the Supreme Court handed down its decision in *Obergefell v. Hodges* recognizing the fundamental right of same-sex couples to marry. This generated a flurry of activity as Arizona state officials worked with CAP to determine their options. For example, on July 20, 2015, Cathi Herrod reached out to Samantha Brooks, the governor's director of scheduling, to organize a meeting on August 10 to:

²⁹ Howard Fischer, *Brewer Kills SB 1062 as Flawed Legislation*, *Arizona Daily Star*, February 27, 2014.

³⁰ Alia Beard Rau, Yvonne Wingett Sanchez, and Mary Jo Pitzl, *Arizona Gov. Jan Brewer Vetoes Senate Bill 1062*, *The Arizona Republic*, February 26, 2014, available at <http://archive.azcentral.com/news/politics/articles/20140226-arizona-jan-brewer-1062-statement.html>.

³¹ Press Release, Family Research Council, *Arizona Supreme Court Allows Marriage Amendment on November Ballot*, August 31, 2016.

³² Alia Beard Rau, *Arizona House Gives Final OK to Contraception Bill*, *The Arizona Republic*, April 19, 2012, available at <http://archive.azcentral.com/news/politics/articles/20120419-arizona-house-gives-final-ok-contraception-bill.html>.

³³ Press Release, CitizenLink, *Arizona Employer Protections Bill to Get Second Vote*, March 29, 2012.

³⁴ <http://www.adflegal.org/detailspages/alliance-alert-details/adf--u-s--supreme-court-clears-way-for-specialty-plates-featuring--choose-life--message>.

³⁵ Press Release, Alliance Defending Freedom, *ADF, CAP Brief: Ariz. Lawmakers OK to Reserve Taxpayer-paid Benefits for State Employees, Spouses*, September 22, 2010.

³⁶ Alia Beard Rau and Mary Jo Pitzl, *Arizona Gay Marriage Legal; Couples Marry Immediately*, *The Arizona Republic*, October 17, 2014, available at <http://www.azcentral.com/story/news/arizona/politics/2014/10/17/arizona-gay-marriage-ruling/17431229/>; The National Christian Charitable Foundation, IRS Form 990, 2014 Return, filed November 11, 2015, available at <http://www.guidestar.org/FinDocuments/2014/581/493/2014-581493949-0c38c180-9.pdf>.

³⁷ Beard Rau and Pitzl, *The Arizona Republic*, Oct. 17, 2014.

discuss next steps following the Supreme Court’s decision redefining marriage and threats to religious freedom.³⁸

An August 10, 2015 email from Cathi Herrod to Samantha Brooks, Kirk Adams, and Karen Bumcrot confirms the attendees at the meeting were Alan Sears, the CEO of ADF; Pastor Don Wilson from Christ’s Church of the Valley; and Jay Mount, founder and owner of MDS Communications,³⁹ a company that according to its website provides an array of telephone fundraising services.⁴⁰ In 2008, MDS Communications received \$197,981 from the ballot measure committee supporting the constitutional amendment banning same-sex marriage.⁴¹ The committee’s donors included ADF, Focus on the Family, and the Center for Arizona Policy, among others.⁴² The purpose of the meeting was to “discuss religious freedom and related issues of concern to the faith-based community.”⁴³ Once again, ADF was taking a leading role in driving Arizona’s anti-LGBT agenda.

Boy Scouts Resolution

Prior to Arizona’s efforts to enact so-called religious freedom legislation, CAP worked under the direction of the Family Research Council (FRC), another national religious-right group based in Washington D.C. to pass an FRC drafted resolution supporting the Boy Scouts of America (BSA) controversial “Don’t Ask Don’t Tell” policy.⁴⁴ With FRC’s model legislation in hand, CAP generated Arizona lawmakers’ support for a resolution

On March 4, 2013, CAP’s president, Ms. Herrod, sent an email to Rep. David Gowan, the House Majority Leader, and his assistant asking if they would be interested in “finding a way to do this” in reference to a resolution supporting the BSA’s discriminatory policy. She forwarded an email she received from FRC that stated:

Our team has developed a model Joint/Concurrent Resolution for your consideration, in support of the Scouts. I would very much like to know if you decide to use it!⁴⁵

³⁸ Email from Cathi Herrod to Samantha Brooks, July 20, 2015 (Ex. I).

³⁹ Email from Cathi Herrod to Samantha Brooks, Kirk Adams, Karen Bumcrot, Aug. 10, 2015 (Ex. J); Marnie Eisenstadt, *Charity or Scam? Meet the 5 Telemarketers that Pocketed \$89 Million Asking for Charity Donations*, *Syracuse.com*, March 5, 2015, available at http://www.syracuse.com/news/index.ssf/2015/03/charity_or_scam_meet_the_5_telemarketers_that_pocketed_89_million_asking_for_cha.html.

⁴⁰ <http://www.mdscom.com>.

⁴¹ Arizona Secretary of State, *YESforMarriage.com supporting Prop 102*, 2008 Election Reports, available at <http://apps.azsos.gov/apps/election/cfs/search/BallotMeasureSearch.aspx>.

⁴² *Id.*

⁴³ Ex. J.

⁴⁴ <https://www.splcenter.org/fighting-hate/extremist-files/group/family-research-council>.

⁴⁵ Email from Cathi Herrod to Rep. David Gowan and Becca Farmer (Assistant to Rep. Gowan, Mar. 4, 2013 (Ex. K).

Rep. Gowan's assistant then recruited Sen. Al Melvin to join Rep. Gowan in introducing the resolution.⁴⁶ On April 9, 2013, six weeks before BSA leaders were scheduled to vote on terminating the controversial policy,⁴⁷ the Arizona House of Representatives passed a resolution, "honoring the Boy Scouts of America for its contributions to the lives of our nation's boys and young men."⁴⁸ The resolution contained a clause expressly supporting the BSA's controversial policy of "Don't Ask Don't Tell":

Whereas, after a two-year study, the Boy Scouts of America reported its unanimous consensus that the organization retain its current "don't ask, don't tell" policy[.]⁴⁹

Ms. Herrod followed up with an email on April 16, thanking Rep. Gowan and his assistant for "making this happen."⁵⁰ Ms. Herrod also forwarded a laudatory email from Family Policy Alliance (FPA), an alliance of state-based groups affiliated with Focus on the Family,⁵¹ another national religious-right group, that highlighted the BSA resolution.⁵² The email thanked lawmakers for supporting the BSA policy "requiring that members agree with its core values."⁵³

These collaborative actions to enact a "religious freedom" law in Arizona built on relationships established in previous fights over equally divisive issues. When Arizona Rep. Justin Olson sought ammunition to fight the then-proposed expansion of the state's Medicaid program to fund abortion providers, he turned to ADF. ADF provided a legal rationale for why the proposed expansion of Medicaid "would inevitably subsidize abortions" contrary to the "will of Arizona taxpayers."⁵⁴

TEXAS

Pastor Protection Act

On June 11, 2015, Texas Governor Greg Abbott signed into law the Pastor Protection Act, which allows clergy to refuse to perform marriages that violate their religious beliefs.⁵⁵ Just as in Arizona, local groups in Texas were quick to swoop in and take credit for getting the bill

⁴⁶ http://www.azleg.gov/FormatDocument.asp?inDoc=/legtext/51leg/1r/bills/hcr20360.asp&Session_ID=110.

⁴⁷ On May 23, 2013, 1,400 representatives of the organization voted to end the policy and welcome openly gay scouts. See Erik Eckholm, [Boy Scouts End Longtime Ban on Openly Gay Youths](http://www.nytimes.com/2013/05/24/us/boy-scouts-to-admit-openly-gay-youths-as-members.html), *The New York Times*, May 23, 2013, available at <http://www.nytimes.com/2013/05/24/us/boy-scouts-to-admit-openly-gay-youths-as-members.html>.

⁴⁸ <http://www.azleg.gov/legtext/51leg/1r/laws/hcr2036.pdf>.

⁴⁹ http://www.azleg.gov/FormatDocument.asp?inDoc=/legtext/51leg/1r/bills/hcr20360.asp&Session_ID=110.

⁵⁰ Email from Cathi Herrod to Becca Farmer, Apr. 16, 2013 (Ex. L).

⁵¹ The Family Policy Alliance was previously known as CitizenLink. See <http://familypolicyalliance.com/about-us/>.

⁵² <https://www.splcenter.org/20160211/religious-liberty-and-anti-lgbt-right#fotf>.

⁵³ Email from CitizenLink Team to Cathi Herrod, Apr. 15, 2013 (enclosed as part of email thread in Ex. L).

⁵⁴ Letter from M. Casey Mattox, Senior Counsel, ADF to Rep. Justin Olson, March 22, 2013 (Ex. M).

⁵⁵ Liz Crampton, [Abbott Signs "Pastor Protection Act" Into Law](https://www.texastribune.org/2015/06/11/gov-abbott-signs-pastor-protection-act/), *The Texas Tribune*, June 11, 2015, available at <https://www.texastribune.org/2015/06/11/gov-abbott-signs-pastor-protection-act/>.

passed. Most notably, Jonathan Saenz, the president of Texas Values Action,⁵⁶ told a staffer for the governor that the bill “was mainly written and pushed through the legislative process by the Texas Values Action team led by lawyer and president Jonathan Saenz, with assistance by Liberty Institute lawyers.”⁵⁷

The Pastor Protection Act was one of at least 20 RFRA bills that Texas legislators introduced during the 2015 legislative session.⁵⁸ Sen. Craig Estes introduced the bill on April 28, 2015, and the Senate passed it on May 11.⁵⁹ The House followed on May 21.⁶⁰ Here, the religious right group Texas Values, led by its president Jonathan Saenz, strongly defended the bill, along with several other pieces of RFRA legislation.

After Gov. Abbott signed the Pastor Protection Act into law, the *Houston Chronicle* quoted Mr. Saenz on why the bill was needed and credited his group with organizing testimony in support of the bill.⁶¹ Mr. Saenz, in addition to publicly supporting the bill, acted behind the scenes to secure its passage.

Role of Texas Values

One of Mr. Saenz’s closest allies in the governor’s office is Ben Taylor, the governor’s outreach director.⁶² Mr. Taylor called Mr. Saenz “a good friend” in one email CfA obtained,⁶³ and the two worked closely together to secure passage of the Pastor Protection Act. In an email he sent to Mr. Taylor, Mr. Saenz credited his own organization and another, First Liberty, with writing the bill:

We intend to highlight the new Pastor Protection law at this event. We will highlight Gov. Abbott’s leadership in supporting this law, including his famous ‘tweet’ saying ‘I’ll sign this law if it reaches my desk,’ which was a key turning point for this legislation. **This law was mainly written and pushed through the legislative process by the Texas Values Action team led by lawyer and president Jonathan Saenz, with assistance by Liberty Institute lawyers.** We will also highlight Governor Abbott’s

⁵⁶ Mr. Saenz is the president of both Texas Values, a 501(c)(3) nonprofit, and Texas Values Action, a 501(c)(4) nonprofit. See <http://txvaluesaction.org/about/>.

⁵⁷ Email from Jonathan Saenz to Ben Taylor, Oct. 29, 2015 (Ex. N).

⁵⁸ Matt Dotray, *Texas Has Introduced Its Own Bills Related to ‘Religious Freedom’*, *Lubbock Avalanche-Journal*, April 4, 2015, available at <http://lubbockonline.com/local-news/2015-04-04/texas-has-introduced-its-own-bills-related-religious-freedom>.

⁵⁹ <http://www.capitol.state.tx.us/BillLookup/History.aspx?LegSess=84R&Bill=SB2065>.

⁶⁰ Aman Batheja, *House Passes Bill on Pastors’ Rights to Refuse Gay Marriages*, *The Texas Tribune*, May 21, 2015, available at <https://www.texastribune.org/2015/05/21/house-passes-bill-assuring-pastors-right-refuse-co/>.

⁶¹ Dylan Baddour, *‘Pastor Protection Act’ Seen as Posturing for Likely Legalization of Same-Sex Marriage by SCOTUS*, *Houston Chronicle*, June 11, 2015, available at <http://www.chron.com/news/politics/article/Pastor-Protection-Act-seen-as-posturing-for-6321297.php>.

⁶² <https://www.linkedin.com/in/ben-taylor-a619671>.

⁶³ Email from Ben Taylor to Tonya Mckim, June 26, 2015 (Ex. O).

directive on religious freedom that he released just after the U.S. Supreme Court decision on marriage.⁶⁴

(emphasis added).

Role of First Liberty

In addition to the Pastor Protection Act, Texas officials attempted to pass several other religious freedom bills.⁶⁵ On March 6, 2015, Rep. Molly White introduced a bill to allow business owners to refuse to provide service to people based on the business owner's religion.⁶⁶ Rep. White's policy analyst emailed an expert at the Heritage Foundation to secure his endorsement of the bill.⁶⁷ The Heritage expert declined, but he connected the analyst with Matthew Kacsmatyk of First Liberty (previously known as Liberty Institute) whom, he explained, was "working on similar policy specifically for Texas."⁶⁸

First Liberty is a national religious right group based in Plano, Texas that acts as a law firm for clients who believe their religious freedom has been threatened.⁶⁹ The organization recruits lawyers to work pro bono on behalf of clients from across the country.⁷⁰ In 2012, Mr. Saenz left First Liberty, where he led the organization's policy efforts, to found Texas Values as a "Texas focused effort" to advance Judeo-Christian values in the state.

Notably, in its endorsement of the Pastor Protection Act, First Liberty described the bill as only a "first step."⁷¹ The organization's general counsel stated, "further protections are needed" for "business dealings," which would have been included in Rep. White's bill.

First Liberty also injected itself directly into Texas governmental processes through its representation of Hood County Clerk Katie Lang. Ms. Lang was among those clerks in states with RFRA laws who refused to issue marriage licenses to same-sex couples, which resulted in a lawsuit that cost Hood County taxpayers \$43,000.⁷² When CfA filed a records request with the Hood County Clerks' Office seeking communications between the clerk's office and First Liberty, First Liberty took the extraordinary step of requesting a decision from the Texas attorney general – the process Texas law requires before a state agency can withhold information -- on whether the requested information was exempt from disclosure.⁷³

⁶⁴ Ex. N; Liberty Institute is now known as First Liberty.

⁶⁵ Dotray, *Lubbock Avalanche-Journal*, April 4, 2015.

⁶⁶ <http://www.capitol.state.tx.us/BillLookup/History.aspx?LegSess=84R&Bill=HB2553>.

⁶⁷ Email from Tyler Doucet to Bethany Davis, April 8, 2015 (Ex. P).

⁶⁸ Email from Ryan Anderson to Tyler Doucet, April 8, 2015 (Ex. Q).

⁶⁹ <http://firstliberty.org/about-us/>.

⁷⁰ *Id.*

⁷¹ <http://firstliberty.org/newsroom/texas-passes-pastor-protection-act-a-first-step-in-defending-religious-freedom-for-all/>.

⁷² Robert Wilonsky, Hood County Clerk's Refusal to Issue Same-Sex Marriage License Costs Taxpayers \$43,000, *The Dallas Morning News*, August 17, 2015, available at <http://thescoopblog.dallasnews.com/2015/08/hood-county-clerks-refusal-to-issue-same-sex-marriage-license-cost-taxpayers-43000.html/>.

⁷³ Letter from Chelsey Youman, Liberty Institute to Attorney General Ken Paxton, Nov. 20, 2015 (Ex. R).

No provision of the Texas information law permits an outside entity to handle an information request on behalf of a Texas agency. Responding to an information request is a uniquely governmental responsibility that cannot, and should not, be co-opted by an outside entity with interests potentially adverse to those of the state government.

Additionally, Texas Attorney General, Ken Paxton, has hired two lawyers from First Liberty to work in his office. In March, Gen. Paxton named the head of the legal team at First Liberty, Jeff Mateer, to be his second-in-command.⁷⁴ Mr. Mateer spent six years working at First Liberty where he championed religious liberty cases. In April, Gen. Paxton hired Hiram Sasser, the deputy chief counsel at First Liberty, to serve as his chief of staff.⁷⁵

Identical Bills

The version of the Pastor Protection Act signed into law in Texas is nearly identical to two other religious freedom bills introduced in Missouri and Louisiana.⁷⁶ Missouri State Rep. John McCaherty introduced a Pastor Protection Act, HB 2040, on January 6, 2016,⁷⁷ and Louisiana State Rep. Mike Johnson introduced a Pastor Protection Act on March 4, 2016.⁷⁸ Both bills contain nearly identical language to the Pastor Protection Act passed in Texas, but neither received approval from each state's legislature. The quick adoption of the Texas language by members in other states suggests at least some level of coordination among state officials looking to limit LGBT rights.

Executive Orders

Beyond pushing for legislative actions, these groups have pressured Texas public officials to issue a number of executive actions concerning so-called religious freedom advocated by the religious right. In the weeks leading up to the Supreme Court's *Obergefell* decision, religious-right groups pressured Gov. Abbott to issue an executive order proclaiming Texas's commitment to religious freedom.

On May 21, 2015, Craig James, an assistant to the president at the Family Research Council,⁷⁹ scheduled a conference call with Mr. Taylor, Gov. Abbott's point person on religious

⁷⁴ Morgan Smith, [Religious Liberty Champion Joins Paxton's Team](https://www.texastribune.org/2016/03/10/new-top-ag-lawyer-champion-religious-liberty/), *The Texas Tribune*, March 10, 2016, available at <https://www.texastribune.org/2016/03/10/new-top-ag-lawyer-champion-religious-liberty/>.

⁷⁵ Lauren McGaughy, [Ken Paxton Hires 2nd Religious Liberties Activist as Chief of Staff](http://trailblazersblog.dallasnews.com/2016/04/ken-paxton-hires-2nd-religious-liberties-activist-as-chief-of-staff.html/), *The Dallas Morning News*, April 7, 2016, available at <http://trailblazersblog.dallasnews.com/2016/04/ken-paxton-hires-2nd-religious-liberties-activist-as-chief-of-staff.html/>.

⁷⁶ [http://www.capitol.state.tx.us/BillLookup/History.aspx?LegSess=84R&Bill=SB2065](http://www.capitol.state.tx.us/BillLookup/History.aspx?LegSess=84R&Bill=SB2065;);
<http://www.house.mo.gov/billtracking/bills161/billpdf/intro/HB2040I.PDF>;
<http://www.legis.la.gov/legis/ViewDocument.aspx?d=982499>.

⁷⁷ <http://www.house.mo.gov/BillActions.aspx?bill=HB2040&year=2016&code=R>.

⁷⁸ <http://www.legis.la.gov/legis/BillInfo.aspx?s=16RS&b=HB597&sbi=y>.

⁷⁹ <http://www.frc.org/newsroom/family-research-council-hires-fired-fox-sports-analyst-craig-james>.

freedom, and a staffer in the Texas attorney general's office.⁸⁰ The topic for the call was Gov. Bobby Jindal's (R-LA) May 19, 2015, executive order on religious freedom.⁸¹

On June 24, 2015, Mr. James emailed Mr. Taylor and several aides in the Attorney General's office about "FRC's thoughts post SCOTUS decision." He wrote:

Hello Team Texas, Good Afternoon... Attached is an outline of thoughts we've put together at Family Research Council to consider as we learn of the SCOTUS decision on marriage. Please reach out if you guys would like to visit on this. I'll do whatever I can to help in response to the decision our country receives.⁸²

The attached memo contained detailed instructions for "Key Messages and Legislative Strategies Depending on Outcome" with variations depending on the Supreme Court's ruling. The memo declares:

Governors in all states, but especially in the 30 states whose voters passed constitutional amendments defining marriage as the union of one man and one [sic] the Court has now effectively overridden, **should immediately issue executive orders** (emphasis added) to protect from government discrimination against those who believe in natural marriage or that sexual relationships are properly reserved for such. See Jindal Executive Order.⁸³

(emphasis added).

The Heritage Foundation also contacted the Governor's office. On June 25, 2015, Caitlin Thompson, the congressional outreach program manager at Heritage, emailed Chloe Hancock, Gov. Abbott's scheduler, to suggest a model executive order for Texas to implement if the Supreme Court compelled "a redefinition of marriage." She wrote:

With the Supreme Court's decision on marriage days away, Americans are highly interested in the future of their religious freedom. As explained in the attached memorandum, threats to religious liberty are growing in number and urgency due to disputes over marriage, but thankfully, **governors are not powerless to respond.** Attached for your information is a model executive order that may be useful in an effort to implement a policy to prevent state agencies from discriminating, coercing, or penalizing people and institutions of faith simply because they speak and act on the belief that marriage is a union of one man and one woman. Such protections are good policy no matter how the Supreme Court rules, but would be especially appropriate if it forces a redefinition of marriage on all 50 states.⁸⁴

(emphasis added).

⁸⁰ Email from Craig James to Jimmy Blacklock, May 21, 2014 (Ex. S).

⁸¹ Emily Lane, Gov. Bobby Jindal Issues Religious Freedom Executive Order, *The Times-Picayune*, May 19, 2015, available at http://www.nola.com/politics/index.ssf/2015/05/gov_bobby_jindal_issues_religi.html.

⁸² Ex. B.

⁸³ *Id.*

⁸⁴ Email from Caitlin Thompson to Chloe Hancock, June 25, 2015 (Ex. T).

Jonathan Saenz of Texas Values, also weighed in to support action from the governor's office. On June 5, 2015, Mr. Saenz emailed Mr. Taylor about suggestions for an executive order:

Ben, per our conversation regarding an Executive Order/Public Pronouncements by Gov. Abbott, I have attached an one [sic] page with numerous examples of religious freedom/conscience violations related to the marriage and sexuality issues.

If I can be of further assistance on this issue, please let me know. Our email list reaches over 100,000+. I have a weekly 30 minute radio show, that broadcasts to over 44 counties in Central Texas and online, where I cover these issues. Additionally, when I connect with my national partners, we can practically blanket the state with information on important issues, quickly.”⁸⁵

Mr. Saenz followed-up on June 10, asking, “Any update on this? Thanks-Jonathan.”⁸⁶

On June 26, 2015, Gov. Abbott issued the requested executive order. His memo to Texas agencies stated:

Texans of all faiths must be absolutely secure in the knowledge that their religious freedom is beyond the reach of government. Renewing and reinforcing that promise is all the more important in light of the Supreme Court's decision in *Obergefell v. Hodges*. The government must never pressure a person to abandon or violate his or her sincerely held religious beliefs regarding a topic such as marriage. That sort of religious coercion will never be a “compelling governmental interest,” and it will never be “the least restrictive means of furthering that interest.”⁸⁷

Just a week earlier, Gov. Abbott had issued a statement about the Texas Supreme Court's decision to uphold a same-sex divorce.⁸⁸ After Mr. Taylor forwarded the statement, Mr. Saenz responded, “Maybe we need a special session to make same sex divorce illegal.”⁸⁹

Attorney General Ken Paxton's Relationship With the Religious Right

Texas Attorney General Ken Paxton is a close ally of the religious right. He was a featured speaker at the Texas Values annual fundraising dinner, and he has worked extensively to promote the group's agenda.⁹⁰ He also appears to have been a legislative champion of religious freedom bills. Documents obtained through CfA's open records request reveal the major role his office played in promoting these bills.

⁸⁵ Ex. C.

⁸⁶ *Id.*

⁸⁷ http://gov.texas.gov/files/press-office/State_AgencyHeads_SCOTUS_Rulin_06262015.pdf.

⁸⁸ Jon Herskovitz, [Texas Supreme Court Allows a Same-Sex Couple to Divorce](http://www.reuters.com/article/us-usa-gaymarriage-texas-idUSKBN0OZ21920150619), *Reuters*, June 19, 2015, available at <http://www.reuters.com/article/us-usa-gaymarriage-texas-idUSKBN0OZ21920150619>.

⁸⁹ Email from Jonathan Saenz to Ben Taylor, June 19, 2015 (Ex. U).

⁹⁰ <http://txvalues.org/2015/12/18/video-highlights-of-faith-family-freedom-gala/>.

During the 2015 legislative session, Rep. Cecil Bell introduced four religious freedom bills targeting LGBT rights.⁹¹ None of the bills passed, but Rep. Bell discussed his legislative strategy with Gen. Paxton. On March 31, 2015, Rep. Bell's chief of staff informed two staffers in the attorney general's office about his legislative strategy, noting which "marriage bill" he planned to push forward.⁹²

Then, on April 7, 2015, Sen. Larry Taylor's policy analyst emailed a staffer in the attorney general's office to ask for help in answering a reporter's questions about Sen. Taylor's own religious freedom bill.⁹³ The email contained detailed responses apparently provided by the attorney general's staff.⁹⁴ The final story that ran in *The Daily News* in Galveston County did not contain any specific responses from Sen. Taylor. Sen. Taylor told the paper that he introduced the legislation at the request of the attorney general.⁹⁵

Gen. Paxton's actions on religious freedom dovetail with his connections to religious right groups.⁹⁶ In May, Gen. Paxton appeared at a rally with Texas Values to protest the Fort Worth school district's guidelines protecting transgender and other students.⁹⁷ Last December, he spoke at the group's annual gala, where he received the "2015 Faithful Leader Award for his tremendous leadership in defending religious freedom, marriage, and life throughout Texas."⁹⁸ As noted above, two of the top staffers in his office are former top officials for First Liberty, and last November he hired a lawyer who had worked as a senior counsel at ADF for more than eight years.⁹⁹ Additionally, when Gen. Paxton pleaded not guilty to three felony charges for financial fraud last August, several anti-LGBT activists attended the hearing to show their support.¹⁰⁰ Among the supporters was Cathie Adams, the head of the Texas Eagle Forum,¹⁰¹ who said last year gay marriage "could be the end of America,"¹⁰² and has backed legislative efforts to limit LGBT rights.¹⁰³

⁹¹ Jay Michaelson, *The Texas-Sized Anti-Gay Backlash*, *The Daily Beast*, March 29, 2015, available at <http://www.thedailybeast.com/articles/2015/03/29/the-texas-sized-anti-gay-backlash.html>.

⁹² Email from Jessica Magee to Randy Samuelson and Steve Pier, March 31, 2015 (Ex. V).

⁹³ <http://www.capitol.state.tx.us/BillLookup/History.aspx?LegSess=84R&Bill=SB1799>.

⁹⁴ Email from Chris Noonan to Randy Samuelson, April 7, 2015 (Ex. W).

⁹⁵ Chacour Koop, *Advocates: Taylor's 'Religious Freedom' Bill Allows LGBT Discrimination*, *The Daily News*, June 20, 2016, available at http://www.galvnews.com/news/article_aebeed48-ddac-11e4-9c66-37b021f3a5b7.html.

⁹⁶ Wendy Hundley, *Petition Drive Targets Plano's Equal Rights Policy*, *The Dallas Morning News*, January 5, 2015, available at <http://planoblog.dallasnews.com/2015/01/petition-drive-targets-planos-equal-rights-policy.html/>.

⁹⁷ Diane Smith, *Parents Ramp up Attack on Transgender Rules in Fort Worth Schools*, *Star-Telegram*, May 16, 2016, available at <http://www.star-telegram.com/news/local/community/fort-worth/article77931127.html>.

⁹⁸ <http://txvalues.org/2015/12/18/video-highlights-of-faith-family-freedom-gala/>.

⁹⁹ <https://www.linkedin.com/in/austinnrnmocks>.

¹⁰⁰ Morgan Smith, *Paxton Pleads Not Guilty; Lawyer Quits Case*, *The Texas Tribune*, August 27, 2015, available at <https://www.texastribune.org/2015/08/27/lead-paxton-lawyer-steps-down-during-initial-heari/>.

¹⁰¹ *Id.*

¹⁰² <http://www.rightwingwatch.org/content/former-texas-gop-chair-gay-marriage-could-be-end-america>.

¹⁰³ Robert T. Garrett, *Texas Lawmakers Pushing Back Against Gay Rights Successes*, *The Dallas Morning News*, February 4, 2015, available at <http://www.dallasnews.com/news/politics/state-politics/20150204-texas-lawmakers-pushing-back-against-gay-rights-successes.ec>.

KENTUCKY

In the aftermath of *Obergefell*, a number of county clerks refused to issue marriage licenses to same-sex couples under the guise of protecting their personal religious beliefs. As discussed above, First Liberty, the Texas-based legal nonprofit, jumped into this controversy by representing the Texas Hood County clerk. Another group – Liberty Counsel – played the same role in Kentucky.

Liberty Counsel, based in Orlando, Florida, is an anti-gay hate group according to the Southern Poverty Law Center.¹⁰⁴ While Liberty Counsel purported to represent Rowan County Clerk Kimberly B. Davis in her capacity as county clerk, there was no evidence that representation had been approved by the appropriate Kentucky authorities. Accordingly, CfA filed an open records act request with the Rowan County clerk’s office seeking copies of retainer agreements, documents that evidence the claimed attorney-client relationship, and documents authorizing Ms. Davis to enter into that relationship in her governmental capacity.¹⁰⁵

Once again an outside group – this time Liberty Counsel – took the reins, purporting to respond to CfA’s request on behalf of the Rowan County clerk’s office.¹⁰⁶ Liberty Counsel raised a number of procedural and substantive objections that directly implicate governmental equities, not those of Ms. Davis personally. For example, Liberty Counsel challenged how CfA had served its request and claimed it failed to sufficiently describe the requested records.¹⁰⁷ When CfA appealed Ms. Davis’s refusal to provide responsive documents to the Kentucky attorney general, Liberty Counsel aggressively challenged the authority of the attorney general to even review the documents at issue, claiming among other things that the attorney general’s request for the documents to conduct a review “represents substantial governmental overreach[.]”¹⁰⁸ On June 30, 2016, the Kentucky attorney general concluded Ms. Davis violated the state’s open records law by failing to turn over the documents for him to review.¹⁰⁹

Groups like Liberty Counsel are attempting to usurp the authority of state governments, counting on a favorable reception in states like Kentucky and Texas that have sought to institutionalize discrimination through the enactment of anti-LGBT legislation. But state information laws lie at the very essence of a responsible government, as they allow taxpayers, citizens, and the general public to know what their government is up to, unedited by outside groups like Liberty Counsel with their own agendas.

ARKANSAS

Arkansas School Board Efforts to Protect LGBT Community

¹⁰⁴ <https://www.splcenter.org/fighting-hate/extremist-files/groups>; <https://www.lc.org/about-liberty-counsel>.

¹⁰⁵ Campaign for Accountability, Open Records Act Request, March 1, 2015 (Ex. X).

¹⁰⁶ Letter from Jonathan D. Christman to Anne L. Weismann, March 4, 2016 (Ex. Y).

¹⁰⁷ *Id.*

¹⁰⁸ Letter from Jonathan D. Christman to Matthew James, May 19, 2016 (Ex. Z).

¹⁰⁹ Open Records Decision 16-ORD-133, Office of the Kentucky Attorney General, June 30, 2016 (Ex. AA).

Last fall, CfA received a tip about a battle over LGBT protections at an Arkansas school district. In April 2015, a board member of the Bentonville School District proposed updating the school's bullying policy to add protections for sexual orientation, gender identity, and several others.¹¹⁰ The proposal drew objections from national religious-right groups.

Liberty Counsel, for instance, sent a letter to the school board urging it not to adopt the protections and even threatened legal action if the board proceeded. In its letter, Liberty Counsel belittled the protections stating:

Bentonville Public Schools should reject misguided proposals to create protected classes out of homosexuality and cross-dressing ("sexual orientation" or "gender identity or expression").¹¹¹

Andrea Lafferty, the President of the Traditional Values Coalition, another national anti-gay hate group, based in Washington D.C.,¹¹² traveled to Bentonville for the school board meeting in August to protest the new policy, accusing the school board of carrying out the bidding of the Obama administration.¹¹³ Additionally, a member of the school board proposed that the school scrap its entire bullying policy and adopt a bullying policy created by Alliance Defending Freedom or Liberty Counsel.¹¹⁴ Ultimately, the Board voted during the August meeting to maintain its policy and not extend protections for individuals based on sexual orientation or gender identity.¹¹⁵

ADF, however, has dramatically expanded its efforts to implement discriminatory bathroom policies in schools across the country. In December 2014, the group sent a model bathroom policy to school districts nationwide encouraging them to adopt a discriminatory position towards transgender students.¹¹⁶

In South Dakota, ADF testified in support of a 2016 bill that would have prevented transgender students from accessing bathrooms and locker rooms matching their gender identities.¹¹⁷ The original bill contained a provision requiring the South Dakota attorney general to represent school districts should they be sued as a result of the law.¹¹⁸ After ADF and Liberty

¹¹⁰ Dave Perozek, *Board's Leas Eyes Bullying Rule Tweak*, *Arkansas Democrat-Gazette*, June 19, 2016, available at <http://www.nwaonline.com/news/2015/jun/19/bentonville-school-board-member-eyes-bu/>.

¹¹¹ [http://www.liberty.edu/media/9980/attachments/2015/051515_Ltr - to Bentonville Schools re SOGI.pdf](http://www.liberty.edu/media/9980/attachments/2015/051515_Ltr_-_to_Bentonville_Schools_re_SOGI.pdf).

¹¹² http://www.traditionalvalues.org/about_us; <https://www.splcenter.org/fighting-hate/extremist-files/group/traditional-values-coalition>.

¹¹³ Dave Perozek, *School Board Votes to Keep Current Policy*, *Arkansas Democrat-Gazette*, August 18, 2015, available at <http://www.arkansasonline.com/news/2015/aug/18/bentonville-school-board-rejects-anti-d/>.

¹¹⁴ Perozek, *Arkansas Democrat-Gazette*, June 19, 2016.

¹¹⁵ Perozek, *Arkansas Democrat-Gazette*, Aug. 18, 2015.

¹¹⁶ <http://www.adfmedia.org/News/PRDetail/?CID=82478>.

¹¹⁷ <https://www.adflegal.org/detailpages/blog-details/allianceedge/2016/02/29/privacy-protected-why-south-dakota-s-bathroom-law-is-common-sense>.

¹¹⁸ Dana Ferguson, *Schools Fear Legal Costs if Transgender Bathroom Bill Becomes Law*, *Argus Leader*, February 12, 2016, available at <http://www.argusleader.com/story/news/politics/2016/02/11/transgender-bathroom-bill-advances-senate-floor/80222522/>.

Counsel promised to defend school districts in court, the legislature dropped a clause from the bill.¹¹⁹ South Dakota's governor vetoed the bill in March.¹²⁰

ADF has directed its discriminatory bathroom policy not only to schools, but also to state legislatures. Elected officials in at least 16 states have latched on to model policies like these and included related language in bills intended to discriminate against transgender individuals.¹²¹ As state legislatures and school boards continue to debate transgender bathroom policies, ADF appears to be following its RFRA playbook, relying on state allies around the country to implement its discriminatory agenda.

CONCLUSION

With states such as North Carolina enacting so-called “bathroom laws,” which require individuals to use public bathrooms that correspond to their gender at birth, we are experiencing continued efforts by the religious right to discriminate against the LGBT community. Groups like ADF are working to reframe the debate over equal treatment into one about fear, advancing gross misperceptions about the transgender community.¹²² Although there has been an effort to portray these laws as the result of strong local sentiment, in truth national groups are driving the train, relying on the façade of states’ rights to cover their discriminatory agenda. Far from reflecting state values, RFRA and bathroom laws embody the hatred and intolerance of a vocal minority, intent on inflicting their views on the nation as a whole, working state by state.¹²³ Politicians and citizens who oppose such state-sanctioned bigotry must call out lawmakers who claim to be acting on behalf of their constituents, and demand they name their puppet masters.

¹¹⁹ Zack Ford, National Conservative Groups Descend On South Dakota To Help Advance Anti-LGBT Bills, *ThinkProgress*, February 4, 2016, available at <http://thinkprogress.org/lgbt/2016/02/04/3745974/south-dakota-adf/>.

¹²⁰ Laura Wagner, South Dakota Governor Vetoes Bill Stipulating Transgender Students’ Bathroom Use, *NPR*, March 1, 2016, available at <http://www.npr.org/sections/thetwo-way/2016/03/01/468732723/south-dakota-s-transgender-bathroom-bill-hits-deadline-for-governor>.

¹²¹ Michaels, *Mother Jones*, April 25, 2016.

¹²² <http://www.adflegal.org/safe-bathrooms>.

¹²³ While they generally work in secret, hiding behind local groups that are falsely portrayed as leading the charge for discriminatory legislation, at least one group -- Liberty Counsel -- has publicly taken credit for drafting the bathroom laws in at least 20 states. See Dean Reynolds, Who’s Behind the New LGBT Bathroom Laws?, *CBS News*, April 13, 2016, available at <http://www.cbsnews.com/news/whos-behind-the-new-lgbt-bathroom-laws/>.