

FREQUENTLY ASKED QUESTIONS ABOUT MISSISSIPPI'S HB 1523

On April 5, 2016, Mississippi governor Phil Bryant signed HB1523, an anti-LGBT bill that invites a broad range of individuals, private businesses, and medical and social services agencies to discriminate based on religious beliefs about marriage, non-marital sexual relationships, and conformity with gender stereotypes. This FAQ is designed to help answer questions about this new law. If you experience discrimination on the basis of sexual orientation, gender identity, or HIV status, or have further questions, please contact the Legal Help Desk in our Southern Regional Office at 404-897-1880, call toll-free at 866-542-8336, or go to www.lambdalegal.org/help.

What is Mississippi HB 1523?

HB 1523 is a sweeping new law that explicitly targets LGBT people, single mothers, and anyone who has a sexual relationship outside a heterosexual marriage by allowing many types of religion-based discrimination against them.

What does this new law do?

HB 1523 permits discrimination based on religious beliefs or moral convictions that:

- Marriage is only for different-sex couples;
- Sexual relationships are to be reserved to such a marriage; and
- The terms male and female refer to an individual's unchangeable sex as "determined by genetics and anatomy at the time of birth."

The law seeks to allow individuals, private businesses, medical and social services agencies, licensed health professionals, schools, foster and adoptive parents, and even some government actors, to discriminate against LGBT people, including children, and sexually active, unmarried non-LGBT people in wide variety of ways based on these beliefs, including:

- Refusing counseling services, foster care, and adoption services – even while receiving government funding.
- Imposing anti-LGBT religious beliefs on youth in foster care, including publicly funded programs.
- Banning transgender students and workers from dressing, grooming and using restrooms and other sex-specific spaces in accordance with their gender identity.
- Denying medically necessary gender transition-related treatments, counseling, or services to transgender people.
- Denying psychological services, counseling, or fertility treatments based on religious objections that the patient is LGBT or in a non-marital heterosexual relationship.
- Refusals by public employees to issue marriage licenses to same-sex couples or to solemnize their marriages.
- Refusals by for-profit businesses of wedding-related goods or services.

- Denials by religious organizations of housing, employment, and various services.

It also prevents state government officials or workers from taking certain steps to protect LGBT people from harm, such as removing an LGBT youth from an abusive foster care placement if the stated reason for the abuse is faith-based.

The law also bans state government from fining, denying public grants or contracts, denying favorable tax status, denying professional licensing, refusing to hire, or taking any other action against those who discriminate against LGBT people based on religious beliefs, such as homeless shelters and other facilities and programs that serve the most vulnerable members of the LGBT community.

This law conflicts with several federal laws that protect LGBT people, including Title VII (covering employment), Title IX (covering federally funded education programs), the Affordable Care Act (banning discrimination in federally funded health programs and services), and rules governing federal funding of child welfare programs and services. If you experience discriminatory or unfair treatment because of your sexual orientation, gender identity or HIV status, contact the Legal Help Desk in our Southern Regional Office at 404-897-1880, call toll-free at 866-542-8336, or go to www.lambdalegal.org/help.

Can same-sex couples still get married in Mississippi?

Yes. The new law allows individual public employees to object on religious grounds to issuing marriage licenses but the law requires any objecting employees to ensure that their refusal does not block or delay issuance of licenses. Keep in mind that the state must comply with federal law and issue licenses equally to same-sex and different-sex couples. If a couple is refused a license or if the provision of the license is delayed, they should contact our Legal Help Desk.

The new law makes clear that clergy are not required to perform marriage ceremonies inconsistent with their faith. It also allows public employees who are authorized to solemnize marriages, including judges and magistrates, to ask to be excused on religious grounds from solemnizing marriages. But, HB 1523 requires that the state's court system ensure that persons authorized to perform marriage ceremonies are available and that any refusals to perform ceremonies do not prevent or delay couples' ability to marry. So, although same-sex couples may encounter religious refusals by public employees, they are still entitled to receive marriage licenses and to have their ceremony performed by an authorized public official without delay. Anyone who encounters difficulty should contact our Legal Help Desk.

What should I do if I go to a Methodist or Catholic hospital and they refuse to allow my same-sex spouse to accompany me for testing or treatment based on their religious beliefs?

The new law does not permit religiously affiliated hospitals or medical service providers to deny visitation based on a religious objection to the LGBT status or marital status of the patient. This avoids a conflict with federal rules that require nondiscriminatory visitation when a facility receives federal funding. HB 1523 also does not allow religiously affiliated hospitals to refuse medical decision-making by a patient's designated representative. This means it may be helpful for same-sex couples to have legal documents designating each other to ensure that their relationship will be respected in case a

hospital refuses to respect the decision-making authority all spouses should have automatically under state law. Whether or not you have such legal documents, if a health care provider refuses to honor your spousal relationship for any purpose, you should contact our Legal Help Desk so we can discuss with you whether to file a complaint or a lawsuit under section 1557 of the Affordable Care Act, the section of the “Obamacare” law that prohibits discrimination.

What if I have been receiving care at a Methodist or Catholic hospital and they refuse to treat me once they learn about my same-sex spouse or transgender status?

HB 1523 does allow religiously affiliated health care facilities and individual health care providers to reject LGBT patients for religious reasons as a matter of state law, although not to refuse emergency treatment. This state-law provision appears to conflict with the nondiscrimination requirements of the Affordable Care Act and other federal nondiscrimination rules. Should you be denied medical care by any health professional based on your sexual orientation, gender identity or HIV status, contact our Help Desk to discuss your potential options.

What if I’m not the biological parent of my child and they refuse to acknowledge me as a medical decision-maker based on their religious beliefs?

If Mississippi law does not recognize you as a legal parent, you may not have the right to be acknowledged as a medical decision-maker unless the legal parent can designate you legally as a guardian or representative of the child. Also, if the legal parent authorizes you for visitation with the child, the hospital or clinic needs to respect that regardless of any religious objection.

What should I do if my boss says that she doesn’t have to respect my request for family leave because my marriage to my same-sex partner isn’t valid based on her religion?

It depends whether you are employed by a government agency, a private company or a religious organization. Contact our Legal Help Desk so we can discuss with you whether to file a federal complaint under Title VII (the federal employment nondiscrimination law) and/or the federal Family Medical Leave Act (FMLA), or to take some other action. Your rights under these federal laws may depend on the size of your employer and whether it is part of government, a business or a religiously affiliated agency, as well as other issues.

Does this new law make it easier to fire employees for being gay, lesbian, bisexual or transgender?

Mississippi does not currently have legal protections for LGBT workers, but federal law provides important protections that are not affected by this new state law and HB 1523 unfortunately may encourage employers to act in ways that violate those important protections. For more information about your rights and what you can do if you experience discrimination at work, visit

<http://www.lambdalegal.org/know-your-rights/workplace>.

What should I do if I experience religiously motivated discrimination at work based on my sexual orientation, gender identity or HIV status?

It depends on whether your employer is a government agency, a private business or a religious organization. This new law states that religious organizations may discriminate against workers based on employers' religious objections to their same-sex relationship or marriage, to their non-marital heterosexual relationship, or to their gender identity or expression if inconsistent with their sex assigned at birth. But because Mississippi did not protect employees against these types of discrimination before passage of HB 1523, the key issue is the conflict the new state law creates in various circumstances with federal employment protections. There are more protections if you work for government or a for-profit business than if you work for a religiously affiliated agency. Start by reviewing the information available on our website: <http://www.lambdalegal.org/know-your-rights/workplace>. Then, contact our Legal Help Desk if you would like to discuss your particular situation.

Does this mean my school has to require me to use the wrong restroom if I'm a transgender boy? What should I do? All my peers only know me as a boy.

If your school receives federal funding and is not a religious institution, Title IX should protect your right to use the restroom according to your gender identity. You may want to start by reviewing the information here: <http://www.lambdalegal.org/know-your-rights/transgender/in-college-faq> and here: <http://www.lambdalegal.org/issues/transgender-rights>. Then contact our Legal Help Desk to discuss your situation.

What should I do if I go to a doctor for hormone therapy or other transition-related care and the doctor refuses to treat me because treating transgender patients is against his religion?

Contact our Legal Help Desk. We may be able to assist you in considering whether to file a complaint or a lawsuit against the doctor under Section 1557 of the Affordable Care Act, which prohibits discrimination based on gender identity or transgender status in federally funded health care services and programs. Also, you may find helpful information here: <http://www.lambdalegal.org/know-your-rights/trans-health-care/transgender> and also here: <http://www.lambdalegal.org/know-your-rights/transgender>.

What should I do if my school counselor refuses to advise me because she has a religious objection to my LGBT status?

It depends whether your school receives federal funding and is not religious. If so, Title IX's federal nondiscrimination rules apply and you may be able to take legal action. Contact our Legal Help Desk to discuss your situation.

When does HB 1523 take effect?

July 1, 2016.