



Children of God for Life

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Testimony To: State of Kansas Legislation
Subject: HB 2094 Conscientious Exemption to State-Mandated Immunizations
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Dear Honorable Members of the Kansas House of Representatives:

I, Debra L. Vinnedge, as the Executive Director for Children of God for Life, am submitting this letter of testimony regarding House Bill 2094 to add a conscientious exemption to Kansas State law regarding mandated immunizations. Our organization has worked extensively to promote and protect religious freedom for families and physicians nationwide over the past 13 years, therefore I feel compelled to submit the following information for your consideration.

Currently, 48 of 50 states currently allow religious exemptions, while 19 of these also allow philosophical, conscience or “personal belief” exemptions. Interestingly, none of these states have a higher percentage of outbreaks among exempting students despite the fact that three of these are border-states with Mexico where risk of infection might be a greater risk: Arizona, California and Texas. In fact, according to the Centers for Disease Control Reports for 2010, these states also carried a higher percentage of vaccinated students in the public schools than most other states that do not have philosophical exemptions, meaning the added clause in their State Laws had no impact on vaccination rates.

Arizona: 93%-96% vaccination coverage
California: 90%-94% vaccination coverage
Texas: 98%-99% vaccination coverage¹

In addition, from both a religious and legal perspective, the current wording of Kansas State law is both unlawful and discriminatory as it states under K.S.A. § 65-508 (2) that a student will be exempted with “ a written statement signed by a parent or guardian that the parent or guardian is an adherent of a religious denomination whose teachings are opposed to immunizations.”

Any law limiting religious exemptions based on membership in specific religious denominations with specific tenets violates the U.S. Constitution under both the Establishment Clause and Free Exercise Clause of the First Amendment as well as the Fourteenth Amendment’s Equal Protection Clause. Where challenges have been raised in all other states with similar wording, federal courts have upheld religious freedom and the laws have been subsequently changed.²

¹ <http://www2.cdc.gov/nip/schoolsurv/schoolrpt1.asp?st1=622571>

² Case examples include but are not limited to: *Boone v. Boozman*, 217 F. Supp. 2d 938 (E. D. Ark. 2002); *Sherr v. Northport-East Northport Union Free School District*, 672 F. Supp. 81 (E. D. N. Y. 1987); *Dalli v. Board of Education*, 267 N. E. 2d 219 (Mass. 1971); *Bowden v. Iona Grammar School*, 726 NYS 2d 685 (App. Ct. 2001); and, *Berg v. Glen Cove CitySch. Dist.*, 853 F. Supp. 651 (E. D. N. Y. 1994).

Throughout the history of the United States, the importance of maintaining the Right of Conscience has been expounded upon by the courts as Harlan Fiske Stone, later Chief Justice, noted that:

"Both morals and sound policy require that the state should not violate the conscience of the individual. All our history gives confirmation to the view that liberty of conscience has a moral and social value which makes it worthy of preservation at the hands of the state. So deep in its significance and vital, indeed, is it to the integrity of man's moral and spiritual nature that nothing short of the self-preservation of the state should warrant its violation; and it may well be questioned whether the state which preserves its life by a settled policy of violation of the conscience of the individual will not in fact ultimately lose it by the process." Stone, The Conscientious Objector, 21 Col. Univ. Q. 253, 269 (1919).

As one of many examples on religious exemptions from vaccinations, Sherr & Lynn vs. Northeast School District, Circuit Judge Leonard D. Wexler cited the Federal precedent of Seeger vs. US among others and stated:

"Scholars have been deeply perplexed by the problems engendered by the necessity of delineating what constitutes the "religion" which the First Amendment protects, and courts have struggled to formulate workable definitions. The Supreme Court, for example, has written that "the test of belief 'in a relation to a Supreme Being' is whether a given belief that is sincere and meaningful occupies a place in the life of its possessor parallel to that filled by the orthodox belief in God." United States v. Seeger, 380 U.S. 163, 165-66, 85 S.Ct. 850, 854 (1965).

The Supreme Court and Second Circuit have each declared religion to involve the "ultimate concerns" of individuals.... The Court therefore finds that the beliefs which each set of plaintiffs has put forth as the basis for their claim of entitlement to the exemption from vaccination makes available should rightfully be classified as "religious" for purposes of this litigation... The goal, of course, is to protect only those beliefs which are held as a matter of conscience... Any form of governmental investigation into the "objective truth" of a person's religious beliefs, be it in a judicial form or otherwise, in essence puts the individual on trial for heresy. See United States v. Ballard, 322 U.S. 78, 64 S.Ct. 882 (1944)"

In conclusion, it is worthy to note that the Bill of Rights in the Kansas Constitution states:

*7. Religious liberty. The right to worship God according to the dictates of conscience shall never be infringed; nor shall any person be compelled to attend or support any form of worship; **nor shall any control of or interference with the rights of conscience be permitted,** {emphasis added} nor any preference be given by law to any religious establishment or mode of worship. No religious test or property qualification shall be required for any office of public trust, nor for any vote at any elections, nor shall any person be incompetent to testify on account of religious belief.*

The great State of Kansas has always been a model of maintaining religious freedom for its citizens and should immediately move to pass HB 2094 to ensure this precious right is upheld.