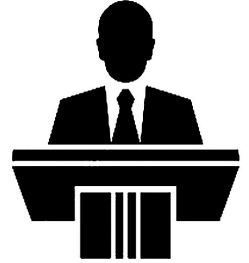


## Do we *REALLY* need this?

*Courts are waiting for guidance.*

In 2012 the Kentucky Supreme Court decided to use “rational basis” in a religious freedom case essentially nullifying much of our Constitutional religious freedom in Kentucky. The Kentucky Legislature promptly acted in 2013 to enact The Religious Freedom Restoration Act (RFRA) giving direction for Kentucky courts. The RFRA overwhelmingly passed both chambers restoring “strict scrutiny” as the standard for courts deciding religious freedom cases in Kentucky.



RFRA enforces the broad principle of religious freedom, and has already been used to win the appeal of the compelled speech case of Hands On Originals.

Since RFRA the U.S. Supreme Court made a specific ruling redefining marriage to include two people of the same sex.

This narrow ruling however, leaves many unanswered questions.

During oral arguments in *Obergefell v. Hodges*, Justices John Roberts and Samuel Alito asked Solicitor General Donald B. Verrilli, Jr. (the lead attorney for the U.S. Government) whether a ruling that *same-sex marriage is a constitutional right requires* a religious college that has married housing to afford such housing to same -sex couples and whether a college could lose its tax exempt status if it failed to do so. The Solicitor General responded “it’s certainly going to be an issue. I don’t deny that....It is going to be an issue.” Transcript of Oral Argument at 38, *Obergefell v. Hodges*, 135 S. Ct. 2584 (2015) (No. 14-556),  
Link: [http://www.supremecourt.gov/oral\\_arguments/transcripts/14-556q1\\_7148.pdf](http://www.supremecourt.gov/oral_arguments/transcripts/14-556q1_7148.pdf).

In Kentucky, legislators can once again act wisely regarding how to handle this newly created intersection where religious freedom and the right for same-sex couples to marry now collide. Legislators can guide the courts, and create an environment where *EVERYONE’s beliefs are respected and protected*. Or they can *NOT* act and leave it up to the courts to decide.

The  
Family  
Foundation

Kent Ostrander  
Executive Director

Martin Cothran  
Senior Analyst