

Where did

RFRA come from ?

(Religious Freedom Restoration Act)

You've heard about RFRA in the news but where did it really come from and what does it mean for people today?

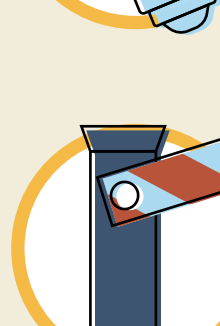
April 17, 1990

Employment Division v. Smith

In Smith, the Supreme Court ruled against two Native Americans who were denied unemployment benefits because they had been fired for using peyote as part of their religious practice, effectively gutting the free exercise of religion.

Before Smith:

To pass a law that substantially burdened exercise of religion the government had to prove:

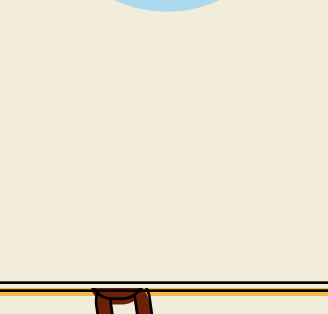


A really good reason:
Compelling Interest



No better alternative:
Least Restrictive Means

After Smith:

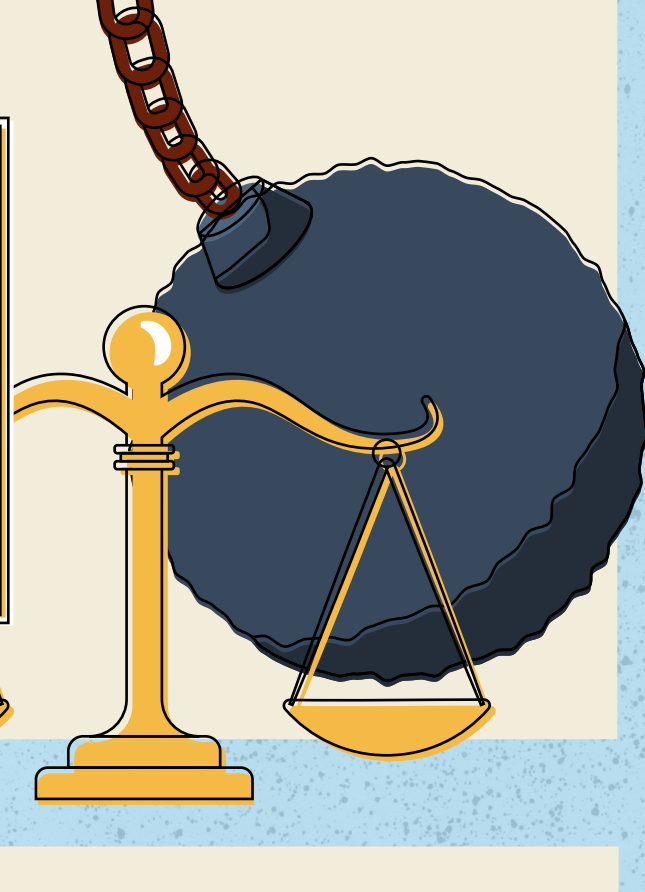


The law is:
Rational

Result:

Religious minorities were in a terrible situation.

Orthodox Jews could be forced to break the Sabbath, Native Americans could be forced to cut their hair, the Amish could be forced to use modern technology in their homes.



November 16, 1993

The Religious Freedom Restoration Act Becomes Law

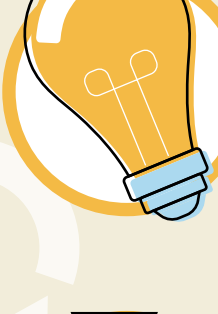
After the Smith decision, groups across the country united to protect the free exercise of religion. The coalition that rallied behind the Religious Freedom Restoration Act (RFRA) was one of the broadest ever. That coalition helped pass RFRA unanimously in the House of Representatives and 97-3 in the Senate.

Before RFRA:

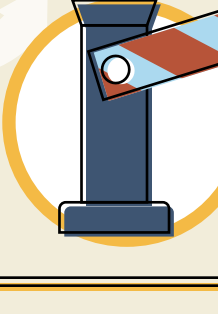
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A really good reason:
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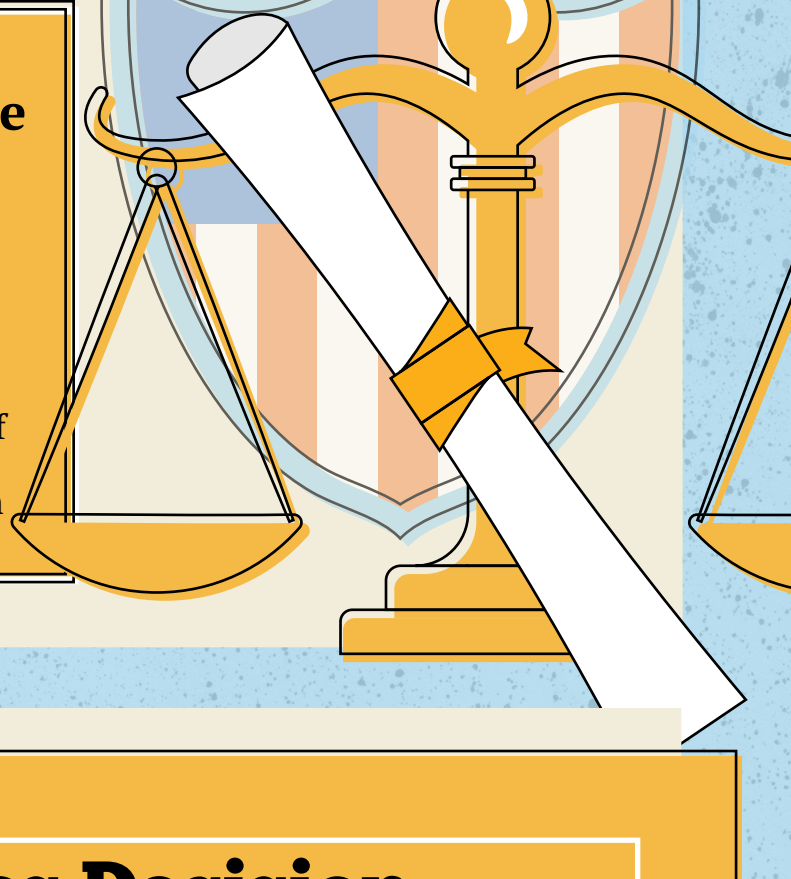


No better alternative:
Least Restrictive Means

Result:

People of all faiths were protected as the Constitution originally intended.

Native Americans won the right to use eagle feathers in their religious ceremonies, Sikhs won the right to wear their articles of faith on the job, Orthodox Jews won the right to kosher meals in prison.

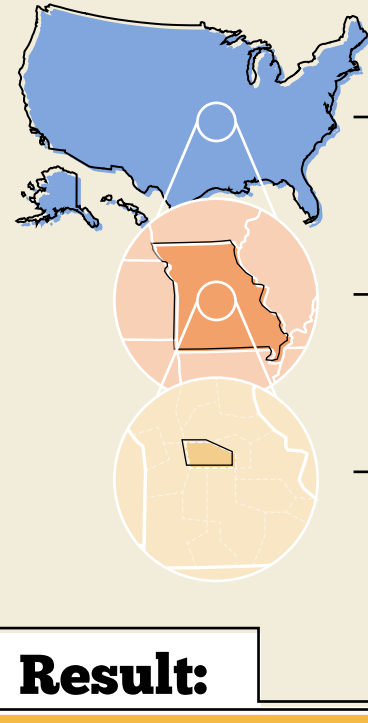


June 25, 1997

Boerne v. Flores Decision

The Supreme Court said Congress went too far in applying RFRA's protections to states and decided RFRA could only apply to the federal government. The case involved a small-town Texas church that was prevented from expanding because of historic preservation laws.

Before Boerne RFRA Applied to:

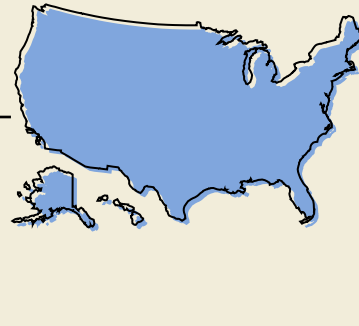


Federal Laws

State Laws

Local Laws

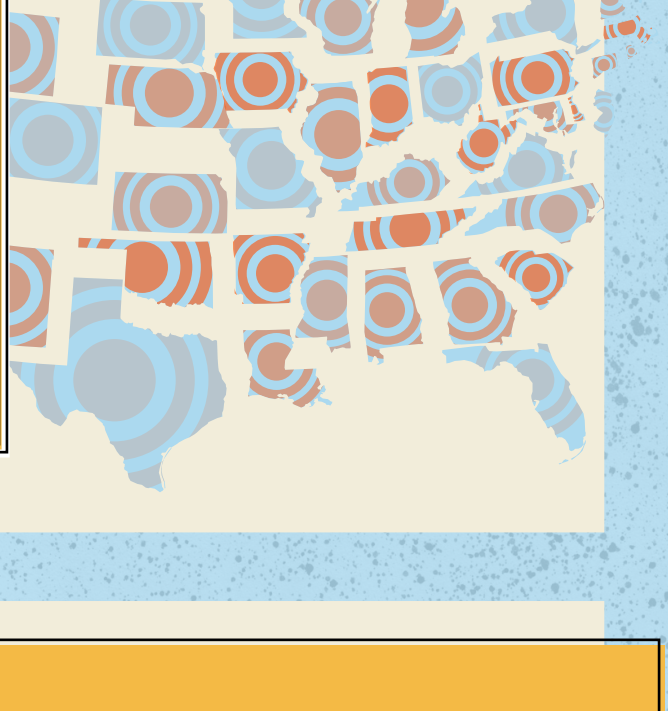
After Boerne RFRA Applied to:



Result:

Although the federal government couldn't make laws that interfered with the exercise of religion, states could.

States and cities were given the green light to make laws restricting religious practices.



September 22, 2000

Religious Land Use and Institutionalized Persons Act

After nine congressional hearings and three years of investigation, Congress found that free exercise is particularly vulnerable when it comes to zoning laws for religious buildings (land use) and religious prisoners (institutionalized persons). The Religious Land Use and Institutionalized Persons Act (RLUIPA) protects free exercise in those contexts and also requires that governments treat religion on equal terms with nonreligion in land use decisions.

Now Protected Under RLUIPA:

Land Use:



Orthodox Jewish congregations kept from gathering in Miami

Soup kitchen barred from using its own property to serve



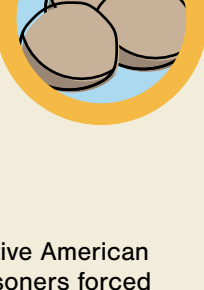
Mosques labeled as "public nuisances" in New Jersey

Institutionalized Persons:



Muslim prisoner trying to grow a 1/2 inch beard

Jewish prisoners denied matzo balls even though they were donated



Native American prisoners forced to cut their hair

Result:

Federal, state, and local laws must respect the free exercise of religion when dealing with land use and prisoners.

The Supreme Court's unanimous decision to respect a Muslim prisoner's right to grow a beard in Holt v. Hobbs reinforced RLUIPA's importance in protecting religious minorities.

2000-Present

States bring back protections for religious minorities

Across the country states also filled in the gaps that Boerne created by passing laws that gave the same protections for religious minorities as RFRA. To date 21 states have passed RFRA laws and 10 more have constitutional provisions that give the same protection as RFRA's.



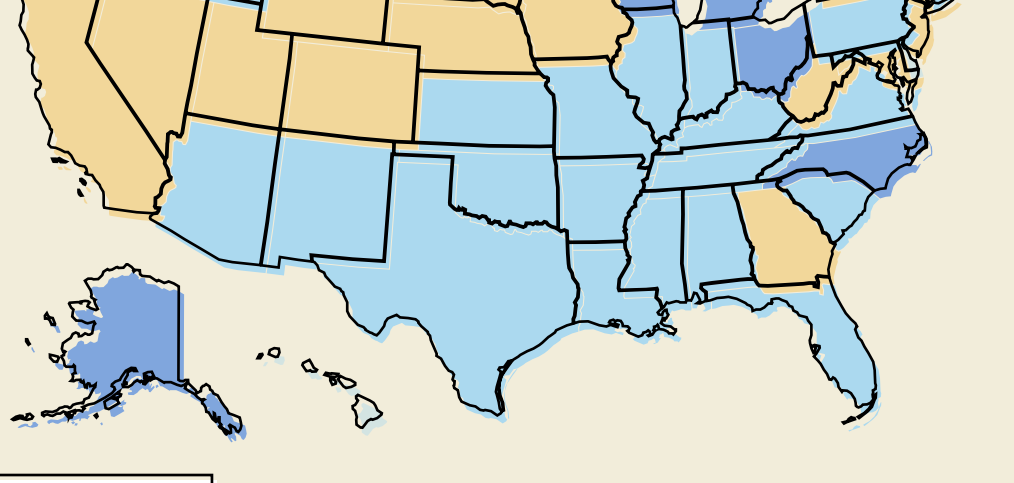
State RFRA law



Constitution with RFRA protection



No State Level RFRA Protection



Result:

State laws protect religious practices.

A Native American kindergartener was allowed to have long hair, a Santeria priest was allowed to conduct worship ceremonies in his home, and a Christian halfway house was allowed to continue serving the poor.