

The Honorable David G. Estudillo

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA**

ORTHODOX CHURCH IN AMERICA,  
et al.,

Plaintiffs,

v.

ROBERT W. FERGUSON, et al.,

Defendants.

NO. 2:25-cv-01537-DGE

STIPULATED MOTION TO  
ENTER PERMANENT  
INJUNCTION AND FINAL  
JUDGMENT

AND

[PROPOSED] ORDER

NOTE ON MOTION CALENDAR:  
Friday, October 10, 2025

**I. STIPULATION**

Plaintiffs Orthodox Church in America, Antiochian Orthodox Christian Archdiocese of North America, Romanian Orthodox Metropolia of the Americas, Western American Diocese of the Russian Orthodox Church Outside of Russia, and Timothy Wilkinson (Plaintiffs); Defendants Robert W. Ferguson and Nicholas W. Brown (State Defendants); and Defendants Leesa Manion, Preston McCollam, Joseph Brusic, Randy Flyckt, Curt Liedkie, Eric Eisinger, Robert Sealby, Mark Nichols, Tony Golik, Dale Slack, Ryan Jurvakainen, Sean Lewis, Michael Golden, Shawn Sant, Mathew Newberg, Kevin McRae, Norma Tillotson, Gregory Banks, James Kennedy, Chad Enright, Gregory Zempel, David Quesnel, Jonathan Meyer, Ty Albertson, Michael Dorcy, Albert Lin, Michael Rothman, Dolly Hunt, Mary Robnett, Amy Vira, Rich

Weyrich, Adam Kick, Jason Cummings, Erika George, Jon Tunheim, Dan Bigelow, Gabe Acosta, Eric Richey, and Denis Tracy, in their official capacities (County Prosecutor Defendants), jointly move the Court, pursuant to Local Rule 7(d)(1) and Federal Rules of Civil Procedure 54 and 65(d), to enter a Permanent Injunction and Final Judgment, subject to the parties' agreement to be bound by the terms of this Stipulation and Proposed Order, including Exhibit A attached thereto.<sup>1</sup>

On June 16, 2025, Plaintiffs filed a Complaint (Dkt. # 1) in the Eastern District of Washington against the State Defendants and the County Prosecutor Defendants. The Complaint alleges that Section 26.44.030 of the Revised Code of Washington (RCW), as amended by Senate Bill 5375 (2025), violates the First and Fourteenth Amendments to the U.S. Constitution. On June 20, 2025, Plaintiffs filed a Motion for Preliminary Injunction against all defendants (Dkt. # 20).

On July 25, 2025, the Eastern District of Washington entered a stipulated order subjecting the County Prosecutor Defendants to a preliminary injunction and staying proceedings against the County Prosecutor Defendants until entry of a final judgment (Dkt. # 175). As part of that stipulated order, the County Prosecutor Defendants agreed to "consent to the Court's final judgment against the remaining defendants and not to appeal any such judgment." Dkt. # 175 at 2.

On July 18, 2025, this Court entered a preliminary injunction against the State Defendants in the related case *Etienne v. Ferguson*, No. 3:25-cv-05461-DGE. *See* 2025 WL 2022101, at \*3 (W.D. Wash. July 18, 2025). In that case, Catholic clergy also brought First and Fourteenth Amendment challenges to SB 5375. The Court ruled that the *Etienne* plaintiffs are likely to succeed on the merits of their Free Exercise Clause challenge, that "there are serious questions going to the merits" of their Church Autonomy Doctrine and Establishment Clause

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<sup>1</sup> Since the complaint was filed, Dale Slack has been replaced by Jennine Christensen as Columbia County Prosecutor, and Kevin McCrae has been replaced by Brandon Guernsey as Grant County Prosecutor.

claims, and that the plaintiffs otherwise met the requirements for the issuance of a preliminary injunction. Accordingly, the Court enjoined the State Defendants “from enforcing SB 5375 as to the Sacrament of Confession against the Plaintiffs[.]” *Etienne*, 2025 WL 2022101, at \*11.

On July 24, 2025, the day before oral argument on Plaintiffs’ motion for preliminary injunction, Plaintiffs and State Defendants agreed to the entry of a preliminary injunction in this case. Dkt. # 172. On July 25, 2025, the Eastern District of Washington entered a stipulated preliminary injunction enjoining State Defendants “from enforcing or attempting to enforce Senate Bill 5375 against the Plaintiffs in this action and their priests as to the Sacrament of Confession and other sacred confidences, until such time as final judgment is entered in this case.” Dkt. # 176 at 3.

Plaintiffs and State Defendants then stipulated to transfer this case to this Court. Dkt. 177. Once in this Court, Plaintiffs moved to consolidate this case with *Etienne*. Dkt. # 185.

The stipulating parties seek to avoid the costs and burdens of further litigation and conclusively resolve this matter, including by making permanent the Court’s Preliminary Injunction order (Dkt. # 176). Accordingly, the parties agree as follows:

1. Plaintiffs, the State Defendants, and the County Prosecutor Defendants stipulate to entry of the proposed Permanent Injunction attached hereto, enjoining all Defendants from: (1) enforcing RCW § 26.44.030 (2025), as applied to information communicated solely in the Sacrament of Confession, and to information communicated solely in other sacred confidences made to a clergy member in the clergy member’s professional character for which disclosure is prohibited in the course of discipline by the church to which the clergy member belongs; and (2) enforcing RCW § 26.44.030(1)(b) to deny members of the clergy the benefit of any privileged communication exception provided in RCW § 5.60.060 that RCW § 26.44.030(1)(b) allows for other reporters.

2. State Defendants and County Prosecutor Defendants agree not to appeal the Preliminary Injunction order (Dkt. # 176), or to appeal from or otherwise challenge the

1 enforceability or validity of this Stipulated Permanent Injunction Order and Final Judgment, or  
 2 any other rulings entered to date in this matter by this Court, in this or any other proceeding.

3 3. State Defendants and County Prosecutor Defendants agree that the Court's  
 4 Stipulated Permanent Injunction Order and Final Judgment in this matter has the same force and  
 5 precedential effect as if it had been entered following a dispositive motion or trial on the merits.

6 4. All stipulating parties agree that they will not seek costs and attorneys' fees  
 7 against any other stipulating party.

8 IT IS SO STIPULATED by and between the Parties.

9 I certify that this memorandum contains 854 words, in compliance with the Local Civil  
 10 Rules.

11 DATED this 10th day of October 2025.

12 NICHOLAS W. BROWN  
 13 Attorney General

ALLIANCE DEFENDING FREEDOM

14 /s/ Emma Grunberg

15 ALICIA O. YOUNG, WSBA #35553  
 16 KELLY A. PARADIS, WSBA #47175  
 17 EMMA GRUNBERG, WSBA #54659  
 18 Deputy Solicitors General  
 19 1125 Washington Street SE  
 20 P.O. Box 40100  
 21 Olympia, WA 98504-0100  
 22 360-753-6200  
 23 Alicia.Young@atg.wa.gov  
 24 Kelly.Paradis@atg.wa.gov  
 25 Emma.Grunberg@atg.wa.gov

26 *Attorneys for Defendants*  
*Robert W. Ferguson and Nicholas W. Brown*

/s/ Katherine L. Anderson

Kristin K. Waggoner, WSBA #27790  
 Katherine L. Anderson, WSBA #41707  
 ALLIANCE DEFENDING FREEDOM  
 15100 N. 90th Street  
 Scottsdale, AZ 85260  
 480-444-0020  
 Kwaggoner@ADFlegal.org  
 Kanderson@ADFlegal.org

George M. Ahrend, WSBA #25160  
 AHREND LAW FIRM  
 818 W. Riverside Ave., Suite 450  
 Spokane, WA 99201  
 206-467-6090  
 George@luverallawfirm.com

22 LEESA MANION  
 23 King County Prosecuting Attorney

24 /s/ Heidi Jacobsen-Watts

25 Heidi Jacobsen-Watts, WSBA #35549  
 26 Senior Deputy Prosecuting Attorney  
 701 Fifth Ave., Suite 600  
 Seattle, WA 98104  
 206-477-1120

Eric Kniffin\*  
 CO Bar No. 48016  
 KNIFFIN LAW PLLC  
 102 S. Tejon Street, Suite 1100  
 Colorado Springs, CO 80903  
 719-212-4391  
 Eric@kniffin.law

Heidi.jacobsen-watts@kingcounty.gov

*Attorney for Defendant Leesa Manion*

JASON CUMMINGS  
Snohomish County Prosecuting Attorney

/s/ Geoffrey A. Enns  
GEOFFREY A. ENNS, WSBA #40682  
Deputy Prosecuting Attorney  
3000 Rockefeller Ave. M/S 504  
Everett, WA 98201  
425-388-6330  
Geoff.Enns@co.snohomish.wa.us

*Attorneys for Defendants Preston McCollam,  
Joseph Brusic, Randy Flyckt, Eric Eisinger,  
Robert Sealby, Mark Nichols, Ryan  
Jurvakinainen, Sean Lewis, Michael Golden,  
Shawn Sant, Norma Tillotson, Gregory  
Banks, Gregory Zempel, David Quesnel,  
Jonathan Meyer, Michael Dorcy, Albert Lin,  
Michael Rothman, Dolly Hunt, Mary  
Robnett, Amy Vira, Jason Cummings, Jon  
Tunheim, Dan Bigelow, Gabe Acosta, and  
Eric Richey*

CHAD M. ENRIGHT  
Kitsap County Prosecuting Attorney

/s/ Anna K. Aruiza  
ANNA K. ARUIZA, WSBA #39663  
Senior Deputy Prosecuting Attorney  
614 Division St. MS-35A  
Port Orchard, WA 98366-4676  
360-337-4992  
Aaruiza@kitsap.gov

*Attorney for Defendant Chad Enright*

TONY GOLIK  
Clark County Prosecuting Attorney

/s/ Amanda Migchelbrink  
AMANDA MIGCHELBRINK, WSBA #34223  
Senior Deputy Prosecuting Attorney  
1300 Franklin St., Suite 380  
Vancouver, WA 98666-5000  
564-397-2478  
Amanda.Migchelbrink@clark.wa.gov

*Attorneys for Plaintiffs Antiochian Orthodox  
Christian Archdiocese of North America,  
Orthodox Church in America, Romanian  
Orthodox Metropolia of the Americas,  
Western American Diocese of the Russian  
Orthodox Church Outside of Russia, Timothy  
Wilkinson*

*\*Pro hac vice admission pending*

*Attorney for Defendant Tony Golik*  
EVANS, CRAVEN & LACKIE, P.S.

/s/ Rachel K. Stanley  
Rachel K. Stanley, WSBA #58280  
Attorney at Law  
818 Riverside, Suite 250  
Spokane, WA 99201-0910  
509-455-5200  
Rstanley@ecl-law.com

*Attorney for Defendants Curt Liedike,  
Jennine Christensen, Mathew Newburg,  
Brandon Guernsey, Ty Albertson, Adam  
Kick, Erika George, and Denis Tracy*

JAMES KENNEDY  
Jefferson County Prosecuting Attorney

/s/ Philip C. Hunsucker  
PHILIP C. HUNSUCKER, WSBA #48692  
Chief Civil Deputy Prosecuting Attorney  
1820 Jefferson Street/P.O. Box 1220  
Port Townsend, WA 98368  
360-385-9180  
PHunsucker@co.jefferson.wa.us

*Attorney for Defendant James Kennedy*

RICHARD E. WEYRICH  
Skagit County Prosecuting Attorney

/s/ Frederick A. Haist  
FREDERICK A. HAIST, WSBA #48937  
Deputy Prosecuting Attorney  
700 S. 2nd Street, Ste. 300  
Mount Vernon, WA 98273  
360-416-1600  
Fhaist@co.skagit.wa.us

*Attorney for Defendant Richard Weyrich*

**[PROPOSED] ORDER**

PURSUANT TO THE FOREGOING STIPULATION, IT IS SO ORDERED:

This matter is before the Court on the Stipulated Motion to Enter Permanent Injunction and Final Judgment. Having reviewed the Motion, the docket and all related material, and good cause appearing therefrom, the Court ORDERS as follows:

1. The Court finds that: (i) Plaintiffs have pre-enforcement standing and their claims satisfy the constitutional component of ripeness; (ii) Plaintiffs' claims are prudentially ripe; (iii) RCW § 26.44.030 (2025) infringes Plaintiffs' free exercise of religion in violation of the First Amendment to the U.S. Constitution as applied to the Sacrament of Confession or other sacred confidences to which the privilege in RCW § 5.60.060(3) applies; and (iv) there are serious questions going to the merits of whether RCW § 26.44.030 (2025) infringes Plaintiffs' rights under the U.S. Constitution's Establishment Clause and the Church Autonomy Doctrine.

2. In light of the findings and legal conclusions set out in paragraph 1 above, State Defendants and County Prosecutor Defendants are hereby subject to and bound by Exhibit A to this Order.

3. Plaintiffs, State Defendants, and County Prosecutor Defendants will not appeal the Court's ruling on Plaintiffs' Motion for Preliminary Injunction (Dkt. # 176), and will not appeal from or otherwise challenge the enforceability or validity of the Court's Stipulated Permanent Injunction Order and Final Judgment, or any other rulings entered to date in this matter by this Court, in this or any other proceeding.

4. This Stipulated Permanent Injunction Order and Final Judgment has the same force and precedential effect as if it had been entered following a dispositive motion or trial on the merits.

5. All parties are responsible for their own attorneys' fees and costs, and shall not be entitled to attorneys' fees and/or costs from any other party.



6. This order constitutes the Court's final judgment in this matter.

IT IS SO ORDERED.

DATED this \_\_\_\_ day of October 2025.

Hon. David G. Estudillo  
UNITED STATES DISTRICT JUDGE

Presented By:

NICHOLAS W. BROWN  
Attorney General

ALLIANCE DEFENDING FREEDOM

/s/ Emma Grunberg  
ALICIA O. YOUNG, WSBA #35553  
KELLY A. PARADIS, WSBA #47175  
EMMA GRUNBERG, WSBA #54659  
Deputy Solicitors General  
1125 Washington Street SE  
P.O. Box 40100  
Olympia, WA 98504-0100  
360-753-6200  
Alicia.Young@atg.wa.gov  
Kelly.Paradis@atg.wa.gov  
Emma.Grunberg@atg.wa.gov

/s/ Katherine L. Anderson  
Kristin K. Waggoner, WSBA #27790  
Katherine L. Anderson, WSBA #41707  
15100 N. 90th Street  
Scottsdale, AZ 85260  
480-444-0020  
Kwaggoner@ADFlegal.org  
Kanderson@ADFlegal.org

George M. Ahrend, WSBA #25160  
AHREND LAW FIRM  
818 W. Riverside Ave., Suite 450  
Spokane, WA 99201  
206-467-6090  
George@luveralawfirm.com

*Attorneys for Defendants*  
*Robert W. Ferguson and Nicholas W. Brown*

LEESA MANION  
King County Prosecuting Attorney

Eric Kniffin\*  
KNIFFIN LAW PLLC  
102 S. Tejon Street, Suite 1100  
Colorado Springs, CO 80903  
719-212-4391  
Eric@kniffin.law

/s/ Heidi Jacobsen-Watts  
Heidi Jacobsen-Watts, WSBA #35549  
Senior Deputy Prosecuting Attorney  
701 Fifth Ave., Suite 600  
Seattle, WA 98104  
206-477-1120  
Heidi.jacobsen-watts@kingcounty.gov

*Attorneys for Plaintiffs Antiochian Orthodox  
Christian Archdiocese of North America,  
Orthodox Church in America, Romanian  
Orthodox Metropolia of the Americas,  
Western American Diocese of the Russian  
Orthodox Church Outside of Russia, Timothy  
Wilkinson*

*Attorney for Defendant Leesa Manion*

*\*Pro hac vice admission pending*



1 JASON CUMMINGS  
2 Snohomish County Prosecuting Attorney

3 /s/ Geoffrey A. Enns

4 GEOFFREY A. ENNS, WSBA #40682  
5 Deputy Prosecuting Attorney  
6 3000 Rockefeller Ave. M/S 504  
7 Everett, WA 98201  
8 425-388-6330  
9 Geoff.Enns@co.snohomish.wa.us

10 *Attorneys for Defendants Preston McCollam,*  
11 *Joseph Brusic, Randy Flyckt, Eric Eisinger,*  
12 *Robert Sealby, Mark Nichols, Ryan*  
13 *Jurvakinainen, Sean Lewis, Michael Golden,*  
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16 *Jonathan Meyer, Michael Dorcy, Albert Lin,*  
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21 CHAD M. ENRIGHT  
22 Kitsap County Prosecuting Attorney

23 /s/Anna K. Aruiza

24 ANNA K. ARUIZA, WSBA #39663  
25 Senior Deputy Prosecuting Attorney  
26 614 Division St. MS-35A  
Port Orchard, WA 98366-4676  
360-337-4992  
Aaruiza@kitsap.gov

*Attorney for Defendant Chad Enright*

27 TONY GOLIK  
28 Clark County Prosecuting Attorney

29 /s/ Amanda Migchelbrink

30 AMANDA MIGCHELBRINK, WSBA #34223  
31 Senior Deputy Prosecuting Attorney  
32 1300 Franklin St., Suite 380  
33 Vancouver, WA 98666-5000  
34 564-397-2478  
35 Amanda.Migchelbrink@clark.wa.gov

36 *Attorney for Defendant Tony Golik*  
EVANS, CRAVEN & LACKIE, P.S.

/s/ Rachel K. Stanley  
Rachel K. Stanley, WSBA #58280  
Attorney at Law  
818 Riverside, Suite 250  
Spokane, WA 99201-0910  
509-455-5200  
Rstanley@ecl-law.com

*Attorney for Defendants Curt Liedike,  
Jennine Christensen, Mathew Newburg,  
Brandon Guernsey, Ty Albertson, Adam  
Kick, Erika George, and Denis Tracy*

JAMES KENNEDY  
Jefferson County Prosecuting Attorney

/s/ Philip C. Hunsucker  
PHILIP C. HUNSUCKER, WSBA #48692  
Chief Civil Deputy Prosecuting Attorney  
1820 Jefferson Street/P.O. Box 1220  
Port Townsend, WA 98368  
360-385-9180  
PHunsucker@co.jefferson.wa.us

*Attorney for Defendant James Kennedy*

RICHARD E. WEYRICH  
Skagit County Prosecuting Attorney

/s/ Frederick A. Haist  
FREDERICK A. HAIST, WSBA #48937  
Deputy Prosecuting Attorney  
700 S. 2nd Street, Ste. 300  
Mount Vernon, WA 98273  
360-416-1600  
Fhaist@co.skagit.wa.us

*Attorney for Defendant Richard Weyrich*

**EXHIBIT A**

Pursuant to the Stipulated Motion of all Plaintiffs and all Defendants, IT IS HEREBY ORDERED that Defendants and their agents, servants, employees, and attorneys, are permanently enjoined, pursuant to Federal Rule of Civil Procedure 65, from enforcing or attempting to enforce RCW § 26.44.030 (2025) as applied to information communicated solely in the Sacrament of Confession, and to information communicated solely in other sacred confidences made to a clergy member in the clergy member's professional character for which disclosure is prohibited in the course of discipline by the church to which the clergy member belongs.

It is further hereby ordered that Defendants and their agents, servants, employees, and attorneys, are permanently enjoined, pursuant to Federal Rule of Civil Procedure 65, from enforcing RCW § 26.44.030(1)(b) (2025) to deny members of the clergy the benefit of any privileged communication exception provided in RCW § 5.60.060 that RCW § 26.44.030(1)(b) allows for other reporters.