



## **Free Exercise Under Pressure: Civil-Rights Law and the Protection of Worship**

By: Benjamin Osborne

### **I. Introduction**

This paper examines the federal and state enforcement framework governing coordinated disruptions of religious worship, using the January 18, 2026, incident at Cities Church in St. Paul, Minnesota, as a factual predicate for analyzing the boundary between protected expressive activity and unprotected coercive conduct. The analysis proceeds from first principles of constitutional law, recognizing that the First Amendment safeguards speech and protest in public fora, while simultaneously protecting the free exercise of religion and permitting government regulation of force, threats, physical obstruction, and unlawful entry on private property. Against that constitutional backdrop, the paper evaluates the respective roles of federal civil-rights statutes and traditional state-law property and public-order offenses in responding to intrusions into houses of worship. It emphasizes that the legitimacy and durability of any enforcement theory turn not on the political viewpoint or message of demonstrators, but on objective, conduct-based elements such as intent, obstruction, intimidation, and interference with the constitutionally protected right to worship.

### **II. Factual Predicate and Jurisdictional Posture**

On January 18, 2026, demonstrators stormed into and disrupted a worship service at Cities Church in St. Paul, Minnesota.<sup>1</sup> DOJ has launched an investigation into whether or not the protesters violated any federal civil rights.<sup>2</sup> DOJ Assistant Attorney General Harmeet Dillon said that the investigation would include the

---

<sup>1</sup> Jack Brook, DOJ Vows to Press Charges After Activists Disrupt Church Where Minnesota ICE Official Is a Pastor, ASSOCIATED PRESS (Jan. 19, 2026), <https://apnews.com/article/minnesota-ice-doj-church-protest-st-paul-46dac5c5595ec78e3360ec927eef92d2>.

<sup>2</sup> *Id.*

agitators’ “desecrating a house of worship and interfering with Christian worshippers.”<sup>3</sup>

These actions should not be described as speech in a public forum but conduct occurring on private property inside an active religious service, where the legally dispositive questions turn on entry, obstruction, threats, intimidation, and the intent element under the *FACE Act*.<sup>4</sup> That framing is also consistent with DOJ’s published position that FACE targets “use or threat of force” and “physical obstruction” that “injures, intimidates, or interferes” with protected activity, including worship at a place of religious worship.<sup>5</sup>

### **III. Statutory Authority: FACE Act and Protection of Religious Worship**

The *Freedom of Access to Clinic Entrances Act of 1994*, commonly called the *FACE Act*, creates both civil remedies and federal criminal liability for certain conduct aimed at blocking access to abortion clinics and for certain conduct aimed at obstructing or intimidating people exercising religious freedom at a place of worship.<sup>6</sup> Although public discussion often treats FACE as “the abortion clinic statute,” the enacted text expressly includes protections for “a place of religious worship,” and the Department of Justice describes its enforcement authority in those same terms.<sup>7</sup>

Under the *FACE Act*’s worship provision, it is unlawful if an agitator “by force or threat of force or by physical obstruction, intentionally injures, intimidates or interferes with or attempts to injure, intimidate or interfere with any person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship.”<sup>8</sup> The statute’s property-damage provision separately prohibits intentionally damaging or destroying the property of a place of religious worship.<sup>9</sup> The statutory term “physical obstruction” is defined broadly to include rendering ingress to or egress from a facility “impassable” or “unreasonably

---

<sup>3</sup> *Id.*

<sup>4</sup> 18 U.S.C. § 248 (a)(2)–(3); Civil Rights Div., U.S. Dep’t of Just., *Freedom of Access to Clinic Entrances & Places of Religious Worship (FACE)* (June 11, 2024), <https://www.justice.gov/crt/freedom-access-clinic-entrances-places-religious-worship>.

<sup>5</sup> *Id.*

<sup>6</sup> 18 U.S.C. § 248.

<sup>7</sup> *Id.* (a)(2)–(3); Civil Rights Div., U.S. Dep’t of Just., *Freedom of Access to Clinic Entrances & Places of Religious Worship (FACE)* (June 11, 2024), <https://www.justice.gov/crt/freedom-access-clinic-entrances-places-religious-worship>.

<sup>8</sup> 18 U.S.C. § 248(a)(2).

<sup>9</sup> *Id.* (a)(3).

difficult or hazardous,” and that definition can matter if demonstrators block doors, aisles, or pathways in a way that materially interferes with congregants.<sup>10</sup>

Criminal exposure under *FACE* can include imprisonment, and the statute escalates penalties based on aggravating factors and recidivism.<sup>11</sup> If the government proves a *FACE* worship-prong violation, incarceration is legally available and can be substantial in aggravated cases.<sup>12</sup>

The statute’s history and contemporary criticism create legitimate vulnerabilities and calls for change, particularly that the Biden Administration’s Department of Justice weaponized the *FACE Act* in the abortion-clinic context by prioritizing prosecutions of pro-life demonstrators while bringing comparatively fewer cases against perpetrators of vandalism or attacks directed at pregnancy resource centers after *Dobbs*.<sup>13</sup> *FACE* has been applied unevenly or selectively, especially against pro-life demonstrators in the clinic context.<sup>14</sup> Senator Mike Lee and Representative Chip Roy have publicly argued *FACE* is “weaponized” and have urged repeal, while acknowledging the statute’s text also includes religious-worship protections.<sup>15</sup> In House Judiciary Subcommittee proceedings, Erin Hawley argued that *FACE* rests on “shaky constitutional ground,” displaces traditional state criminal law, and should be repealed, expressly focused on the Biden-Harris DOJ weaponization of the *Act*.<sup>16</sup>

### **A. The Worship Prong and the Case for Repeal and Statutory Restructuring.**

From a policy and constitutional perspective, this paper adopts the view articulated by Senator Mike Lee and Representative Chip Roy that the abortion-clinic prong of the statute warrants repeal or substantial revision, while the worship prong stands

---

<sup>10</sup> *Id.* (e)(4).

<sup>11</sup> *Id.* (b).

<sup>12</sup> *Id.*

<sup>13</sup> Revisiting the Implications of the *FACE Act*: Part II: Hearing Before the Subcomm. on the Const. & Ltd. Gov’t of the H. Comm. on the Judiciary, 118th Cong. (Dec. 18, 2024) (statement of Erin Morrow Hawley), <https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/Hawley%20Testimony.pdf>.

<sup>14</sup> Sen. Mike Lee, Press Release: *Sen. Mike Lee, Sen. Lee, Rep. Roy Team Up to Repeal the FACE Act* (Oct. 4, 2023), <https://www.lee.senate.gov/2023/10/sen-lee-rep-roy-team-up-to-repeal-the-face-act>.

<sup>15</sup> *Id.*

<sup>16</sup> Revisiting the Implications of the *FACE Act*: Part II: Hearing Before the Subcomm. on the Const. & Ltd. Gov’t of the H. Comm. on the Judiciary, *supra* note 19.

on a distinct constitutional footing rooted in the protection of the free exercise of religion.<sup>17</sup> On that view, enforcement in the church context proceeds not as an extension of the contested abortion jurisprudence, but as an application of a separate and historically grounded civil-rights principle aimed at safeguarding the ability of individuals to worship free from force, threats, and physical obstruction.

On this account, the worship prong is anchored in the Free Exercise Clause and in the constitutional tradition of treating religious liberty as a pre-political right that precedes the state, while the clinic prong embodies a contested and highly politicized policy judgment rather than a historically recognized constitutional guarantee. Advocates of this view argue that progressive legal and cultural movements have elevated access to abortion to a status functionally analogous to religious observance, which in turn helps explain the statutory decision to pair clinics and churches within the same enforcement framework. From this perspective, Congress should repeal or sever the clinic provisions and reenact a narrower statute confined to the protection of houses of worship and conscience rights, thereby forcing a clear constitutional accounting of whether abortion access can properly be treated as a civil right coequal with the free exercise of religion. Framed in this way, enforcement in the church context is not an implicit endorsement of clinic enforcement, but a deliberate effort to restore a categorical distinction between constitutionally grounded religious liberty and contested policy claims.

The *FACE Act*'s worship prong also presents a clean question of first impression in federal courts. The appellate decisions to date arise almost exclusively from the abortion-clinic context, and the statute has never reached the Supreme Court on the merits. A church-based enforcement case in the future would therefore test *FACE* at its constitutional core, forcing a direct reckoning with the boundary between protected expression and coercive interference with the free exercise of religion. In that posture, the statute is ripe for litigation and poised for eventual Supreme Court review, barring any additional congressional action on repeal or amendment.

---

<sup>17</sup> *H.R. 589, the FACE Act Repeal Act of 2025*, 119th Cong. (2025) (introduced Jan. 21, 2025) (bill to repeal § 248 of Title 18, U.S.C.); Rep. Chip Roy, *Press Release: Rep. Roy Celebrates Advancement of FACE Act Repeal Act* (June 10, 2025), <https://roy.house.gov/media/press-releases/rep-roy-celebrates-advancement-face-act-repeal-act#:~:text=June%2010%2C%202025,the%20call%20and%20passed%20H.R.>

#### **IV. Property Rights Enforcement in Protecting Places of Worship**

Independent of *FACE*, the same factual scenario typically supports straightforward state-law charges because a church is private property and disruption of worship is ordinarily covered by traditional trespass and public-order offenses. This matters for strategy because leading with state-law property and disorder theories can reduce the need to litigate *FACE*'s intent nexus and broader enforcement arguments, while leaving *FACE* available as an additional federal tool if the facts show coercive obstruction or intimidation aimed at worshipers. DOJ's prosecution can emphasize conduct, the private-property context, and the protection of worshipers' free exercise.

Separate and apart from any federal civil-rights theory, the private-property status of a church supports a traditional and durable enforcement pathway rooted in state trespass and public-order law. Unauthorized entry into a sanctuary, refusal to depart after notice, or the physical occupation of aisles, doorways, or worship space directly implicates the owner's right to exclude and the state's police power to protect the lawful use and enjoyment of the premises. Likewise, coordinated chanting, shouting, or disruption during an active service can satisfy disorderly conduct or unlawful assembly provisions when the conduct materially interferes with the peace, safety, or normal operations of the congregation, and damage to doors, fixtures, or furnishings can give rise to criminal mischief charges. Framed around these objective and readily provable elements, prosecution can proceed on a clear record of conduct rather than contested questions of motive or viewpoint, while preserving federal civil-rights statutes as a parallel and escalated mechanism when the facts demonstrate coercive obstruction, threats, or intimidation tied to the exercise of religion.

#### **V. Alternative Federal Civil-Rights Theories**

An additional, though higher-threshold, federal enforcement theory arises under the *Ku Klux Klan Act of 1871*, which addresses coordinated efforts to interfere with constitutional rights, including the free exercise of religion.<sup>18</sup> Section 1985(3) permits civil liability where "two or more persons" conspire to deprive a person or class of persons of equal protection or equal privileges and immunities and commit an act in furtherance of that conspiracy causing injury, but the Supreme Court has narrowly construed this provision to require proof of a conspiracy motivated by "some racial, or perhaps otherwise class-based, invidiously discriminatory animus,"

---

<sup>18</sup> 42 U.S.C. § 1985(3); 18 U.S.C. § 241.

and has warned against converting it into a general federal tort law.<sup>19</sup> Subsequent decisions have further limited the statute's reach by rejecting political or ideological disagreement as a qualifying "class" and by requiring a specific intent to deprive victims of a federally protected right.<sup>20</sup> The criminal analogue, 18 U.S.C. § 241, authorizes federal prosecution where two or more persons conspire to "injure, oppress, threaten, or intimidate" any person in the free exercise of constitutional or statutory rights and, unlike Section 1985(3), does not require state action, but still demands proof of specific intent to interfere with a protected right rather than mere unlawful or disruptive conduct. Compared to the *FACE Act*'s conduct-focused framework, which targets physical obstruction, threats, or force at places of worship, Klan Act theories introduce additional elements of conspiracy, discriminatory motive in civil cases, and heightened intent in criminal cases, making them conceptually relevant but more difficult and riskier to sustain as a primary enforcement pathway in church-disruption scenarios.

## **VI. Conclusion**

The legally sustainable response to coordinated disruptions of religious worship is one that anchors enforcement in conduct rather than content and in law rather than rhetoric. Where demonstrators move beyond protected expression and into unlawful entry, physical obstruction, threats, or intimidation within a house of worship, both traditional state-law doctrines and federal civil-rights statutes provide a coherent and complementary basis for accountability. The private-property status of a church activates long-settled principles of trespass, public-order enforcement, and the right to exclude, allowing prosecution to proceed on objective and readily provable elements such as unauthorized entry, refusal to depart, obstruction of passage, and interference with the lawful use of the premises. At the same time, federal tools, including the *FACE Act* and higher-threshold conspiracy provisions derived from the *Ku Klux Klan Act*, supply a civil-rights framework when the record demonstrates coercive conduct directed at worshipers because they are exercising their religious freedom.

This layered approach also answers the principal constitutional objections that surround enforcement in this context. Claims that federal immigration operations or use-of-force determinations violate the Fourth or Tenth Amendments are governed by established standards of objective reasonableness and federal supremacy, not by state-level opposition or political characterization. Assertions

---

<sup>19</sup> *Griffin v. Breckenridge*, 403 U.S. 88, 102 (1971).

<sup>20</sup> *United Bhd. of Carpenters & Joiners of Am., Local 610 v. Scott*, 463 U.S. 825, 834–39 (1983); *see also Bray v. Alexandria Women's Health Clinic*, 506 U.S. 263 (1993).

that church disruptions are insulated by the First Amendment fail where conduct crosses into unlawful intrusion or physical obstruction on private property that directly interferes with the free exercise of religion. Taken together, the available state-law and federal civil-rights authorities establish a layered, constitutionally grounded enforcement framework that situates the protection of religious worship within the rule of law. By proceeding from property rights, public-order doctrines, and conduct-based civil-rights statutes in tandem, prosecutors can address the Cities Church disruption not as a free speech activity but as an unlawful interference with the free exercise of religion that falls squarely within both the traditional police power of the state and the civil-rights enforcement authority of the federal government.