

Committee Substitute for House Bill No. 3201

An act relating to religious freedom; creating the “Religious Freedom Restoration Act of 1998”; providing that government shall not substantially burden the exercise of religion; providing exceptions; providing definitions; providing for attorney’s fees and costs; providing applicability; providing construction; providing an effective date.

WHEREAS, it is the finding of the Legislature of the State of Florida that the framers of the Florida Constitution, recognizing free exercise of religion as an unalienable right, secured its protection in s. 3, Art. I of the State Constitution, and

WHEREAS, laws which are “neutral” toward religion may burden the free exercise of religion as surely as laws intended to interfere with the free exercise of religion, and

WHEREAS, governments should not substantially burden the free exercise of religion without compelling justification, and

WHEREAS, the compelling interest test as set forth in certain federal court rulings is a workable test for striking sensible balances between religious liberty and competing prior governmental interests, and

WHEREAS, it is the intent of the Legislature of the State of Florida to establish the compelling interest test as set forth in *Sherbert v. Verner*, 374 U.S. 398 (1963), and *Wisconsin v. Yoder*, 406 U.S. 205 (1972), to guarantee its application in all cases where free exercise of religion is substantially burdened, and to provide a claim or defense to persons whose religious exercise is substantially burdened by government, NOW, THEREFORE,

Be It Enacted by the Legislature of the State of Florida:

Section 1. Short title.—This act may be cited as the “Religious Freedom Restoration Act of 1998.”

Section 2. Definitions.—As used in this act:

(1) “Government” or “state” includes any branch, department, agency, instrumentality, or official or other person acting under color of law of the state, a county, special district, municipality, or any other subdivision of the state.

(2) “Demonstrates” means to meet the burden of going forward with the evidence and of persuasion.

(3) “Exercise of religion” means an act or refusal to act that is substantially motivated by a religious belief, whether or not the religious exercise is compulsory or central to a larger system of religious belief.

Section 3. Free exercise of religion protected.—

(1) The government shall not substantially burden a person's exercise of religion, even if the burden results from a rule of general applicability, except that government may substantially burden a person's exercise of religion only if it demonstrates that application of the burden to the person:

(a) Is in furtherance of a compelling governmental interest; and

(b) Is the least restrictive means of furthering that compelling governmental interest.

(2) A person whose religious exercise has been burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief.

Section 4. Attorney's fees and costs.—The prevailing plaintiff in any action or proceeding to enforce a provision of this act is entitled to reasonable attorney's fees and costs to be paid by the government.

Section 5. Applicability; construction.—

(1) This act applies to all state law, and the implementation of that law, whether statutory or otherwise, and whether adopted before or after the enactment of this act.

(2) State law adopted after the date of the enactment of this act is subject to this act unless such law explicitly excludes such application by reference to this act.

(3) Nothing in this act shall be construed to authorize the government to burden any religious belief.

(4) Nothing in this act shall be construed to circumvent the provisions of chapter 893, Florida Statutes.

(5) Nothing in this act shall be construed to affect, interpret, or in any way address that portion of s. 3, Art. I of the State Constitution prohibiting laws respecting the establishment of religion.

(6) Nothing in this act shall create any rights by an employee against an employer if the employer is not a governmental agency.

(7) Nothing in this act shall be construed to affect, interpret, or in any way address that portion of s. 3, Art. I of the State Constitution and Amendment 1 to the Constitution of the United States respecting the establishment of religion. This act shall not be construed to permit any practice prohibited by those provisions.

Section 6. This act shall take effect upon becoming a law.

Became a law without the Governor's approval June 17, 1998.

Filed in Office Secretary of State June 11, 1998.