

State of Illinois
Public Acts
90th General Assembly

Public Act 90-0806
HB2370 Enrolled

AN ACT concerning religious freedom.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 1. Short title. This Act may be cited as the Religious Freedom Restoration Act.

Section 5. Definitions. In this Act:

"Demonstrates" means meets the burdens of going forward with the evidence and of persuasion.

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

"Government" includes a branch, department, agency, instrumentality, and official (or other person acting under color of law) of the State of Illinois or a political subdivision of the State, including a home rule unit.

Section 10. Findings and purposes.

(a) The General Assembly finds the following:

- (1) The free exercise of religion is an inherent, fundamental, and inalienable right secured by Article I, Section 3 of the Constitution of the State of Illinois.
- (2) Laws "neutral" toward religion, as well as laws intended to interfere with the exercise of religion, may burden the exercise of religion.
- (3) Government should not substantially burden the exercise of religion without compelling justification.
- (4) In *Employment Division v. Smith*, 494 U.S. 872 (1990) the Supreme Court virtually eliminated the requirement under the First Amendment to the United States Constitution that government justify burdens on the exercise of religion imposed by laws neutral toward religion.
- (5) In *City of Boerne v. P. F. Flores*, 65 LW 4612 (1997) the Supreme Court held that an Act passed by Congress to address the matter of burdens placed on the exercise of religion infringed on the legislative powers reserved to the states under the Constitution of the United States.
- (6) The compelling interest test, as set forth in *Wisconsin v. Yoder*, 406 U.S. 205 (1972), and *Sherbert v. Verner*, 374 U.S. 398 (1963), is a workable test for striking sensible balances between religious liberty and competing governmental interests.

(b) The purposes of this Act are as follows:

- (1) To restore the compelling interest test as set forth in *Wisconsin v. Yoder*, 406 U.S. 205 (1972), and *Sherbert v. Verner*, 374 U.S. 398 (1963), and to guarantee that a test of compelling governmental interest will be imposed on all State and local (including home rule unit) laws, ordinances, policies, procedures, practices, and governmental actions in all cases in which the free exercise of religion is substantially burdened.

- (2) To provide a claim or defense to persons whose exercise of religion is substantially burdened by government.

Section 15. Free exercise of religion protected. Government may not substantially burden a person's exercise of religion, even if the burden results from a rule of general applicability, unless it demonstrates that application of the burden to the person (i) is in furtherance of a compelling governmental interest and (ii) is the least restrictive means of furthering that compelling governmental interest.

Section 20. Judicial relief. If a person's exercise of religion has been burdened in violation of this Act, that person may assert that violation as a claim or defense in a judicial proceeding and may obtain appropriate relief against a government. A party who prevails in an action to enforce this Act against a government is entitled to recover attorney's fees and costs incurred in maintaining the claim or defense.

Section 25. Application of Act; home rule powers.

- (a) This Act applies to all State and local (including home rule unit) laws, ordinances, policies, procedures, practices, and governmental actions and their implementation, whether statutory or otherwise and whether adopted before or after the effective date of this Act.
- (b) Nothing in this Act shall be construed to authorize a government to burden any religious belief.
- (c) Nothing in this Act shall be construed to affect, interpret, or in any way address any of the following: (i) that portion of the First Amendment of the United States Constitution prohibiting laws respecting the establishment of religion, (ii) the second sentence of Article I, Section 3 of the Illinois Constitution, or (iii) Article X, Section 3 of the Illinois Constitution. Granting government funding, benefits, or exemptions, to the extent permissible under the 3 constitutional provisions described in items (i), (ii), and (iii) of this subsection, does not constitute a violation of this Act. In this subsection, "granting", used with respect to government funding, benefits, or exemptions, does not include the denial of government funding, benefits, or exemptions.
- (d) The corporate authorities of a municipality or other unit of local government may enact ordinances, standards, rules, or regulations that protect the free exercise of religion in a manner or to an extent equal to or greater than the protection provided in this Act. If an ordinance, standard, rule, or regulation enacted under the authority of this Section or under the authority of a unit of local government's home rule powers prohibits, restricts, narrows, or burdens a person's exercise of religion or permits the prohibition, restriction, narrowing, or burdening of a person's exercise of religion, that ordinance, standard, rule, or regulation is void and unenforceable as to that person if it (i) is not in furtherance of a compelling governmental interest and (ii) is not the least restrictive means of furthering that governmental interest. This subsection is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.

Section 99. Effective date. This Act takes effect on July 1, 1998.