

Senate Bill 377

By: Senators McKoon of the 29th, Shafer of the 48th and Ligon, Jr. of the 3rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 50 of the Official Code of Georgia Annotated, relating to state government,
2 so as to provide for the preservation of religious freedom; to provide for a short title; to
3 provide for definitions; to provide for penalties; to provide for the granting of relief; to repeal
4 conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 SECTION 1.

7 This Act shall be known and may be cited as the "Preservation of Religious Freedom Act."

8 SECTION 2.

9 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended
10 by adding a new chapter to read as follows:

11 "CHAPTER 15A

12 50-15A-1.

13 As used in this chapter, the term:

14 (1) 'Burden' means any government action that directly or indirectly constrains, inhibits,
15 curtails, or denies the exercise of religion by any person or compels any action contrary
16 to a person's exercise of religion, including, but not limited to, withholding benefits,
17 assessing criminal, civil, or administrative penalties, and exclusion from government
18 programs or access to government facilities.

19 (2) 'Compelling governmental interest' includes, but is not limited to, protecting the
20 welfare of a child from abuse and neglect as provided for by state law.

21 (3) 'Exercise of religion' means the practice or observance of religion under Article I,
22 Section I, Paragraphs III and IV of the Constitution of this state and the free exercise
23 clause of the First Amendment to the Constitution of the United States, including, but not

24 limited to, the right to act or refuse to act in a manner substantially motivated by a
25 sincerely held religious tenet or belief whether or not the exercise is compulsory or a
26 central part or requirement of the person's religious tenets or beliefs.

27 (4) 'Fraudulent claim' means a claim that is dishonest in fact or that is made principally
28 for a patently improper purpose, including, but not limited to, the harassing of another
29 party.

30 (5) 'Penal institution' means any jail, correctional institution, or similar facility for the
31 detention of violators of state laws or local ordinances and any entity supervising such
32 violators placed on parole, probation, or other conditional release.

33 (6) 'Person' means an individual, corporation, partnership, firm, business trust,
34 joint-stock company, association, syndicate, group, pool, joint venture, and any other
35 unincorporated association or group.

36 (7) 'State entity' means the state or any local subdivision of the state or public
37 instrumentality or public corporate body created by or under authority of state law,
38 including, but not limited to, the executive, legislative, and judicial branches and every
39 department, agency, board, bureau, office, commission, authority, or similar body thereof,
40 municipalities, counties, school districts, special taxing districts, conservation districts,
41 authorities, and any other state or local public instrumentality or corporation.

42 50-15A-2.

43 (a) A state entity shall not substantially burden a person's civil right to exercise of religion
44 even if the burden results from a rule of general applicability unless such state entity
45 demonstrates, by clear and convincing evidence, that application of the burden to the
46 person is in furtherance of a compelling governmental interest and is the least restrictive
47 means of furthering that compelling governmental interest.

48 (b) A person whose exercise of religion has been burdened or is substantially likely to be
49 burdened in violation of this chapter may assert such violation as a claim or defense in a
50 judicial proceeding. A court may grant appropriate relief as may be necessary including,
51 but not limited to, injunctive relief, protective order, writ of mandamus or prohibition,
52 declaratory relief, actual damages, and reasonable costs and attorney fees as determined by
53 the court.

54 (c) Any person found by a court of competent jurisdiction to have abused the protection
55 of this chapter by making a fraudulent claim may be enjoined by such court from filing
56 further claims under this chapter before such court without leave of court.

57 50-15A-3.

58 In determining whether a compelling governmental interest is sufficient to justify a
 59 substantial burden on a person's exercise of religion pursuant to subsection (a) of Code
 60 Section 50-15A-2, only those interests of the highest order and not otherwise served can
 61 overbalance the fundamental right to the exercise of religion preserved by this chapter. In
 62 order to prevail under the standard provided for by subsection (a) of Code Section
 63 50-15A-2, the government shall demonstrate that such standard is satisfied through
 64 application of the asserted violation of this chapter to the particular claimant whose sincere
 65 exercise of religion has been burdened. The religious liberty interest protected by this
 66 chapter is an independent liberty that occupies a preferred position and no encroachments
 67 upon this liberty shall be permitted, whether direct or indirect, unless required by clear and
 68 compelling governmental interests of the highest order.

69 50-15A-4.

70 (a) Nothing in this chapter shall be construed to:

71 (1) Impair the fundamental right of every parent to control the care and custody of such
 72 parent's minor children including, but not limited to, control over education, discipline,
 73 religious and moral instruction, health, medical care, welfare, place of habitation,
 74 counseling, and psychological and emotional well-being of such minor children as
 75 provided for under the laws of this state and of the United States;

76 (2) Authorize any violation of Article I, Section IV of the Constitution of this state;

77 (3) Authorize the application or enforcement of any law, rule, code, or legal system in
 78 the courts of this state other than the laws, rules, codes, or legal system provided for by
 79 the laws of this state and of the United States; or

80 (4) Protect actions or decisions to end the life of any adult or born or unborn child that
 81 are not as provided for by the laws of this state or of the United States.

82 (b) Except as provided by subsection (c) of this Code section, this chapter shall apply to
 83 all actions by a state entity.

84 (c) This chapter shall not apply to penological rules, regulations, conditions, or policies
 85 established by a penal institution that are reasonably related to the safety and security of
 86 incarcerated persons, staff, visitors, supervised violators, or the public, or to the
 87 maintenance of good order and discipline in any penal institution or parol or probation
 88 program."

89 **SECTION 3.**

90 All laws and parts of laws in conflict with this Act are repealed.