

House Bill 1023

By: Representatives Teasley of the 37th, Ramsey of the 72nd, Welch of the 110th, and Casas of the 107th

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 style="text-align:center">**SECTION 1.**

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

8 style="text-align:center">**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 style="text-align:center">"CHAPTER 15A

12 50-15A-1.

13 As used in this chapter, the term:

14 (1) 'Burden' means any government action or implementation or application of any law,
15 including, but not limited to, state and local laws, ordinances, rules, regulations, and
16 policies, whether statutory or otherwise, that directly or indirectly constrains, inhibits,
17 curtails, or denies the exercise of religion by any person or that directly or indirectly
18 pressures any person to engage in any action contrary to that person's exercise of religion,
19 including, but not limited to, withholding benefits, assessing criminal, civil, or
20 administrative penalties, and exclusion from government programs or access to
21 government facilities.

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

24 (3) 'Exercise of religion' means the practice or observance of religion under Article I,
 25 Section I, Paragraphs III and IV of the Constitution of this state and the free exercise
 26 clause of the First Amendment to the Constitution of the United States, including, but not
 27 limited to, the right to act or refuse to act in a manner substantially motivated by a
 28 sincerely held religious tenet or belief whether or not the exercise is compulsory or a
 29 central part or requirement of the person's religious tenets or beliefs.

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

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

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

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

45 50-15A-2.

46 (a) A person's civil right to exercise of religion shall not be burdened even if the burden
 47 results from a rule, law, ordinance, regulation, or policy of general applicability unless
 48 demonstrated, by clear and convincing evidence, that application of the burden to the
 49 person is in furtherance of a compelling governmental interest and is the least restrictive
 50 means of furthering that compelling governmental interest.

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

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

60 50-15A-3.

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

72 50-15A-4.

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

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

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

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

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

87 **SECTION 3.**

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