

Senators McKoon of the 29th, Crane of the 28th and Hill of the 32nd offered the following amendment:

1 *Amend the committee substitute to HB 1027 (LC 36 2521S) by inserting after "benefits;" on*  
 2 *line 13 the following:*  
 3 to provide for the preservation of religious freedom; to provide for definitions; to provide for  
 4 penalties; to provide for the granting of relief;

5 *By redesignating Section 11 as Section 12 and by inserting between lines 329 and 330 the*  
 6 *following:*  
 7 Said title is further amended by adding a new chapter to read as follows:

8 "CHAPTER 15A

9 50-15A-1.

10 As used in this chapter, the term:

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

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

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

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

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

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

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

39 50-15A-2.

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

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

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

54 50-15A-3.

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

64 upon this liberty shall be permitted, whether direct or indirect, unless required by clear and  
65 compelling governmental interests of the highest order.

66 50-15A-4.

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

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

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

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

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

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

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

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## SECTION 11.