

WITHDRAWN

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

1 *Amend the Senate Insurance and Labor Committee substitute to HB 714 (LC 36 2548S) by*
 2 *inserting after "benefits;" on line 15 the following:*
 3 to provide for the preservation of religious freedom; to provide for a short title; to provide
 4 for definitions; to provide for penalties; to provide for the granting of relief;

5 *By inserting between lines 427 and 428 the following:*

6 Said title is further amended by adding a new chapter to read as follows:

7 "CHAPTER 15A

8 50-15A-1.

9 As used in this chapter, the term:

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

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

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

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

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

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

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

38 50-15A-2.

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

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

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

53 50-15A-3.

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

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

65 50-15A-4.

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

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

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

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

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

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

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

85 **SECTION 12.**

86 *By redesignating Section 12 as Section 13.*