Senate Bill 284
By: Senators Kirk of the 13th, Ligon, Jr. of the 3rd, Stone of the 23rd, Mullis of the 53rd, Hill of the 32nd and others

A BILL TO BE ENTITLED
AN ACT

To amend Title 50 of the Official Code of Georgia Annotated, relating to state government, so as to prohibit discriminatory action against a person who believes, speaks, or acts in accordance with a sincerely held religious belief or moral conviction that marriage is or should be recognized as the union of one man and one woman or that sexual relations are properly reserved to such marriage; to provide for definitions; to provide for the granting of relief; to provide for construction and application; to provide for waiver of sovereign immunity under certain circumstances; to provide for a short title; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.
This Act shall be known and may be cited as the "First Amendment Defense Act of Georgia."

SECTION 2.
Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended by adding a new chapter to read as follows:

"CHAPTER 15A

50-15A-1.
As used in this chapter, the term:

(1) 'Discriminatory action' means any action to:

(A) Alter in any way state tax treatment of an exemption from taxation under state law;

(B) Cause any tax, penalty, or payment to be assessed against a person or deny, delay, or revoke an exemption from taxation under state law;

(C) Disallow a deduction for state tax purposes of any charitable contribution made to or by a person;
(D) Deny, withhold, reduce, exclude, terminate, reprimand, censure, or otherwise make
 unavailable any government grant, contract, subcontract, cooperative agreement, loan,
 guarantee, license, certification, scholarship, accreditation, employment, or other
 similar position or status from or to a person;

(E) Deny, withhold, reduce, exclude, terminate, or otherwise make unavailable any
 public benefit from or to a person, including for purposes of this chapter admission to,
 equal treatment in, or eligibility for a degree from any educational program at any
 educational facility administered by a government; or

(F) Deny, withhold, reduce, exclude, terminate, condition, or otherwise make
 unavailable access to any speech forum (whether a traditional, limited, or nonpublic
 forum) administered by a government, including access to education facilities available
 for use by student or community organizations.

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

(3) 'Person' means any individual, corporation, partnership, proprietorship, firm,
 enterprise, association, public or private organization of any character, or other legal
 entity.

(4) 'Public benefit' shall have the same meaning as set forth in Code Section 50-36-1.


(a) Government shall not take any discriminatory action against a person wholly or
 partially on the basis that such person believes, speaks, or acts in accordance with a
 sincerely held religious belief or moral conviction that marriage is or should be recognized
 as the union of one man and one woman or that sexual relations are properly reserved to
 such a marriage.

(b) A person may assert a violation of this chapter as a claim or defense in a judicial,
 agency, or other proceeding and obtain special damages, a declaratory judgment, or
 injunctive or other appropriate relief against a government.

(c) Notwithstanding any other provision of law, an action under this chapter may be
 commenced, and relief may be granted, in a court of competent jurisdiction without regard
 to whether the person commencing the action has sought or exhausted available
 administrative remedies.

S. B. 284
- 2 -
(d) The Attorney General may bring an action for a declaratory judgment or injunctive relief for any violation of this chapter.

(e) When an aggrieved person prevails in an action pursuant to this Code section, the court may award reasonable attorney's fees and expenses of litigation.

(f) No person having a claim for damages against a government under this chapter shall bring any action against such government upon such claim without first giving notice of the claim to such government, in writing, by certified mail or statutory overnight delivery, at least 30 days prior to filing such action, setting forth the particular discriminatory action alleged to have been taken by the government against such person.

(g) In any claim for damages brought under the provisions of this chapter, no person shall recover a sum exceeding the maximum amount allowable under paragraph (1) of subsection (b) of Code Section 50-21-29 for a loss arising from a single occurrence. The existence of this cap on liability shall not be disclosed or suggested to the jury during the trial of any action brought under this chapter.

50-15A-3.
For purposes of this chapter, government shall consider accredited, licensed, or certified any person who would have been accredited, licensed, or certified by a nongovernmental agency but for a determination by the agency against such person wholly or partially on the basis that the person believes, speaks, or acts in accordance with a sincerely held religious belief or moral conviction that marriage is or should be recognized as the union of one man and one woman or that sexual relations are properly reserved to such a marriage.

50-15A-4.
(a) This chapter shall be construed in favor of a broad protection of free exercise of religious beliefs and moral convictions to the maximum extent permitted by the terms of this chapter, the United States Constitution, and the Constitution of this state.

(b) Nothing in this chapter shall be construed to narrow the meaning or application of any other law of this state protecting free exercise of religious beliefs or moral convictions.

(c) Any other provisions of this chapter notwithstanding, nothing in this chapter shall be applied to afford any protection or relief to a public officer or employee who fails or refuses to perform his or her official duties."

SECTION 3.
Said title is further amended by adding a new Code section to Article 2 of Chapter 21, relating to state tort claims, to read as follows:
The defense of sovereign immunity is waived as to any claim, counterclaim, cross-claim, or third-party claim brought in the courts of this state by an aggrieved person seeking special damages, a declaratory judgment, injunctive relief, or reasonable attorney's fees and expenses of litigation against the state or any political subdivision thereof as provided for in Chapter 15A of this title. In any such case, the applicable provisions of Chapter 15A of this title shall control to the extent of any conflict with the provisions of this article.

SECTION 4.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 5.

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