

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 findings; to provide for definitions; to provide for penalties; to provide for the
4 granting of relief; to repeal 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 "Preventing Government Overreach on
8 Religious Expression Act."

9 **SECTION 2.**

10 (a) The Georgia General Assembly finds and determines that in passing the Religious
11 Freedom Restoration Act of 1993 with an overwhelming bipartisan majority, the United
12 States Congress specifically affirmed that:

13 (1) The framers of the United States Constitution, recognizing free exercise of religion
14 as an inalienable right, secured its protection in the First Amendment to the United States
15 Constitution;

16 (2) Laws neutral toward religion have the same potential to burden religious exercise as
17 laws purposely intended to interfere with religious exercise;

18 (3) Governments should not substantially burden religious exercise without having a
19 compelling justification;

20 (4) In *Employment Division v. Smith*, 494 U.S. 872 (1990), the United States Supreme
21 Court decision had the practical effect of eliminating the requirement, absent a statute
22 enacted by Congress, that the government justify burdens on religious exercise imposed
23 by laws neutral toward religion; and

24 (5) The compelling interest test as set forth by the federal courts is a workable test for
25 striking sensible balances between religious liberty and competing prior governmental
26 interests.

27 (b) The Georgia General Assembly further finds and determines that:

28 (1) Paragraph III of Section 1 of Article I of the Constitution of this state provides that
29 each person has the natural and inalienable right to worship God, each according to the
30 dictates of that person's own conscience; and no human authority should, in any case,
31 control or interfere with such right of conscience;

32 (2) Paragraph IV of Section 1 of Article I of the Constitution of this state provides that
33 no inhabitant of this state shall be molested in person or property or be prohibited from
34 holding any public office or trust on account of religious opinions; but the right of
35 freedom of religion shall not be so construed as to excuse acts of licentiousness or justify
36 practices inconsistent with the peace and safety of the state;

37 (3) In *City of Boerne v. Flores*, 521 U.S. 507 (1997), the protections of religious exercise
38 afforded by the Religious Freedom Restoration Act of 1993 were ruled applicable only
39 to religious exercise burdened by federal law or agencies and provided no protection from
40 burdens on religious exercise from state or local law or governments; this decision
41 mandated that any state seeking to provide the same level of protection of religious
42 exercise from state or local governments would be required to enact a state statute
43 equivalent to the Religious Freedom Restoration Act of 1993 as enacted by the 103rd
44 United States Congress;

45 (4) Since the 1997 Supreme Court decision the following states have enacted state-level
46 Religious Freedom Restoration Act statutes: Alabama, Arizona, Connecticut, Florida,
47 Idaho, Illinois, Kansas, Kentucky, Louisiana, Mississippi, Missouri, New Mexico,
48 Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, and Virginia;
49 and

50 (5) In numerous cases at both the federal and state levels, the Religious Freedom
51 Restoration Act statutes have provided meaningful protections from unreasonable
52 burdens on religious exercise and in no cases have been used to discriminate or
53 undermine the rights of any person or class of people; in fact, these statutes have been
54 models of achieving the balance between preventing government overreach in religious
55 expression allowing governments at all levels to protect peace and public safety, and
56 providing an environment of economic vitality and individual freedom that has made the
57 United States and the State of Georgia models worldwide.

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SECTION 3.

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) 'Demonstrates' means meets the burdens of going forward with the evidence and of persuasion.

(2) 'Exercise of religion' or 'religious exercise' means the practice or observance of religion, whether or not compelled by or central to a system of religious belief, including but not limited to the use, building, or conversion of real property for the practice or observance of religion.

(3) '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.

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

50-15A-2.

(a) Government shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability, except as provided in subsection (b) of this Code section.

(b) Government may substantially burden a person's exercise of religion only if government demonstrates that the application of such burden to a person is in furtherance of a compelling governmental interest and the least restrictive means of furthering that compelling governmental interest.

(c) A person whose religious exercise has been burdened in violation of this chapter may assert that claim or defense in a judicial proceeding and obtain appropriate relief against government.

90 50-15A-3.

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

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

97 (2) Create any rights by an employee against an employer if such employer is not
98 government; or

99 (3) Apply in any criminal case involving a sexual offense committed against a minor.

100 (b) Except as provided by subsection (c) of this Code section, this chapter shall apply to
101 all actions by government.

102 (c) This chapter shall apply neither to penological rules, regulations, conditions, or policies
103 established by a penal institution that are reasonably related to the safety and security of
104 incarcerated persons, staff, visitors, supervised violators, or the public nor to the
105 maintenance of good order and discipline in any penal institution or parol or probation
106 program."

107 **SECTION 4.**

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