

House Bill 837

By: Representatives Setzler of the 35th, Fleming of the 121st, Teasley of the 37th, and Ramsey of the 72nd

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 the granting of
3 relief; to provide for waiver of sovereign immunity under certain circumstances; to provide
4 for definitions; to provide for a short title; to provide for related matters; to provide for an
5 effective date and applicability; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 This Act shall be known and may be cited as the "Religious Freedom Restoration Act."

9 **SECTION 2.**

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

12 "CHAPTER 15A

13 50-15A-1.

14 (a) The provisions of subsections (a) and (b) of 42 U.S.C. Section 2000bb-1 as such existed
15 on January 1, 2016, regarding government burdens on the free exercise of religion, shall
16 apply to any government as defined in Code Section 50-15A-4.

17 (b) A person aggrieved by a violation of subsection (a) of this Code section may seek a
18 declaratory judgment or injunctive relief against government.

19 50-15A-2.

20 In any action or proceeding to enforce a provision of this chapter, the court or tribunal may
21 allow the prevailing party, other than government, reasonable attorney's fees as part of
22 costs.

23 50-15A-3.

24 Nothing in this chapter shall be construed to:

25 (1) Apply to penological rules, regulations, conditions, or policies established by a penal
26 institution that are reasonably related to the safety and security of incarcerated persons,
27 staff, visitors, supervised violators, or the public, or to the maintenance of good order and
28 discipline in any penal institution or parole or probation program; or

29 (2) Create any rights by an employee against an employer if such employer is not
30 government.

31 50-15A-4.

32 As used in this chapter, the term:

33 (1) 'Delinquent act' shall have the same meaning as provided for in Code Section
34 15-11-2.

35 (2) 'Demonstrates' means meets the burdens of going forward with the evidence and of
36 persuasion.

37 (3) 'Exercise of religion' means any exercise of religion, whether or not compelled by,
38 or central to, a system of religious belief, including but not limited to the practice or
39 observance of religion under Paragraphs III and IV of Section I, Article I of the
40 Constitution of this state or the Free Exercise Clause of the First Amendment to the
41 Constitution of the United States, or the use, building, or conversion of real property for
42 the purpose of religious exercise.

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

50 (5) 'Penal institution' means any jail, correctional institution, or similar facility for the
51 detention of violators of state laws or local ordinances and any entity supervising such
52 violators placed on parole, probation, or other conditional release and any facility for the
53 restrictive custody of children and any entity supervising children who are not in
54 restrictive custody but who are accused of or adjudicated for a delinquent act.

55 (6) 'Restrictive custody' shall have the same meaning as provided for in Code Section
56 15-11-2."

57 **SECTION 3.**

58 Said title is further amended by adding a new Code section to Article 2 of Chapter 21,
59 relating to state tort claims, as follows:

60 "50-21-38.

61 The defense of sovereign immunity is waived as to any claim, counterclaim, cross-claim,
62 or third-party claim brought in the courts of this state by an aggrieved person seeking a
63 declaratory judgment, injunctive relief, or reasonable attorney's fees against the state or any
64 political subdivision thereof; provided, however, that sovereign immunity is not waived as
65 to any claim for monetary damages or expenses of litigation that are included in or related
66 to such claim, counterclaim, cross-claim, or third-party claim. This Code section shall not
67 be construed to alter or amend any other waiver of sovereign immunity provided by law."

68 **SECTION 4.**

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

71 **SECTION 5.**

72 Section 3 of this Act shall apply to all actions filed on or after the effective date of this Act.

73 **SECTION 6.**

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