

Senate Bill 180

By: Senators Setzler of the 37th, Brass of the 28th, Anavitarte of the 31st, Gooch of the 51st,
Payne of the 54th and others

AS PASSED SENATE

**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 legislative findings
3 and determinations; to provide for the granting of relief; to provide for definitions; to provide
4 for construction; to provide for a short title; to provide for an effective date; to repeal
5 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 "Georgia Religious Freedom Restoration
9 Act."

10 **SECTION 2.**

11 (a) The General Assembly finds and determines that:

12 (1) Whereas the framers of the United States Constitution and the people of this state,
13 recognizing free exercise of religion as an inalienable right, secured its protection in the
14 First Amendment to the United States Constitution and in Paragraphs III and IV of
15 Section I, Article I of the Constitution of this state, respectively;

16 (2) Whereas in *City of Boerne v. Flores*, 521 U.S. 507 (1997), the United States Supreme
17 Court held that the compelling interest test provided for in the federal Religious Freedom
18 Restoration Act, to protect the inalienable constitutional right of free exercise of religion,
19 must be adopted by a state through legislative act or court decision in order to apply to
20 state or local government action; and
21 (3) The General Assembly has determined that the following legislative act adopts the
22 same compelling interest test provided for in the federal Religious Freedom Restoration
23 Act in a manner that applies it to the actions of state and local governments in Georgia.

24 **SECTION 3.**

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

27 "CHAPTER 15A

28 50-15A-1.

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

32 (b) Government may substantially burden a person's exercise of religion only if it
33 demonstrates that application of the burden to the person is:

34 (1) In furtherance of a compelling governmental interest; and

35 (2) The least restrictive means of furthering such compelling governmental interest.

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

39 50-15A-2.

40 As used in this chapter, the term:

41 (1) 'Demonstrates' means meets the burden of going forward with the evidence and of
42 persuasion.

43 (2) 'Exercise of religion' means any exercise of religion, whether or not compelled by,
44 or central to, a system of religious belief, including, but not limited to, the practice or
45 observance of religion under Paragraphs III and IV of Section I, Article I of the
46 Constitution of this state or the Free Exercise Clause of the First Amendment to the
47 Constitution of the United States.

48 (3) 'Government' includes any branch, department, agency, instrumentality, and official
49 or other person acting under color of law of this state, or any political subdivision of this
50 state as defined in Code Section 50-15-1.

51 50-15A-3.

52 In any action or proceeding to enforce a provision of this chapter, the court or tribunal may
53 allow the prevailing party, other than government, a reasonable attorney fee as part of
54 costs."

55 **SECTION 4.**

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

58 **SECTION 5.**

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