

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 774

Introduced by Brewer, 43; Bostelman, 23; Erdman, 47; Gragert, 40; Hansen, B., 16; Lowe, 37; McDonnell, 5.

Read first time January 05, 2022

Committee:

- 1 A BILL FOR AN ACT relating to government; to adopt the First Freedom Act.
- 2 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 5 of this act shall be known and may be
2 cited as the First Freedom Act.

3 Sec. 2. For purposes of the First Freedom Act:

4 (1) Exercise of religion means the practice or observance of
5 religion and includes, but is not limited to, any action that is
6 motivated by a sincerely held religious belief, whether or not the
7 exercise is compulsory or central to a larger system of religious belief;

8 (2) Person means any individual, association, partnership,
9 corporation, church, religious institution, estate, trust, foundation, or
10 other legal entity;

11 (3) Religious organization means:

12 (a) A house of worship;

13 (b) A religious group, a corporation, an association, an educational
14 institution, a ministry, an order, a society, or a similar entity,
15 regardless of whether it is integrated or affiliated with a church or
16 other house of worship; or

17 (c) An officer, owner, employee, manager, religious leader, clergy,
18 or minister of an entity or organization described in subdivision (3)(a)
19 or (b) of this section;

20 (4) Religious services means a meeting, gathering, or assembly of
21 two or more persons organized by a religious organization for the purpose
22 of worship, teaching, training, providing educational services,
23 conducting religious rituals, or other activities that are deemed
24 necessary by the religious organization for the exercise of religion;

25 (5) State action means the implementation or application of any law,
26 including, but not limited to, state and local laws, ordinances, rules,
27 regulations, and policies, whether statutory or otherwise, or other
28 action by the state or any political subdivision thereof and any local
29 government, municipality, instrumentality, or public official authorized
30 by state or local law; and

31 (6)(a) Substantial burden means any action that directly or

1 indirectly constrains, inhibits, curtails, or denies the exercise of
2 religion by any person or compels any action contrary to a person's
3 exercise of religion.

4 (b) Substantial burden includes, but is not limited to, withholding
5 benefits, imposing criminal, civil, or administrative penalties or
6 damages, or exclusion from governmental programs or access to
7 governmental facilities.

8 Sec. 3. (1) State action shall not substantially burden a person's
9 right to the exercise of religion, even if the burden results from a rule
10 of general applicability, unless it is demonstrated that applying the
11 burden to that person's exercise of religion in this particular instance:

12 (a) Is essential to further a compelling governmental interest; and

13 (b) Is the least restrictive means of furthering that compelling
14 governmental interest.

15 (2) State action shall not restrict a religious organization from
16 operating or engaging in religious services during a state of emergency
17 to a greater extent than it restricts non-religious organizations or
18 businesses.

19 (3)(a) Except as provided in subdivision (3)(b) of this section,
20 this section shall not prohibit state action from requiring religious
21 organizations to comply with neutral and generally applicable health,
22 safety, or occupancy requirements issued by a local government, the
23 state, or the federal government that are applicable to all organizations
24 and businesses.

25 (b) State action, taken to enforce any health, safety, or occupancy
26 requirement, that imposes a substantial burden on a religious service, is
27 subject to subsection (1) of this section.

28 Sec. 4. (1) A person whose exercise of religion or religious
29 service has been burdened or restricted, or is likely to be burdened or
30 restricted, in violation of the First Freedom Act, may bring a civil
31 action or assert such violation or impending violation as a defense in a

1 judicial or administrative proceeding.

2 (2) This section applies regardless of whether the state or a
3 political subdivision is a party to the judicial or administrative
4 proceeding.

5 (3) A person asserting a claim or defense under this section may
6 obtain appropriate relief, including against the state or a political
7 subdivision. Appropriate relief includes, but is not limited to:

8 (a) Actual damages;

9 (b) Such preliminary and other equitable or declaratory relief as
10 may be appropriate; and

11 (c) Reasonable attorney's fees and other litigation costs reasonably
12 incurred.

13 Sec. 5. The First Freedom Act applies to all state and local laws,
14 and the implementation of those laws, whether statutory or otherwise,
15 regardless of whether adopted before or after the effective date of this
16 act.