

HOUSE BILL 1598

By Lynn

AN ACT relative to the preservation of religious freedom.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1.

(a) As used in this act, unless the context otherwise requires:

(1) "Demonstrates" means meets the burdens of going forward with the evidence and of persuasion under the standard of clear and convincing evidence;

(2) "Exercise of religion" means the exercise of religion under Article I, Section 3 of the Constitution of Tennessee and the First Amendment to the United States Constitution;

(3) "Fraudulent claim" means a claim that is dishonest in fact or that is made principally for a patently improper purpose, such as to harass the opposing party;

(4) "Frivolous claim" means a claim that completely lacks merit under existing law and cannot be supported by a good faith argument for the extension, modification, or reversal of existing law or the establishment of new law;

(5) "Government entity" means any branch, department, agency, commission, or instrumentality of state government, any official or other person acting under color of state law, or any political subdivision of the state;

(6) "Prevails" means to obtain "prevailing party" status as defined by courts construing the federal Civil Rights Attorney's Fees Awards Act of 1976, 42 U.S.C. § 1988; and

(7) “Substantially burden” means to inhibit or curtail religiously motivated practice.

(b) Except as provided in subsection (c), no government entity shall substantially burden a person’s free exercise of religion even if the burden results from a rule of general applicability.

(c) No government entity shall substantially burden a person’s free exercise of religion unless it demonstrates that application of the burden to the person is:

(1) Essential to further a compelling governmental interest; and

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

(d) Nothing in this act shall be construed to:

(1) Authorize any government entity to burden any religious belief; or

(2) Affect, interpret or in any way address those portions of Article I, Section 3 of the Constitution of Tennessee and the First Amendment to the United States Constitution that prohibit laws respecting the establishment of religion.

Granting government funds, benefits or exemptions, to the extent permissible under subdivision (d)(2) of this subsection shall not constitute a violation of this act. As used in this subsection, “granting” used with respect to government funding, benefits, or exemptions, shall not include the denial of government funding, benefits, or exemptions.

(e) A person whose religious exercise has been burdened by government in violation of this act may assert that violation as a claim or defense in any judicial or administrative proceeding and may obtain such declaratory relief, monetary damages as may properly be awarded by a court of competent jurisdiction, or both declaratory relief

and monetary damages. A person who prevails in any proceeding to enforce this act against a government entity may recover the person's reasonable costs and attorney's fees. Standing to assert a claim or defense under this act shall be governed by general rules of law which establish standing. The provisions of this subsection relating to attorney's fees shall not apply to criminal prosecutions.

(f) Any person found by a court with jurisdiction over the action to have abused the protections of this act by filing a frivolous or fraudulent claim may be assessed the government entity's court costs, if any, and may be enjoined from filing further claims under this act without leave of court.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.