

House File 2032 - Introduced

HOUSE FILE 2032

BY WILLS

A BILL FOR

1 An Act relating to the preservation of religious freedom.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 729.7 Religious freedom preserved.

2 1. As used in this section, unless the context otherwise
3 requires:

4 a. "*Demonstrates*" means meets the burdens of going forward
5 with the evidence and of persuasion under the standard of clear
6 and convincing evidence.

7 b. "*Exercise of religion*" means the practice or observance
8 of religion under Article I, section 3 of the Constitution of
9 the State of Iowa and the First Amendment to the Constitution
10 of the United States.

11 c. "*Fraudulent claim*" means a claim that is dishonest
12 in fact or that is made principally for a patently improper
13 purpose, such as to harass the opposing party.

14 d. "*Frivolous claim*" means a claim that completely lacks
15 merit under existing law and cannot be supported by a good
16 faith argument for the extension, modification, or reversal of
17 existing law or the establishment of new law.

18 e. "*Government entity*" means any branch, department, agency,
19 instrumentality of state government, or any official or other
20 person acting under color of state law, or any political
21 subdivision of the state.

22 f. "*Prevails*" means to obtain prevailing party status
23 as defined by courts construing the federal Civil Rights
24 Attorney's Fees Awards Act of 1976, 42 U.S.C. §1988.

25 g. "*Substantially burden*" means to inhibit or curtail
26 religiously motivated practice.

27 2. Except as provided in subsection 3, a government entity
28 shall not substantially burden a person's exercise of religion
29 even if the burden results from a law of general applicability.

30 3. A government entity shall not substantially burden a
31 person's exercise of religion unless the government entity
32 demonstrates that application of the burden to the person is
33 essential to further a compelling governmental interest and
34 is the least restrictive means of furthering that compelling
35 governmental interest.

1 4. a. This section shall not be construed to do any of the
2 following:

3 (1) Authorize any government entity to burden any religious
4 belief.

5 (2) Affect, interpret, or in any way address those portions
6 of Article I, section 3 of the Constitution of the State of
7 Iowa or the First Amendment to the Constitution of the United
8 States that prohibit laws respecting the establishment of
9 religion.

10 b. Granting government funds, benefits, or exemptions, to
11 the extent permissible under paragraph "a", subparagraph (2),
12 shall not constitute a violation of this section. As used in
13 this paragraph, "granting" used with respect to government
14 funding, benefits, or exemptions, shall not include the denial
15 of government funding, benefits, or exemptions.

16 5. A person whose exercise of religion has been burdened
17 by a government entity in violation of this section may
18 assert that violation as a claim or defense in any judicial
19 or administrative proceeding and may obtain such declaratory
20 relief or monetary damages as may properly be awarded by a
21 court of competent jurisdiction. A person who prevails in
22 any proceeding to enforce this section against a government
23 entity may recover all costs of the action including reasonable
24 attorney fees. The provisions of this subsection relating to
25 attorney fees shall not apply to criminal prosecutions.

26 6. A person found by a court of competent jurisdiction
27 to have abused the protections of this section by filing a
28 frivolous or fraudulent claim may be assessed the government
29 entity's court costs, if any, and may be enjoined from filing
30 further claims under this section without leave of the court.

31

EXPLANATION

32 The inclusion of this explanation does not constitute agreement with
33 the explanation's substance by the members of the general assembly.

34 This bill enacts new Code section 729.7 to prohibit a
35 government entity from burdening a person's exercise of

1 religion, even if the burden results from a law of general
2 applicability, unless the government entity can demonstrate
3 that the action constituting or resulting in the burden
4 furthers a compelling governmental interest and is the least
5 restrictive means of furthering that interest.

6 The bill defines "exercise of religion" as the practice
7 or observance of religion under Article I, section 3 of the
8 Constitution of the State of Iowa or the First Amendment to
9 the United States Constitution. The bill defines "government
10 entity" as any branch, department, agency, instrumentality of
11 state government, or any official or other person acting under
12 color of state law, or any political subdivision of the state.

13 The provisions of the bill do not authorize any government
14 entity to burden any religious belief and do not affect any
15 portions of Article I, section 3 of the Constitution of the
16 State of Iowa or the First Amendment to the United States
17 Constitution that prohibit laws respecting the establishment
18 of religion.

19 The bill provides that a person whose exercise of religion
20 has been burdened by a government entity may assert a violation
21 of new Code section 729.7 as a claim or defense in any judicial
22 or administrative proceeding and may obtain declaratory relief
23 or monetary damages. A person who prevails in any proceeding
24 to enforce the provisions of new Code section 729.7 against a
25 government entity may recover all costs of the action including
26 reasonable attorney fees, except that attorney fees may not be
27 recovered in cases of criminal prosecution.

28 The bill provides that a person found to have abused new
29 Code section 729.7 by filing a frivolous or fraudulent claim
30 may be assessed the government entity's court costs and
31 may be enjoined from filing further claims without leave of
32 court. The bill defines "fraudulent claim" as a claim that is
33 dishonest in fact or that is made principally for a patently
34 improper purpose, such as to harass the opposing party. The
35 bill defines "frivolous claim" as a claim that completely lacks

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1 merit under existing law and cannot be supported by a good
2 faith argument for the extension, modification, or reversal of
3 existing law or the establishment of new law.