

Senate File 2171 - Introduced

SENATE FILE 2171

BY GUTH, CHAPMAN, ROZENBOOM,
SEGEBART, JOHNSON, SCHULTZ,
BEHN, KRAAYENBRINK,
SHIPLEY, COSTELLO, and
GARRETT

A BILL FOR

1 An Act relating to the standard of judicial review and
2 providing a claim or defense when a state action burdens a
3 person's exercise of religion, and including effective date
4 provisions.

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

1 Section 1. NEW SECTION. 675.1 Short title.

2 This chapter shall be known and may be cited as the "Iowa
3 *Conscience Protection Act*".

4 Sec. 2. NEW SECTION. 675.2 Purpose.

5 The purposes of this chapter are as follows:

6 1. To ensure that strict scrutiny is applied in all cases
7 where state action burdens the exercise of religion.

8 2. To provide a claim or defense to a person whose exercise
9 of religion is burdened by state action.

10 Sec. 3. NEW SECTION. 675.3 Definitions.

11 As used in this chapter unless the context otherwise
12 requires:

13 1. "*Burden*" means any state action that directly or
14 indirectly constrains, inhibits, curtails, or denies the
15 exercise of religion by any person or compels any action
16 contrary to a person's exercise of religion, and includes but
17 is not limited to any state action that results in any of the
18 following:

19 a. Withholding of benefits.

20 b. Assessment of criminal, civil, or administrative
21 penalties.

22 c. Exclusion from governmental programs or access to
23 governmental facilities.

24 2. "*Compelling governmental interest*" means a governmental
25 interest of the highest magnitude that cannot otherwise be
26 achieved without burdening the exercise of religion.

27 3. "*Exercise of religion*" means the practice or observance
28 of religion. "*Exercise of religion*" includes but is not
29 limited to the ability to act or refuse to act in a manner
30 substantially motivated by a person's sincerely held religious
31 beliefs, whether or not the exercise is compulsory or central
32 to a larger system of religious belief.

33 4. "*Person*" means an individual, association, partnership,
34 corporation, place of worship, religious institution,
35 educational institution, adoption agency, estate, trust,

1 foundation, or other legal entity.

2 5. "*State action*" means the implementation or application
3 of any law, including but not limited to state laws, local
4 ordinances, rules, regulations, resolutions, and policies,
5 whether statutory or otherwise, or other action by the state,
6 an agency or instrumentality of the state, or any political
7 subdivision of the state, or any public official whose office
8 is authorized by law of the state.

9 Sec. 4. NEW SECTION. 675.4 Free exercise of religion
10 protected.

11 1. State action shall not burden a person's free
12 exercise of religion, even if the burden results from a law,
13 ordinance, rule, regulation, resolution, or policy of general
14 applicability, unless it is demonstrated that applying the
15 burden to the person's exercise of religion is essential to
16 further a compelling governmental interest and is the least
17 restrictive means of furthering that interest.

18 2. A person whose exercise of religion has been burdened
19 or is likely to be burdened in violation of this chapter may
20 assert such violation or impending violation as a claim or
21 defense in a judicial, administrative, or other proceeding,
22 regardless of whether the state or any other governmental
23 entity is a party to the proceeding. The person asserting such
24 a claim or defense may obtain appropriate relief, including
25 relief against the state or any other governmental entity
26 taking state action. Appropriate relief includes but is not
27 limited to injunctive relief, declaratory relief, compensatory
28 damages, costs, and attorney fees.

29 Sec. 5. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
30 immediate importance, takes effect upon enactment.

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 relates to the standard of judicial review when
35 a state action burdens a person's exercise of religion and

1 provides a claim or defense to a person whose exercise of
2 religion is burdened by a state action.

3 The bill defines "burden", "exercise of religion", "person",
4 and "state action".

5 The bill provides that state action shall not burden the
6 exercise of religion of any person unless the person or entity
7 seeking to apply the law to the person can show that the
8 burden is essential to furthering a compelling governmental
9 interest and is the least restrictive means of furthering that
10 interest. Under current law, a court does not apply heightened
11 scrutiny when reviewing a law that burdens a person's exercise
12 of religion when such law is generally applicable. The bill
13 defines "compelling governmental interest" as a governmental
14 interest of the highest magnitude that cannot be achieved
15 without burdening the exercise of religion.

16 The bill further provides that a person whose exercise of
17 religion has been or is likely to be burdened by state action
18 may assert such violation or impending violation as a claim or
19 defense in a judicial, administrative, or other proceeding.
20 The person asserting the claim may obtain injunctive relief,
21 declaratory relief, compensatory damages, costs, or attorney
22 fees.

23 The bill takes effect upon enactment.