

Senate Study Bill 1164 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL BY
CHAIRPERSON SCHULTZ)

A BILL FOR

- 1 An Act relating to the exercise of religion, and including effective date and applicability provisions.
- 2
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 331.301, subsection 1, Code 2023, is
2 amended to read as follows:

3 1. A county may, except as expressly limited by the
4 Constitution of the State of Iowa, and if not inconsistent
5 with the laws of the general assembly, exercise any power
6 and perform any function it deems appropriate to protect
7 and preserve the rights, privileges, and property of the
8 county or of its residents, and to preserve and improve the
9 peace, safety, health, welfare, comfort, and convenience
10 of its residents. This grant of home rule powers does not
11 include the power to enact private or civil law governing
12 civil relationships, except as incident to an exercise of an
13 independent county power, or to enact private or civil law
14 which violates section 675.4.

15 Sec. 2. Section 364.1, Code 2023, is amended to read as
16 follows:

17 **364.1 Scope.**

18 A city may, except as expressly limited by the Constitution
19 of the State of Iowa, and if not inconsistent with the laws
20 of the general assembly, exercise any power and perform
21 any function it deems appropriate to protect and preserve
22 the rights, privileges, and property of the city or of its
23 residents, and to preserve and improve the peace, safety,
24 health, welfare, comfort, and convenience of its residents.
25 This grant of home rule powers does not include the power
26 to enact private or civil law governing civil relationships,
27 except as incident to an exercise of an independent city power,
28 or to enact private or civil law which violates section 675.4.

29 Sec. 3. NEW SECTION. 675.1 Short title.

30 This chapter shall be known and may be cited as the
31 "*Religious Freedom Restoration Act*".

32 Sec. 4. NEW SECTION. 675.2 Legislative purpose and intent.

33 The purpose and intent of this chapter is all of the
34 following:

35 1. To restore the compelling governmental interest test

1 as set forth in *Sherbert v. Verner*, 374 U.S. 398 (1963) and
2 *Wisconsin v. Yoder*, 406 U.S. 205 (1972), and to guarantee its
3 application in all cases where the free exercise of religion is
4 substantially burdened by state action.

5 2. That this chapter be interpreted consistent with the
6 Religious Freedom Restoration Act of 1993, 42 U.S.C. §2000bb et
7 seq., federal case law, and federal jurisprudence.

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

10 Sec. 5. NEW SECTION. 675.3 Definitions.

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

13 1. "*Compelling governmental interest*" means a governmental
14 interest of the highest order that cannot otherwise be achieved
15 without burdening the exercise of religion.

16 2. "*Exercise of religion*" means the practice or observance
17 of religion. "*Exercise of religion*" includes but is not
18 limited to the ability to act or refuse to act in a manner
19 substantially motivated by one's sincerely held religious
20 belief, whether or not the exercise is compulsory or central to
21 a larger system of religious belief.

22 3. "*State action*" means the implementation or application
23 of any law, including but not limited to state and local laws,
24 ordinances, rules, regulations, and policies, whether statutory
25 or otherwise, or other action by the state or a political
26 subdivision, including a local government, municipality,
27 instrumentality, or public official authorized by law.

28 4. "*Substantially burden*" means any action that directly
29 or indirectly constrains, inhibits, curtails, or denies the
30 exercise of religion by any person or compels any action
31 contrary to a person's exercise of religion and includes but
32 is not limited to withholding of benefits; assessment of
33 criminal, civil, or administrative penalties; or exclusion from
34 governmental programs or access to governmental facilities.

35 Sec. 6. NEW SECTION. 675.4 Free exercise of religion

1 protected.

2 1. Government shall not substantially burden a person's
3 exercise of religion, even if the burden results from a rule
4 of general applicability, unless the government demonstrates
5 that applying the burden to that person's exercise of religion
6 is in furtherance of a compelling governmental interest and
7 is the least restrictive means of furthering that compelling
8 governmental interest.

9 2. Notwithstanding any other provision of law, a state
10 agency, political subdivision, or any elected or appointed
11 official or employee of this state shall not do any of the
12 following:

13 a. Treat religious conduct more restrictively than
14 comparable secular conduct because of alleged economic need or
15 benefit.

16 b. Treat religious conduct more restrictively than any
17 secular conduct of reasonably comparable risk.

18 3. A person whose exercise of religion has been
19 substantially burdened in violation of this chapter may
20 assert such violation as a claim or defense in a judicial
21 or administrative proceeding and obtain appropriate relief,
22 including damages, injunctive relief, or other appropriate
23 redress. Standing to assert a claim or defense under this
24 chapter shall be governed by the general rules of standing
25 under state and federal law. The plaintiff, if the prevailing
26 party, may also recover reasonable attorney fees and costs.

27 Sec. 7. EFFECTIVE DATE. This Act, being deemed of immediate
28 importance, takes effect upon enactment.

29 Sec. 8. APPLICABILITY. This Act applies to all state and
30 local laws and the implementation of state and local laws,
31 whether statutory or otherwise, and whether adopted before, on,
32 or after the effective date of this Act.

33

EXPLANATION

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

1 This bill prohibits a governmental entity from substantially
2 burdening a person's free exercise of religion. The bill
3 prohibits governmental entities from treating religious
4 conduct more restrictively than any secular conduct of
5 reasonably comparable risk or treating religious conduct more
6 restrictively than comparable secular conduct because of
7 alleged economic need or benefit.

8 Under current law, a court is not required to apply
9 heightened scrutiny when reviewing a law that burdens a
10 person's exercise of religion when such law is generally
11 applicable. The bill provides that a court shall apply the
12 compelling governmental interest test set forth in *Sherbert*
13 v. *Verner*, 374 U.S. 398 (1963), and *Wisconsin v. Yoder*, 406
14 U.S. 205 (1972), in such cases, so that the government cannot
15 substantially burden a person's exercise of religion unless
16 the government demonstrates that applying the law of general
17 applicability is in furtherance of a compelling governmental
18 interest and is the least restrictive means of furthering that
19 interest. The bill provides that a person whose exercise of
20 religion has been substantially burdened by the government may
21 assert such violation as a claim or defense in a judicial or
22 administrative proceeding, and provides that the governmental
23 entity may be liable for actual damages, attorney fees, costs,
24 and other appropriate remedies. The bill also allows the
25 person to obtain injunctive relief against the governmental
26 entity.

27 The bill prohibits a county or city from enacting a private
28 or civil law that would burden a person's free exercise of
29 religion in violation of the bill.

30 The bill takes effect upon enactment and applies to all state
31 and local laws.