

**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  
2 effective date and applicability provisions.  
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.