State of Arkansas

As Engrossed:  S4/1/15

A Bill

SENATE BILL 975

For An Act To Be Entitled

AN ACT TO AMEND ARKANSAS LAW CONCERNING THE FREE
EXERCISE OF RELIGION; TO ENACT THE RELIGIOUS FREEDOM
RESTORATION ACT; TO DECLARE AN EMERGENCY; AND FOR
OTHER PURPOSES.

Subtitle

TO AMEND ARKANSAS LAW CONCERNING THE FREE
EXERCISE OF RELIGION; TO ENACT THE
RELIGIOUS FREEDOM RESTORATION ACT; AND TO
DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code Title 16, Chapter 123, is amended to add an
additional subchapter to read as follows:

Subchapter 4 – Religious Freedom Restoration Act

16-123-401. Title.

This subchapter shall be known and may be cited as the "Religious
Freedom Restoration Act".

16-123-402. Legislative intent.
It is the intent of the General Assembly:

(1) To restore the compelling interest test as set forth in Sherbert v. Verner, 374 U.S. 398 (1963), and Wisconsin v. Yoder, 406 U.S. 205 (1972) and to guarantee its application in all cases in which free exercise of religion is substantially burdened;

(2) That this act be interpreted consistent with the Religious Freedom Restoration Act of 1993, 42 U.S.C., § 2000bb, federal case law, and federal jurisprudence; and

(3) To provide a claim or defense to persons whose religious exercise is substantially burdened by government.

As used in this subchapter:

(1) “Demonstrates” means meets the burdens of going forward with the evidence and of persuasion;

(2) “Exercise of religion” means religious exercise;

(3) “Government” includes a branch, department, agency, instrumentality, political subdivision, official, or other person acting under color of state law; and

(4) "State law" includes without limitation a law of a political subdivision.

(a) A government shall not substantially burden a person’s exercise of religion even if the burden results from a rule of general applicability, except that a government may substantially burden a person’s exercise of religion only if it demonstrates that application of the burden to the person is:

(1) In furtherance of a compelling governmental interest; and

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

(b)(1) A person whose religious exercise has been burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief against a government.

(2) Standing to assert a claim or defense under this section is governed by the general rules of standing under statute, the Arkansas Rules
of Criminal Procedure, the Arkansas Rules of Civil Procedure, or any court
holding from the state's appellate courts.

16-123-405. Construction and applicability.
(a) This subchapter applies to all state law, and the implementation
of state law, whether statutory or otherwise, and whether adopted before or
after the effective date of this act.
(b) State statutory law adopted after the effective date of this act
is subject to this subchapter unless the state statutory law explicitly
excludes the application by reference to this subchapter.
(c) This subchapter does not authorize any part of a government to
burden a religious belief.

16-123-406. Interpretation.
(a) This subchapter does not affect, interpret, or in any way address
that portion of the First Amendment of the United States Constitution
prohibiting laws respecting the establishment of religion or of Article 2, §
25 of the Arkansas Constitution concerning protection of religion.
(b) Granting government funding, benefits, or exemptions, to the
extent permissible under the First Amendment of the United States
Constitution prohibiting laws respecting the establishment of religion or of
Article 2, § 25 of the Arkansas Constitution, shall not constitute a
violation of this subchapter.
(c) As used in this section, "granting", with respect to government
funding, benefits, or exemptions, does not include the denial of government
funding, benefits, or exemptions.

The Department of Correction, the Department of Community Correction, a
county jail, and a detention facility are exempt from this subchapter.

SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
General Assembly of the State of Arkansas that there is not a higher
protection offered by the state than the protection of a person's right to
religious freedom; and that this act is immediately necessary because every
day that a person's right to religious freedom is threatened is a day that
the First Amendment to the United States Constitution is compromised.

Therefore, an emergency is declared to exist, and this act being immediately
necessary for the preservation of the public peace, health, and safety shall
become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor,
the expiration of the period of time during which the Governor may veto the
bill; or

(3) If the bill is vetoed by the Governor and the veto is
overridden, the date the last house overrides the veto.

/s/ J Hutchinson

APPROVED: 04/02/2015