

**Hall of the House of Representatives**  
90th General Assembly - Regular Session, 2015  
**Amendment Form**

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**Subtitle of House Bill No. 1228**

TO ENACT THE CONSCIENCE PROTECTION ACT AND TO PROVIDE REMEDIES AND PENALTIES FOR  
VIOLATING OR ABUSING RELIGIOUS PROTECTIONS; AND TO DECLARE AN EMERGENCY.

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**Amendment No. 1 to House Bill No. 1228**

Amend House Bill No. 1228 as originally introduced:

Page 2, line 1, delete "burdens" and substitute "substantially burdens"

AND

Page 2, line 4, delete "burdened" and substitute "substantially burdened"

AND

Page 2, delete lines 9 through 36, and substitute the following:

"16-123-403. Definitions.

As used in this subchapter:

(1) "Compelling governmental interest" means a governmental interest of the highest magnitude that cannot otherwise be achieved without burdening the exercise of religion;

(2) "Exercise of religion" means the practice or observance of religion including without limitation the ability to act or refuse to act in a manner substantially motivated by a person's sincerely held religious beliefs, whether or not the exercise is compulsory or central to a larger system of religious belief;

(3) "Government entity" means:

(A) A branch, department, agency, board, commission, or other instrumentality of:

(i) State government; or

(ii) A political subdivision of the state, including without limitation a city or county; or

(B) An official or other person acting under color of state law;

(4) "Person" means an individual, association, partnership, corporation, church, religious institution, estate, trust, foundation, or other legal entity;

(5) "Prevails" means to obtain prevailing party status as defined by courts construing the federal Civil Rights Attorney's Fees Awards



Act of 1976, 42 U.S.C. § 1988;

(6) "State action" means the implementation or application of any law, including without limitation state and local laws, ordinances, rules, regulations, and policies, whether statutory or otherwise, or other action by the state or any political subdivision thereof and any local government, municipality, instrumentality, or public official authorized by law in the state; and

(7)(A) "Substantial burden" means to prevent, inhibit, or curtail religiously-motivated practice consistent with a sincerely held religious belief.

(B) "Substantial burden" includes an indirect burden, including without limitation withholding benefits, assessing penalties, or an exclusion from programs or access to facilities."

AND

Page 3, delete lines 1 through 11

AND

Page 3, delete lines 14 through 17, and substitute the following:

"A state action shall not substantially burden a person's right to exercise of religion, even if the substantial burden results from a rule of general applicability, unless it is demonstrated that applying the substantial burden to the person's exercise of religion in this particular instance:"

AND

Page 3, line 25, delete "burden" and substitute "substantially burden"

AND

Page 4, delete lines 1 through 5 and substitute:

"(a) Regardless of whether the state or one of its political subdivisions is a party to the proceeding, a person whose exercise of religion has been substantially burdened, or is likely to be substantially burdened, in violation of § 16-123-404, may assert the violation or impending violation as a claim or defense in a judicial or administrative proceeding."

AND

Page 4, delete lines 15 and 16 and substitute:

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

The Amendment was read \_\_\_\_\_

**By: Representative Ballinger**  
**BPG/LNS - 02-10-2015 11:06:13**  
**BPG284**

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**Chief Clerk**