

**ARKANSAS SENATE**  
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. 2 to House Bill No. 1228**

Amend House Bill No. 1228 as engrossed, S2/26/15 (version: 02/26/2015 11:53:03 AM):

Page 1, delete lines 11 through 14, and substitute the following:

"AN ACT TO ENACT THE RELIGIOUS FREEDOM RESTORATION ACT TO BE KNOWN AS MARY'S LAW; TO PROVIDE PROTECTION FOR RELIGIOUS PRACTICE AND TO PROVIDE REMEDIES AND PENALTIES FOR VIOLATING OR ABUSING RELIGIOUS PROTECTIONS; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES."

AND

Page 1, delete lines 18 through 21, and substitute the following:

"TO ENACT THE RELIGIOUS FREEDOM RESTORATION ACT; AND TO DECLARE AN EMERGENCY."

AND

Page 1, delete lines 29 through 33, and substitute the following:

"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"."

AND

Page 2, delete line 9, and substitute the following:

16-123-403. Legislative findings.

The General Assembly finds that:

(1) The Arkansas Constitution recognizes the free exercise of religion;

(2) Laws neutral toward religion have the same potential to burden religious exercise as laws purposely intended to interfere with religious exercise;

(3) Governments should not substantially burden the free



exercise of religion without compelling justification;

(4) In Employment Division v. Smith, 494 U.S. 872 (1990), the United States Supreme Court virtually eliminated the requirement that the government justify burdens on religious exercise imposed by laws neutral toward religion;

(5) In response, Congress passed the Religious Freedom Restoration Act of 1993, 42 U.S.C., § 2000bb, to restore the compelling interest test set forth in the federal cases of Wisconsin v. Yoder, 406 U.S. 205 (1972), and Sherbert v. Verner, 374 U.S. 398 (1963);

(6) The compelling interest test is a workable test for striking sensible balances between religious liberty and competing government interests;

(7) In City of Boerne v. Flores, 521 U.S. 507 (1997), the United States Supreme Court held that the protections of religious exercise afforded by the Religious Freedom Restoration Act of 1993, 42 U.S.C. § 2000bb, only applied to religious exercise burdened by federal law or agencies and provided no protection from burdens on religious exercise from state or local law or governments;

(8) To provide the same level of protection from burdens on religious exercise from state or local governments, a state must enact an equivalent to the Religious Freedom Restoration Act of 1993, 42 U.S.C. § 2000bb, that was passed by Congress; and

(9) Since the 1997 Supreme Court decision in City of Boerne v. Flores, many states have enacted statutes similar to the Religious Freedom Restoration Act of 1993, 42 U.S.C. § 2000bb, including: Alabama, Arizona, Connecticut, Florida, Idaho, Illinois, Kansas, Kentucky, Louisiana, Mississippi, Missouri, New Mexico, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, and Virginia.

16-123-404. Definitions."

AND

Page 3, line 10, delete "16-123-404" and substitute "16-123-405"

AND

Page 3, line 21, delete "16-123-405" and substitute "16-123-406"

AND

Page 4, line 1, delete "16-123-406" and substitute "16-123-407"

AND

Page 4, line 5, delete "16-123-404" and substitute "16-123-405"

AND

Page 4, delete lines 7 through 13, and substitute the following:

"(b)(1) A person asserting a claim or defense under this subchapter may obtain appropriate relief, including relief against the state or a

political subdivision of the state when the state or the political subdivision of the state is a party to the proceedings.

(2) Appropriate relief under this subsection includes without limitation:

- (A) Injunctive relief;
- (B) Declaratory relief;
- (C) Compensatory damages; and
- (D) Costs and attorney's fees."

AND

Page 4, line 15, delete "16-123-407" and substitute "16-123-408"

The Amendment was read the first time, rules suspended and read the second time and \_\_\_\_\_

By: Senator Hester

BPG/LNS - 03-10-2015 10:24:42

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Secretary