

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

As Engrossed: S3/19/13

# A Bill

SENATE BILL 1119

5 By: Senator Hester  
6 By: Representative Ballinger  
7

## For An Act To Be Entitled

9 AN ACT TO ENACT THE RELIGIOUS FREEDOM RESTORATION  
10 ACT; TO PROVIDE REMEDIES AND PENALTIES FOR VIOLATING  
11 OR ABUSING RELIGIOUS PROTECTIONS UNDER THE ACT; AND  
12 FOR OTHER PURPOSES.  
13  
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## Subtitle

15 TO ENACT THE RELIGIOUS FREEDOM  
16 RESTORATION ACT; AND TO PROVIDE REMEDIES  
17 AND PENALTIES FOR VIOLATING OR ABUSING  
18 RELIGIOUS PROTECTIONS UNDER THE ACT.  
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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24 SECTION 1. DO NOT CODIFY. Legislative findings.

25 The General Assembly finds that it is a compelling state interest to  
26 enforce the generally applicable criminal laws of the State of Arkansas  
27 through the provisions of this act.  
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29 SECTION 2. Arkansas Code Title 16, Chapter 123, is amended to add an  
30 additional subchapter to read as follows:  
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32 Subchapter 4 – Religious Freedom Restoration Act  
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34 16-123-401. Title.

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



1  
2 16-123-402. Definitions.

3 As used in this subchapter:

4 (1)(A) "Burden" means to prevent, inhibit, or curtail  
5 religiously motivated practice consistent with a sincerely held religious  
6 belief.

7 (B) "Burden" includes an indirect burden including without  
8 limitation withholding benefits, assessing penalties, or an exclusion from  
9 programs or access to facilities;

10 (2) "Demonstrates" means meets the burdens of going forward with  
11 the evidence and of persuasion under the standard of clear and convincing  
12 evidence;

13 (3) "Exercise of religion" means the exercise of sincerely held  
14 religious beliefs guaranteed by:

15 (A) This subchapter;

16 (B) Arkansas Constitution, Article 2, §§ 24-26; or

17 (C) The First Amendment to the United States Constitution;

18 (4) "Fraudulent claim" means a claim that is dishonest in fact  
19 or that is made principally for a patently improper purpose including without  
20 limitation to harass the opposing party;

21 (5) "Frivolous claim" means a claim that completely lacks merit  
22 under existing law and cannot be supported by a good faith argument for the  
23 extension, modification, or reversal of existing law or the establishment of  
24 new law;

25 (6) "Government entity" means:

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

28 (i) State government; or

29 (ii) A political subdivision of the state; or

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

32 (7) "Prevails" means to obtain prevailing party status as  
33 defined by courts construing the federal Civil Rights Attorney's Fees Awards  
34 Act of 1976, 42 U.S.C. § 1988.

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36 16-123-403. Religious freedom preserved.

1 (a) Except as provided in subsection (b) of this section, a government  
2 entity shall not burden a person's free exercise of religion through the  
3 enforcement of a rule of general applicability or otherwise.

4 (b) A government entity shall not burden a person's free exercise of  
5 religion unless it demonstrates by clear and convincing evidence that  
6 application of the burden to the person and the specific act or refusal to  
7 act is:

8 (1) Essential to further a compelling governmental interest; and

9 (2) The least restrictive means of furthering the compelling  
10 governmental interest.

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12 16-123-404. Construction and applicability.

13 This subchapter does not:

14 (1) Authorize a government entity to burden a religious belief;

15 (2) Affect, interpret, or in any way address those portions of  
16 this subchapter, Article 2, §§ 24-26, of the Arkansas Constitution or the  
17 First Amendment to the United States Constitution that prohibit laws  
18 respecting the establishment of religion; or

19 (3) Prohibit a grant of government funds, benefits, or  
20 exemptions to the extent permissible under those portions of this subchapter,  
21 Article 2, §§ 24-26, of the Arkansas Constitution or the First Amendment to  
22 the United States Constitution that prohibit laws respecting the  
23 establishment of religion.

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25 16-123-405. Remedies and penalties.

26 (a)(1) A person whose exercise of religion has been burdened by a  
27 government entity in violation of this subchapter may in any judicial or  
28 administrative proceeding before a court or other tribunal of competent  
29 jurisdiction assert the violation as a claim or defense.

30 (2) The court or tribunal may grant any combination of  
31 declaratory relief, injunctive relief, and monetary damages deemed  
32 appropriate for the violation.

33 (b) A person who prevails against a government entity in any  
34 proceeding to enforce this subchapter may recover reasonable costs and  
35 attorney's fees.

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16-123-406. Exemptions.

The Department of Correction is exempt from this subchapter.

*/s/Hester*