
A BILL FOR AN ACT

RELATING TO RELIGIOUS RIGHTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The purpose of this Act is to ensure that
2 strict scrutiny is applied in all cases where state action
3 burdens the exercise of religion and to provide a claim or
4 defense to a person whose exercise of religion is burdened by
5 state action.

6 SECTION 2. Chapter 7, Hawaii Revised Statutes, is amended
7 by adding a new section to be appropriately designated and to
8 read as follows:

9 "§7- Exercise of religion; protected. (a) State
10 action shall not burden any person's right to exercise religion;
11 provided that a burden shall be permissible if the burden
12 results from a law or rule of general applicability and the
13 burden to the person's exercise of religion:

- 14 (1) Is essential to further a compelling governmental
15 interest; and
16 (2) Is the least restrictive means of furthering that
17 compelling governmental interest.



1 (b) A person whose exercise of religion has been burdened,
2 or is likely to be burdened, in violation of subsection (a) may
3 assert a violation or impending violation as a claim or defense
4 in a judicial proceeding, regardless of whether the State or a
5 county is a party to the proceeding. A person prevailing on a
6 claim or defense under this section may obtain appropriate
7 relief, including injunctive relief, declaratory relief,
8 compensatory damages, costs, and attorney fees against the
9 acting State or county.

10 (c) As used in the section:

11 "Burden" means any action that directly or indirectly
12 constrains, inhibits, curtails, or denies the exercise of
13 religion by any person or compels any action contrary to a
14 person's exercise of religion, including withholding benefits,
15 assessing criminal penalties, assessing civil penalties,
16 assessing administrative penalties, exclusion from governmental
17 programs, and exclusion of access to governmental facilities.

18 "Compelling governmental interest" means a governmental
19 interest of the highest magnitude that cannot otherwise be
20 achieved without burdening the exercise of religion.



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1 "Exercise of religion" means the practice or observance of
 2 religion, including the ability to act or refuse to act in a
 3 manner substantially motivated by a sincerely held religious
 4 belief, whether or not the exercise is compulsory or central to
 5 a larger system of religious belief.

6 "State action" means the implementation or application of
 7 any law or other action by the State or any county."

8 SECTION 3. This Act does not affect rights and duties that
 9 matured, penalties that were incurred, and proceedings that were
 10 begun before its effective date.

11 SECTION 4. New statutory material is underscored.

12 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: *RL McEnt*
 JAN 23 2017



H.B. NO. 823

Report Title:

Freedom of Religion; Rights

Description:

Prohibits the State or any county from burdening any person's right to exercise religion absent that burden being the least restrictive means of furthering a compelling governmental interest.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

