

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011  
4

# A Bill

HOUSE BILL 1917

5 By: Representative Hobbs  
6

## For An Act To Be Entitled

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

## Subtitle

14 TO ENACT THE RELIGIOUS FREEDOM  
15 RESTORATION ACT AND TO PROVIDE REMEDIES  
16 AND PENALTIES FOR VIOLATING OR ABUSING  
17 RELIGIOUS PROTECTIONS UNDER THE ACT.  
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19  
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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23 SECTION 1. Arkansas Code Title 16, Chapter 123, is amended to add an  
24 additional subchapter to read as follows:

25 Subchapter 4--Religious Freedom Restoration Act

26 16-123-401. Title.

27 This subchapter shall be known and may be cited as the "Religious  
28 Freedom Restoration Act".  
29

30 16-123-402. Definitions.

31 As used in this subchapter:

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

35 (B) "Burden" includes an indirect burden including without  
36 limitation withholding benefits, assessing penalties, or an exclusion from



1 programs or access to facilities;

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

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

7 (A) This subchapter;

8 (B) Arkansas Constitution, Art. 2, §§ 24-26; or

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

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

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

17 (6) "Government entity" means:

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

20 (i) State government; or

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

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

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

27  
 28 16-123-403. Religious freedom preserved.

29 (a) Except as provided in subsection (b) of this section, no  
 30 government entity shall burden a person's free exercise of religion through  
 31 the enforcement of a rule of general applicability or otherwise.

32 (b) No government entity shall burden a person's free exercise of  
 33 religion unless it demonstrates by clear and convincing evidence that  
 34 application of the burden to the person and the specific act or refusal to  
 35 act is:

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

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

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 4           16-123-404. Construction and applicability.

5           This subchapter does not:

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

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

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

16  
 17           16-123-405. Remedies and penalties.

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

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

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