

Effective 7/1/2025

63G-33-201 Free exercise of religion -- Limitations on burdens imposed by government -- Claims or defenses -- Attorney fees and costs.

- (1) The free exercise of religion is a fundamental right and applies to all government action, including action that is facially neutral.
- (2) Except as provided in Subsection (3):
 - (a) a government entity may not substantially burden the free exercise of religion of a person, regardless of whether the burden results from a rule of general applicability; and
 - (b) a person other than a government entity may not seek to apply or enforce government action against another person that substantially burdens the free exercise of religion of the other person, regardless of whether the burden results from a rule of general applicability.
- (3) A government entity or government action may substantially burden a person's free exercise of religion only if the government entity, or any other person seeking to enforce government action, demonstrates that the burden on the person's free exercise of religion is:
 - (a) essential to furthering a compelling governmental interest; and
 - (b) the least restrictive means of furthering the compelling governmental interest.
- (4) A person whose free exercise of religion is burdened in violation of this section:
 - (a) may assert the violation as a claim or defense in a judicial or administrative proceeding to obtain relief, regardless of whether a government entity is a party to the proceeding; and
 - (b) is not required to exhaust administrative remedies before bringing a claim, or raising a defense, described in this Subsection (4).
- (5)
 - (a) Except as provided in Subsection (5)(b), a person may not bring an action under this section against a government entity described in Subsections 63G-33-101(4)(a)(i) through (iii) unless, at least 60 days before the day on which the person brings the action, the person provides written notice to the government entity, in accordance with Subsections 63G-7-401(4)(b) through (d), that:
 - (i) states that the person intends to bring an action against the entity for a violation of this section;
 - (ii) describes the government action that has burdened or will burden the person's free exercise of religion; and
 - (iii) describes the manner in which the government action burdens or will burden the person's free exercise of religion.
 - (b) Subsection (5)(a) does not apply if the government action alleged in the action:
 - (i) is ongoing, and complying with Subsection (5)(a) will place an undue hardship on the person or increase the harm suffered by the person; or
 - (ii) is likely to occur or reoccur before the end of the 60-day period described in Subsection (5)(a).
- (6) A person who prevails in an action to enforce the provisions of this section against a government entity is entitled to recover reasonable attorney fees and costs.

Amended by Chapter 326, 2025 General Session