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EXERCISE OF RELIGION AMENDMENTS
2024 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Todd D. Weiler
House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This bill provides legal protections related to the free exercise of religion.

Highlighted Provisions:

This bill:

- defines terms;
- recognizes the freedom of religion as a fundamental right;
- prohibits a government entity from substantially burdening a person's free exercise of religion, unless the burden is essential to furthering a compelling governmental interest and is the least restrictive means of furthering that interest;
- addresses the assertion of claims or defenses under this bill; and
- provides that a person who prevails in an action to enforce the provisions of this bill against a government entity is entitled to recover attorney fees and costs.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL:

Utah Code Sections Affected:

ENACTS:

63G-31-101, as Utah Code Annotated 1953

63G-31-201, as Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

28 Section 1. **Uncodified language.**

- 29 (1) (a) WHEREAS, Utah has long protected and prized the religious freedom of people
30 of all faiths in the Utah Constitution and the Utah Code;
31 (b) WHEREAS, the federal Religious Freedom Restoration Act has protected religious
32 freedom for three decades, but does not extend to state law;
33 (c) WHEREAS, thirty-five states have implemented legal protections for the free
34 exercise of religion that are similar to the protections provided in this bill;
35 (d) WHEREAS, Utah has enacted a number of laws that balance religious freedom with
36 other important civil rights; and
37 (e) WHEREAS, this part complements, rather than disrupts, the balance described in
38 Subsection (1)(d).
39 (2) NOW, THEREFORE, the Legislature of the state of Utah enacts this bill to protect the
40 free exercise of religion in Utah.

41 Section 2. Section **63G-31-101** is enacted to read:

42 **63G-31-101 . Definitions.**

43 As used in this chapter:

- 44 (1) "Demonstrates" means to produce the evidence necessary to meet, and to meet, the
45 burden of persuasion.
46 (2) "Free exercise of religion" means the right to act or refuse to act in a manner
47 substantially motivated by a sincerely held religious belief, regardless of whether the
48 exercise is compulsory or central to a larger system of religious belief.
49 (3) "Government action" includes:
50 (a) a law, statute, ordinance, rule, policy, order, or other assertion of governmental
51 authority;
52 (b) the application of a law, statute, ordinance, rule, policy, order, or other assertion of
53 governmental authority;
54 (c) any action taken by, or on behalf of, a government entity;
55 (d) action taken by a person other than a government entity to:
56 (i) enforce a law, statute, ordinance, rule, policy, order, or other assertion of
57 governmental authority;
58 (ii) compel a government entity to act;
59 (iii) prohibit a government entity from acting; or
60 (iv) utilize an administrative or judicial proceeding of a government entity, or an
61 instrumentality or function of a government entity, to exert government power,

- 62 authority, or influence.
- 63 (4) (a) "Government entity" means:
- 64 (i) the state;
- 65 (ii) a court;
- 66 (iii) a county, city, town, metro township, school district, special district, special
- 67 service district, or other political subdivision of the state;
- 68 (iv) an independent entity;
- 69 (v) any person, when acting under color of state law; or
- 70 (vi) an employee or agent of an entity described in Subsections (4)(a)(i) through (v)
- 71 or Subsection (4)(b) who is acting in the capacity of an employee or agent of the
- 72 entity.
- 73 (b) "Government entity" includes an agency, bureau, office, department, division, board,
- 74 commission, institution, laboratory, or other instrumentality of a person described in
- 75 Subsection (4)(a).
- 76 (5) "Independent entity" means the same as that term is defined in Section 63E-1-102.
- 77 (6) (a) "Substantially burden" means that government action, directly or indirectly:
- 78 (i) constrains, limits, or denies the free exercise of religion by a person; or
- 79 (ii) compels a person to act, or fail to act, in a manner that is contrary to the person's
- 80 free exercise of religion.
- 81 (b) "Substantially burden" includes:
- 82 (i) any of the following in response to, or as a consequence of, the person's free
- 83 exercise of religion:
- 84 (A) withholding a government benefit;
- 85 (B) assessing criminal, civil, or administrative penalties or damages; or
- 86 (C) excluding a person from a government program or from access to a
- 87 government facility or service; and
- 88 (ii) a burden described in Subsections (6)(a) and (b)(i), regardless of whether the
- 89 burden is:
- 90 (A) imposed by:
- 91 (I) law, statute, ordinance, rule, policy, order, or other assertion of
- 92 governmental authority;
- 93 (II) the application of law, statute, rule, policy, order, or other assertion of
- 94 governmental authority; or
- 95 (III) any other means;

- 96 (B) applied or enforced by, or on behalf of, a government entity; or
 97 (C) applied or enforced by, or on behalf of, a person other than a government
 98 entity to:
 99 (I) enforce a law, statute, ordinance, rule, policy, order, or other assertion of
 100 governmental authority;
 101 (II) compel a government entity to act;
 102 (III) prohibit a government entity from acting; or
 103 (IV) utilize an administrative or judicial proceeding of a government entity, or
 104 an instrumentality or function of a government entity, to exert government
 105 power, authority, or influence.

106 Section 3. Section **63G-31-201** is enacted to read:

107 **63G-31-201 . Free exercise of religion -- Limitations on burdens imposed by**
 108 **government -- Claims or defenses -- Attorney fees and costs.**

- 109 (1) The free exercise of religion is a fundamental right and applies to all government action,
 110 including action that is facially neutral.
 111 (2) Except as provided in Subsection (3):
 112 (a) a government entity may not substantially burden the free exercise of religion of a
 113 person, regardless of whether the burden results from a rule of general applicability;
 114 and
 115 (b) a person other than a government entity may not seek to apply or enforce
 116 government action against another person that substantially burdens the free exercise
 117 of religion of the other person, regardless of whether the burden results from a rule of
 118 general applicability.
 119 (3) A government entity or government action may substantially burden a person's free
 120 exercise of religion only if the government entity, or any other person seeking to enforce
 121 government action, demonstrates that the burden on the person's free exercise of religion
 122 is:
 123 (a) essential to furthering a compelling governmental interest; and
 124 (b) the least restrictive means of furthering the compelling governmental interest.
 125 (4) A person whose free exercise of religion is burdened in violation of this section:
 126 (a) may assert the violation as a claim or defense in a judicial or administrative
 127 proceeding to obtain relief, regardless of whether a government entity is a party to the
 128 proceeding; and
 129 (b) is not required to exhaust administrative remedies before bringing a claim, or raising

- 130 a defense, described in this Subsection (4).
- 131 (5) (a) Except as provided in Subsection (5)(b), a person may not bring an action under
132 this section against a government entity described in Subsections 63G-31-101(4)(a)(i)
133 through (iii) unless, at least 60 days before the day on which the person brings the
134 action, the person provides written notice to the government entity, in accordance
135 with Subsections 63G-7-401(3)(b) through (d), that:
- 136 (i) states that the person intends to bring an action against the entity for a violation of
137 this section;
- 138 (ii) describes the government action that has burdened or will burden the person's free
139 exercise of religion; and
- 140 (iii) describes the manner in which the government action burdens or will burden the
141 person's free exercise of religion.
- 142 (b) Subsection (5)(a) does not apply if the government action alleged in the action:
- 143 (i) is ongoing, and complying with Subsection (5)(a) will place an undue hardship on
144 the person or increase the harm suffered by the person; or
- 145 (ii) is likely to occur or reoccur before the end of the 60-day period described in
146 Subsection (5)(a).
- 147 (6) A person who prevails in an action to enforce the provisions of this section against a
148 government entity is entitled to recover reasonable attorney fees and costs.
- 149 Section 4. **Effective date.**
- 150 This bill takes effect on May 1, 2024.