

**Senator Todd D. Weiler** proposes the following substitute bill:

**EXERCISE OF RELIGION AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Todd D. Weiler**

House Sponsor: Jordan D. Teuscher

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**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:**



26 ENACTS:

27 63G-31-101, Utah Code Annotated 1953

28 63G-31-201, Utah Code Annotated 1953

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

31 Section 1. **Uncodified language.**

32 (1) (a) WHEREAS, Utah has long protected and prized the religious freedom of people  
33 of all faiths in the Utah Constitution and the Utah Code;

34 (b) WHEREAS, the federal Religious Freedom Restoration Act has protected religious  
35 freedom for three decades, but does not extend to state law;

36 (c) WHEREAS, thirty-five states have implemented legal protections for the free  
37 exercise of religion that are similar to the protections provided in this bill;

38 (d) WHEREAS, Utah has enacted a number of laws that balance religious freedom  
39 with other important civil rights; and

40 (e) WHEREAS, this part complements, rather than disrupts, the balance described in  
41 Subsection (1)(d).

42 (2) NOW, THEREFORE, the Legislature of the state of Utah enacts this bill to protect  
43 the free exercise of religion in Utah.

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

45 **63G-31-101. Definitions.**

46 As used in this chapter:

47 (1) "Demonstrates" means to produce the evidence necessary to meet, and to meet, the  
48 burden of persuasion.

49 (2) "Free exercise of religion" means the right to act or refuse to act in a manner  
50 substantially motivated by a sincerely held religious belief, regardless of whether the exercise is  
51 compulsory or central to a larger system of religious belief.

52 (3) "Government action" includes:

53 (a) a law, statute, ordinance, rule, policy, order, or other assertion of governmental  
54 authority;

55 (b) the application of a law, statute, ordinance, rule, policy, order, or other assertion of

56 governmental authority;

57 (c) any action taken by, or on behalf of, a government entity;

58 (d) action taken by a person other than a government entity to:

59 (i) enforce a law, statute, ordinance, rule, policy, order, or other assertion of

60 governmental authority;

61 (ii) compel a government entity to act;

62 (iii) prohibit a government entity from acting; or

63 (iv) utilize an administrative or judicial proceeding of a government entity, or an

64 instrumentality or function of a government entity, to exert government power, authority, or

65 influence.

66 (4) (a) "Government entity" means:

67 (i) the state;

68 (ii) a court;

69 (iii) a county, city, town, metro township, school district, special district, special

70 service district, or other political subdivision of the state;

71 (iv) an independent entity;

72 (v) any person, when acting under color of state law; or

73 (vi) an employee or agent of an entity described in Subsections (4)(a)(i) through (v) or

74 Subsection (4)(b) who is acting in the capacity of an employee or agent of the entity.

75 (b) "Government entity" includes an agency, bureau, office, department, division,

76 board, commission, institution, laboratory, or other instrumentality of a person described in

77 Subsection (4)(a).

78 (5) "Independent entity" means the same as that term is defined in Section [63E-1-102](#).

79 (6) (a) "Substantially burden" means that government action, directly or indirectly:

80 (i) constrains, limits, or denies the free exercise of religion by a person; or

81 (ii) compels a person to act, or fail to act, in a manner that is contrary to the person's

82 free exercise of religion.

83 (b) "Substantially burden" includes:

84 (i) any of the following in response to, or as a consequence of, the person's free

85 exercise of religion:

86 (A) withholding a government benefit;

- 87 (B) assessing criminal, civil, or administrative penalties or damages; or
- 88 (C) excluding a person from a government program or from access to a government
- 89 facility or service; and
- 90 (ii) a burden described in Subsections (6)(a) and (b)(i), regardless of whether the
- 91 burden is:
  - 92 (A) imposed by:
    - 93 (I) law, statute, ordinance, rule, policy, order, or other assertion of governmental
    - 94 authority;
    - 95 (II) the application of law, statute, rule, policy, order, or other assertion of
    - 96 governmental authority; or
    - 97 (III) any other means;
    - 98 (B) applied or enforced by, or on behalf of, a government entity; or
    - 99 (C) applied or enforced by, or on behalf of, a person other than a government entity to:
      - 100 (I) enforce a law, statute, ordinance, rule, policy, order, or other assertion of
      - 101 governmental authority;
      - 102 (II) compel a government entity to act;
      - 103 (III) prohibit a government entity from acting; or
      - 104 (IV) utilize an administrative or judicial proceeding of a government entity, or an
      - 105 instrumentality or function of a government entity, to exert government power, authority, or
      - 106 influence.

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

108 **63G-31-201. Free exercise of religion -- Limitations on burdens imposed by**

109 **government -- Claims or defenses -- Attorney fees and costs.**

110 (1) The free exercise of religion is a fundamental right and applies to all government

111 action, including action that is facially neutral.

112 (2) Except as provided in Subsection (3):

113 (a) a government entity may not substantially burden the free exercise of religion of a

114 person, regardless of whether the burden results from a rule of general applicability; 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 of

117 religion of the other person, regardless of whether the burden results from a rule of general

118 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 is:

122 (a) essential to furthering a compelling governmental interest; and

123 (b) the least restrictive means of furthering the compelling governmental interest.

124 (4) A person whose free exercise of religion is burdened in violation of this section:

125 (a) may assert the violation as a claim or defense in a judicial or administrative  
126 proceeding to obtain relief, regardless of whether a government entity is a party to the  
127 proceeding; and

128 (b) is not required to exhaust administrative remedies before bringing a claim, or  
129 raising a defense, described in this Subsection (4).

130 (5) (a) Except as provided in Subsection (5)(b), a person may not bring an action under  
131 this section against a government entity described in Subsections [63G-31-101\(4\)\(a\)\(i\)](#) through  
132 (iii) unless, at least 60 days before the day on which the person brings the action, the person  
133 provides written notice to the government entity, in accordance with Subsections  
134 [63G-7-401\(3\)\(b\)](#) through (d), that:

135 (i) states that the person intends to bring an action against the entity for a violation of  
136 this section;

137 (ii) describes the government action that has burdened or will burden the person's free  
138 exercise of religion; and

139 (iii) describes the manner in which the government action burdens or will burden the  
140 person's free exercise of religion.

141 (b) Subsection (5)(a) does not apply if the government action alleged in the action:

142 (i) is ongoing, and complying with Subsection (5)(a) will place an undue hardship on  
143 the person or increase the harm suffered by the person; or

144 (ii) is likely to occur or reoccur before the end of the 60-day period described in  
145 Subsection (5)(a).

146 (6) A person who prevails in an action to enforce the provisions of this section against  
147 a government entity is entitled to recover reasonable attorney fees and costs.

148 Section 4. Section 5. **Effective date.**

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This bill takes effect on May 1, 2024.