

HOUSE BILL No. 2384

By Committee on Federal and State Affairs

3-11

1 AN ACT concerning civil procedure; relating to exercise of religion.

2
3 *Be it enacted by the Legislature of the State of Kansas:*

4 Section 1. As used in the Kansas preservation of religious freedom
5 act:

6 (a) "Burden" means any government action that directly or indirectly
7 constrains, inhibits, curtails or denies the exercise of religion by any
8 person or compels any action contrary to a person's exercise of religion,
9 and includes, but is not limited to, withholding benefits, assessing
10 criminal, civil or administrative penalties, or exclusion from government
11 programs or access to government facilities.

12 (b) (1) "Compelling governmental interest" includes, but is not
13 limited to: protecting the welfare of a child from all forms of cruelty,
14 neglect, degradation and inhumanity.

15 (2) "Compelling governmental interest" shall not include prohibition
16 of a practice or policy of discrimination against individuals in employment
17 relations, in access to free and public accommodations or in housing,
18 except as set forth in K.S.A. 44-1001 et seq., and amendments thereto, and
19 the laws and constitution of the United States.

20 (c) "Exercise of religion" means the practice or observance of
21 religion under section 7 of the bill of rights of the constitution of the state
22 of Kansas and the first amendment to the constitution of the United States
23 and includes the right to act or refuse to act in a manner substantially
24 motivated by a sincerely-held religious tenant or belief, whether or not the
25 exercise is compulsory or a central part or requirement of the person's
26 religious tenants or beliefs.

27 (d) "Fraudulent claim" means a claim that is dishonest in fact or that
28 is made principally for a patently improper purpose, such as to harass the
29 opposing party.

30 (e) "Government" includes the executive, legislative and judicial
31 branches and any and all agencies, boards, commissions, departments,
32 districts, authorities or other entities, subdivision or parts whatsoever of
33 state and local government as well as any person acting under color of law.

34 (f) "Person" means any legal person or entity under the laws of the
35 state of Kansas and the laws of the United States.

36 Sec. 2. (a) Government shall not substantially burden a person's

1 exercise of religion even if the burden results from a rule of general
2 applicability, unless such government demonstrates, by clear and
3 convincing evidence, that application of the burden to the person:

- 4 (1) Is in furtherance of a compelling governmental interest; and
- 5 (2) is the least restrictive means of furthering that compelling
6 governmental interest.

7 (b) A person whose exercise of religion has been burdened, or is
8 substantially likely to be burdened, in violation of this act, may assert such
9 violation as a claim or defense in a judicial proceeding. A court may grant
10 appropriate relief as may be necessary including:

- 11 (1) Injunctive relief;
- 12 (2) protective order;
- 13 (3) writ of mandamus or prohibition;
- 14 (4) declaratory relief;
- 15 (5) actual damages; or
- 16 (6) costs and attorney fees determined by the court.

17 (c) Any person found by a court of competent jurisdiction to have
18 abused the protection of this act by making a fraudulent claim may be
19 enjoined from filing further claims under this act without leave of court.

20 Sec. 3. (a) Nothing in this act shall be construed to:

21 (1) Impair the fundamental right of every parent to control the care
22 and custody of such parent's minor children, including, but not limited to,
23 control over education, discipline, religious and moral instruction, health,
24 medical care, welfare, place of habitation, counseling and psychological
25 and emotional well-being of such minor children;

26 (2) authorize any relationship, marital or otherwise, that would
27 violate section 15 of article 15 of the constitution of the state of Kansas;

28 (3) authorize the application or enforcement, in the courts of the state
29 of Kansas, of any law, rule, code or legal system other than the laws of the
30 state of Kansas and of the United States;

31 (4) limit any religious organization from receiving any funding or
32 other assistance from a government, or of any person to receive
33 government funding for a religious activity to the extent permitted by the
34 laws and constitution of the state of Kansas and of the United States; or

35 (5) protect actions or decisions to end the life of any child, born or
36 unborn.

37 (b) This act applies to all government action including, but not
38 limited to, all state and local laws, ordinances, rules, regulations and
39 policies and to their implementation, whether enacted or adopted before,
40 on or after the effective date of this act.

41 (c) This act shall not apply to penological rules, regulations,
42 conditions or policies which are established by a jail, correctional
43 institution, juvenile detention facility or a facility supervising offenders in

1 the community that are reasonably related to the safety and security of
2 incarcerated persons, staff, visitors, supervised offenders or the public; or
3 to maintain good order and discipline in any jail, correctional institution,
4 juvenile detention facility or a facility supervising offenders in the
5 community.

6 Sec. 4. Sections 1 through 3, and amendments thereto, shall be known
7 as and may be cited as the Kansas preservation of religious freedom act.

8 Sec. 5. This act shall take effect and be in force from and after its
9 publication in the statute book.