SENATE BILL No. 552

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-13-7.

Synopsis: Religious freedom restoration act. Allows the state, a political subdivision, or another governmental entity to substantially burden a person's exercise of religion only if the governmental entity can demonstrate that the application of the burden to the person is essential to further a compelling governmental interest and is the least restrictive means of imposing the burden. Allows a person with standing in an administrative or judicial proceeding to assert as a claim or defense that a governmental entity has unlawfully burdened the exercise of religion in violation of this law. Allows reasonable costs and attorney's fees to a person who prevails in asserting the claim or defense. Allows a court, upon finding that a person has filed a frivolous or fraudulent claim under this law, to enjoin the person from filing further claims under the law without leave of court.

Effective: July 1, 2001.

Adams K

January 23, 2001, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.

C o p y

Introduced

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

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SENATE BILL No. 552

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 34-13-7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

Chapter 7. State Religious Freedom Restoration Act

Sec. 1. This chapter shall not be construed to:

(1) authorize a governmental entity to burden any religious belief; or

(2) affect, interpret, or in any way address the portions of the Constitution of the State of Indiana and the Constitution of the United States that prohibit laws respecting the establishment of religion.

However, granting governmental funds, benefits, or exemptions shall not be construed to be a violation of this chapter.

Sec. 2. As used in this chapter, "demonstrates" means meeting the burdens of going forward with the evidence and of persuasion under the standard of clear and convincing evidence.

Sec. 3. As used in this chapter, "exercise of religion" means the

exercise of religion under any of the following:

(1) First Amendment to the Constitution of the United States.

(2) Constitution of the State of Indiana, Article 1, Section 2.

(3) Constitution of the State of Indiana, Article 1, Section 3.

(4) Constitution of the State of Indiana, Article 1, Section 4.

(5) Constitution of the State of Indiana, Article 1, Section 5.

(6) Constitution of the State of Indiana, Article 1, Section 6.

(7) Constitution of the State of Indiana, Article 1, Section 7.

Sec. 4. As used in this chapter, "fraudulent claim" means a claim that is dishonest in fact or that is made principally for a patently improper purpose, such as to harass an opposing party.

Sec. 5. As used in this chapter, "frivolous claim" means a claim that completely lacks merit under existing law and cannot be supported by a good faith argument for the extension, modification, or reversal of existing law or the establishment of a new law.

Sec. 6. As used in this chapter, "governmental entity" means any of the following:

(1) Any branch, department, agency, or instrumentality of state government.

(2) Any official or other person acting under color of state law.

(3) A political subdivision (as defined in IC 36-1-2-13).

Sec. 7. As used in this chapter, "granting", with respect to governmental funding, benefits, or exemptions, does not include the denial of governmental funding, benefits, or exemptions.

Sec. 8. As used in this chapter, "prevails" means to obtain prevailing party status, as defined by the courts construing the federal Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988).

Sec. 9. As used in this chapter, "substantially burden" means to inhibit or curtail religiously motivated practice.

Sec. 10. (a) Except as provided in subsection (b), no governmental entity shall substantially burden a person's exercise of religion even if the burden results from a rule of general applicability.

(b) No governmental entity shall substantially burden a person's free exercise of religion unless the governmental entity demonstrates that application of the burden to the person is:

(1) essential to further a compelling governmental interest; and

(2) the least restrictive means of furthering the compelling

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governmental interest.

Sec. 11. (a) A person whose exercise of religion has been burdened in violation of section 10 of this chapter may assert the violation as a claim or defense in any judicial or administrative proceeding.

(b) The person asserting a claim or defense against a governmental entity under subsection (a) may obtain such declaratory relief or monetary damages, or both, as may properly be awarded by the court or administrative body in which the claim or defense is asserted.

(c) This subsection does not apply to criminal proceedings. A person who prevails in a claim or defense asserted against a governmental entity under subsection (a) may recover the person's reasonable costs and attorney's fees.

(d) Standing to assert a claim or defense under subsection (a) shall be governed by the general rules of standing applicable to other claims and defenses that may be asserted in the judicial or administrative proceeding in which the claim or defense is asserted.

Sec. 12. A person found by a court with jurisdiction in a proceeding to have abused the protections of sections 10 and 11 of this chapter by filing a frivolous claim or fraudulent claim in the proceeding may:

(1) be assessed the governmental entity's court costs, if any; and

(2) be enjoined from filing further claims under this chapter without leave of court.

SECTION 2. [EFFECTIVE JULY 1, 2001] **IC 34-13-7, as added by this act, applies to all proceedings commenced after June 30, 2001, and all proceedings pending on July 1, 2001.**

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