

1 State of Arkansas  
2 90th General Assembly  
3 Regular Session, 2015  
4

*As Engrossed: S4/1/15*

# A Bill

SENATE BILL 975

5 By: Senators *J. Hutchinson, J. Hendren, Hickey, Irvin, J. English, B. Pierce, Elliott, L. Chesterfield,*  
6 *Burnett, J. Cooper*

7 *By: Representatives Ballinger, Shepherd, Bennett, M. Gray, Rushing, Vaught, Davis, Gates, Bragg,*  
8 *Collins, Pitsch, Dotson, Boyd, Cozart, Beck, G. Hodges, Eads, Hillman, Eubanks, Wardlaw, Henderson,*  
9 *Richmond, Brown, Womack, Sullivan*

## For An Act To Be Entitled

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12 *AN ACT TO AMEND ARKANSAS LAW CONCERNING THE FREE*  
13 *EXERCISE OF RELIGION; TO ENACT THE RELIGIOUS FREEDOM*  
14 *RESTORATION ACT; TO DECLARE AN EMERGENCY; AND FOR*  
15 *OTHER PURPOSES.*

## Subtitle

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19 *TO AMEND ARKANSAS LAW CONCERNING THE FREE*  
20 *EXERCISE OF RELIGION; TO ENACT THE*  
21 *RELIGIOUS FREEDOM RESTORATION ACT; AND TO*  
22 *DECLARE AN EMERGENCY.*

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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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27 *SECTION 1. Arkansas Code Title 16, Chapter 123, is amended to add an*  
28 *additional subchapter to read as follows:*

### *Subchapter 4 – Religious Freedom Restoration Act*

#### *16-123-401. Title.*

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33 *This subchapter shall be known and may be cited as the "Religious*  
34 *Freedom Restoration Act".*

#### *16-123-402. Legislative intent.*



1 It is the intent of the General Assembly:

2 (1) To restore the compelling interest test as set forth in  
3 Sherbert v. Verner, 374 U.S. 398 (1963), and Wisconsin v. Yoder, 406 U.S. 205  
4 (1972) and to guarantee its application in all cases in which free exercise  
5 of religion is substantially burdened;

6 (2) That this act be interpreted consistent with the Religious  
7 Freedom Restoration Act of 1993, 42 U.S.C., § 2000bb, federal case law, and  
8 federal jurisprudence; and

9 (3) To provide a claim or defense to persons whose religious  
10 exercise is substantially burdened by government.

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12 16-123-403. Definitions.

13 As used in this subchapter:

14 (1) "Demonstrates" means meets the burdens of going forward with  
15 the evidence and of persuasion;

16 (2) "Exercise of religion" means religious exercise;

17 (3) "Government" includes a branch, department, agency,  
18 instrumentality, political subdivision, official, or other person acting  
19 under color of state law; and

20 (4) "State law" includes without limitation a law of a political  
21 subdivision.

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23 16-123-404. Free exercise of religion protected.

24 (a) A government shall not substantially burden a person's exercise of  
25 religion even if the burden results from a rule of general applicability,  
26 except that a government may substantially burden a person's exercise of  
27 religion only if it demonstrates that application of the burden to the person  
28 is:

29 (1) In furtherance of a compelling governmental interest; and

30 (2) The least restrictive means of furthering that compelling  
31 governmental interest.

32 (b)(1) A person whose religious exercise has been burdened in  
33 violation of this section may assert that violation as a claim or defense in  
34 a judicial proceeding and obtain appropriate relief against a government.

35 (2) Standing to assert a claim or defense under this section is  
36 governed by the general rules of standing under statute, the Arkansas Rules

1 of Criminal Procedure, the Arkansas Rules of Civil Procedure, or any court  
2 holding from the state's appellate courts.

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4 16-123-405. Construction and applicability.

5 (a) This subchapter applies to all state law, and the implementation  
6 of state law, whether statutory or otherwise, and whether adopted before or  
7 after the effective date of this act.

8 (b) State statutory law adopted after the effective date of this act  
9 is subject to this subchapter unless the state statutory law explicitly  
10 excludes the application by reference to this subchapter.

11 (c) This subchapter does not authorize any part of a government to  
12 burden a religious belief.

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14 16-123-406. Interpretation.

15 (a) This subchapter does not affect, interpret, or in any way address  
16 that portion of the First Amendment of the United States Constitution  
17 prohibiting laws respecting the establishment of religion or of Article 2, §  
18 25 of the Arkansas Constitution concerning protection of religion.

19 (b) Granting government funding, benefits, or exemptions, to the  
20 extent permissible under the First Amendment of the United States  
21 Constitution prohibiting laws respecting the establishment of religion or of  
22 Article 2, § 25 of the Arkansas Constitution, shall not constitute a  
23 violation of this subchapter.

24 (c) As used in this section, "granting", with respect to government  
25 funding, benefits, or exemptions, does not include the denial of government  
26 funding, benefits, or exemptions.

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28 16-123-407. Exemptions.

29 The Department of Correction, the Department of Community Correction, a  
30 county jail, and a detention facility are exempt from this subchapter.

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32 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the  
33 General Assembly of the State of Arkansas that there is not a higher  
34 protection offered by the state than the protection of a person's right to  
35 religious freedom; and that this act is immediately necessary because every  
36 day that a person's right to religious freedom is threatened is a day that

1 the First Amendment to the United States Constitution is compromised.  
2 Therefore, an emergency is declared to exist, and this act being immediately  
3 necessary for the preservation of the public peace, health, and safety shall  
4 become effective on:

- 5 (1) The date of its approval by the Governor;  
6 (2) If the bill is neither approved nor vetoed by the Governor,  
7 the expiration of the period of time during which the Governor may veto the  
8 bill; or  
9 (3) If the bill is vetoed by the Governor and the veto is  
10 overridden, the date the last house overrides the veto.

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12 /s/J Hutchinson  
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