Florida Senate - 1998

CS for SB 296

 $\mathbf{B}\mathbf{y}$ the Committee on Judiciary and Senators Grant, Bronson and Klein

308-2142-98 1 A bill to be entitled An act relating to religious freedom; creating 2 the "Religious Freedom Restoration Act of 3 4 1998"; providing that government shall not substantially burden the exercise of religion; 5 6 providing exceptions; providing definitions; 7 providing for attorney's fees and costs; 8 providing applicability; providing 9 construction; providing an effective date. 10 WHEREAS, it is the finding of the Legislature of the 11 State of Florida that the framers of the Florida Constitution, 12 recognizing free exercise of religion as an unalienable right, 13 secured its protection in s. 3, Art. I of the State 14 15 Constitution, and WHEREAS, laws which are "neutral" toward religion may 16 17 burden the free exercise of religion as surely as laws intended to interfere with the free exercise of religion, and 18 19 WHEREAS, governments should not substantially burden 20 the free exercise of religion without compelling 21 justification, and 22 WHEREAS, the compelling interest test as set forth in 23 certain federal court rulings is a workable test for striking sensible balances between religious liberty and competing 24 25 prior governmental interests, and WHEREAS, it is the intent of the Legislature of the 26 State of Florida to establish the compelling interest test as 27 28 set forth in Sherbert v. Verner, 374 U.S. 398 (1963), and Wisconsin v. Yoder, 406 U.S. 205 (1972), to guarantee its 29 30 application in all cases where free exercise of religion is 31 substantially burdened, and to provide a claim or defense to 1

CODING: Words stricken are deletions; words underlined are additions.

```
1
   persons whose religious exercise is substantially burdened by
2
    government, NOW, THEREFORE,
3
4
   Be It Enacted by the Legislature of the State of Florida:
5
б
           Section 1.
                       Short title.--This act may be cited as the
7
   "Religious Freedom Restoration Act of 1998."
8
           Section 2. Definitions.--As used in this act:
          (1) "Government" or "state" includes any branch,
9
10
    department, agency, instrumentality, or official or other
11
    person acting under color of law of the state, a county,
    special district, municipality, or any other subdivision of
12
13
    the state.
          (2) "Demonstrates" means to meet the burden of going
14
15
    forward with the evidence and of persuasion.
               "Exercise of religion" means an act or refusal to
16
          (3)
17
    act that is substantially motivated by a religious belief,
18
    whether or not the religious exercise is compulsory or central
19
    to a larger system of religious belief.
           Section 3. Free exercise of religion protected .--
20
          (1)
              The government shall not substantially burden a
21
    person's exercise of religion, even if the burden results from
22
    a rule of general applicability, except that government may
23
24
    substantially burden a person's exercise of religion only if
25
    it demonstrates that application of the burden to the person:
              Is in furtherance of a compelling governmental
26
          (a)
27
    interest; and
28
              Is the least restrictive means of furthering that
          (b)
29
    compelling governmental interest.
30
          (2) A person whose religious exercise has been
31
   burdened in violation of this section may assert that
                                  2
```

CODING:Words stricken are deletions; words underlined are additions.

1 violation as a claim or defense in a judicial proceeding and 2 obtain appropriate relief. 3 Section 4. Attorney's fees and costs. -- The prevailing plaintiff in any action or proceeding to enforce a provision 4 of this act is entitled to reasonable attorney's fees and 5 б costs to be paid by the government. Section 5. Applicability; construction .--7 8 This act applies to all state law, and the (1)9 implementation of that law, whether statutory or otherwise, 10 and whether adopted before or after the enactment of this act. 11 (2) State law adopted after the date of the enactment of this act is subject to this act unless such law explicitly 12 excludes such application by reference to this act. 13 (3) Nothing in this act shall be construed to 14 authorize the government to burden any religious belief. 15 (4) Nothing in this act shall be construed to 16 circumvent the provisions of chapter 893, Florida Statutes. 17 18 Nothing in this act shall be construed to affect, (5) 19 interpret, or in any way address that portion of s. 3, Art. I of the State Constitution prohibiting laws respecting the 20 21 establishment of religion. (6) Nothing in this act shall create any rights by an 22 employee against an employer if the employer is not a 23 24 governmental agency. 25 Section 6. This act shall take effect upon becoming a 26 law. 27 28 29 30 31 3

CODING:Words stricken are deletions; words underlined are additions.

Florida Senate - 1998 308-2142-98

1	STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN COMMITTEE SUBSTITUTE FOR
2	Senate Bill 296
3	
4	The Committee Substitute for Senate Bill 296 removes any
5	references to incarcerated persons, thus establishing a uniform compelling interest test that applies to all persons.
6	The bill also allows attorney's fees for the prevailing plaintiff, instead of the prevailing party.
7	prainciff, inscead of the prevaiting party.
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
26	
27	
28	
29	
30	
31	
-	4

CODING: Words stricken are deletions; words underlined are additions.