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2 An act relating to religious freedom; creating  
3 the "Religious Freedom Restoration Act of  
4 1998"; providing that government shall not  
5 substantially burden the exercise of religion;  
6 providing exceptions; providing definitions;  
7 providing for attorney's fees and costs;  
8 providing applicability; providing  
9 construction; providing an effective date.

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11 WHEREAS, it is the finding of the Legislature of the  
12 State of Florida that the framers of the Florida Constitution,  
13 recognizing free exercise of religion as an unalienable right,  
14 secured its protection in s. 3, Art. I of the State  
15 Constitution, and

16 WHEREAS, laws which are "neutral" toward religion may  
17 burden the free exercise of religion as surely as laws  
18 intended to interfere with the free exercise of religion, and

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  
24 sensible balances between religious liberty and competing  
25 prior governmental interests, and

26 WHEREAS, it is the intent of the Legislature of the  
27 State of Florida to establish the compelling interest test as  
28 set forth in *Sherbert v. Verner*, 374 U.S. 398 (1963), and  
29 *Wisconsin v. Yoder*, 406 U.S. 205 (1972), to guarantee its  
30 application in all cases where free exercise of religion is  
31 substantially burdened, and to provide a claim or defense to

1 persons whose religious exercise is substantially burdened by  
2 government, NOW, THEREFORE,

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4 Be It Enacted by the Legislature of the State of Florida:

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6 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:

9 (1) "Government" or "state" includes any branch,  
10 department, agency, instrumentality, or official or other  
11 person acting under color of law of the state, a county,  
12 special district, municipality, or any other subdivision of  
13 the state.

14 (2) "Demonstrates" means to meet the burden of going  
15 forward with the evidence and of persuasion.

16 (3) "Exercise of religion" means an act or refusal to  
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.

20 Section 3. Free exercise of religion protected.--

21 (1) The government shall not substantially burden a  
22 person's exercise of religion, even if the burden results from  
23 a rule of general applicability, except that government may  
24 substantially burden a person's exercise of religion only if  
25 it demonstrates that application of the burden to the person:

26 (a) Is in furtherance of a compelling governmental  
27 interest; and

28 (b) Is the least restrictive means of furthering that  
29 compelling governmental interest.

30 (2) A person whose religious exercise has been  
31 burdened in violation of this section may assert that

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  
4 plaintiff in any action or proceeding to enforce a provision  
5 of this act is entitled to reasonable attorney's fees and  
6 costs to be paid by the government.

7 Section 5. Applicability; construction.--

8 (1) This act applies to all state law, and the  
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  
12 of this act is subject to this act unless such law explicitly  
13 excludes such application by reference to this act.

14 (3) Nothing in this act shall be construed to  
15 authorize the government to burden any religious belief.

16 (4) Nothing in this act shall be construed to  
17 circumvent the provisions of chapter 893, Florida Statutes.

18 (5) Nothing in this act shall be construed to affect,  
19 interpret, or in any way address that portion of s. 3, Art. I  
20 of the State Constitution prohibiting laws respecting the  
21 establishment of religion.

22 (6) Nothing in this act shall create any rights by an  
23 employee against an employer if the employer is not a  
24 governmental agency.

25 (7) Nothing in this act shall be construed to affect,  
26 interpret, or in any way address that portion of s. 3, Art. I  
27 of the State Constitution and Amendment 1 to the Constitution  
28 of the United States respecting the establishment of religion.

29 This act shall not be construed to permit any practice  
30 prohibited by those provisions.

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1           Section 6. This act shall take effect upon becoming a  
2 law.  
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