

GENERAL ASSEMBLY OF NORTH CAROLINA
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10343-MV-30

Short Title: NC Religious Freedom Restoration Act.

(Public)

Sponsors: Representative Echevarria.

Referred to:

A BILL TO BE ENTITLED
AN ACT TO FURTHER PROTECT THE PRACTICE OF RELIGION AND TO ENACT THE
NORTH CAROLINA RELIGIOUS FREEDOM RESTORATION ACT.

The General Assembly of North Carolina enacts:

SECTION 1. It is the intent of the General Assembly that religious gatherings in places of worship and homes be free from restrictions that may be caused by the incidental effects of neutral laws of general applicability. Neutrally applied action by counties, local municipalities, or homeowners' associations that incidentally burden the practice of religion can have effects akin to harassment, even if not intended. The purpose of this act is to better ensure that no human authority may restrict faith practices.

SECTION 2. G.S. 41A-4 reads as rewritten:

"§ 41A-4. Unlawful discriminatory housing practices.

(a) It is an unlawful discriminatory housing practice for any person ~~in a real estate transaction, to whom the requirements and prohibitions of this Chapter apply,~~ because of race, color, religion, sex, national origin, handicapping condition, or familial status ~~to do any of the following:~~

...

(e) It is an unlawful discriminatory housing practice to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, on account of having exercised or enjoyed, or on account of having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by this Chapter.

...

(h) With respect to subdivision (a)(8) of this section, it is an unlawful discriminatory housing practice for any governmental entity or a homeowners' association to restrict religious gatherings in a dwelling or to burden the practice of religion in the neighborhood or area in which the dwelling is located.

SECTION 3.(a) Chapter 99D of the General Statutes is amended by adding a new Article to read:

"Article 2.

"The North Carolina Religious Freedom Restoration Act.

"§ 99D-20. Short title.

This Article shall be known and may be cited as the North Carolina Religious Freedom Restoration Act.

"§ 99D-21. Purpose.



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The purposes of this Article are to (i) ensure that in all cases where State action burdens the exercise of religion, strict scrutiny is applied and (ii) provide a claim or defense to a person whose exercise of religion is burdened by State action.

"§ 99D-22. Definitions.

The following definitions apply in this Article:

- (1) Burden. – Any action that directly or indirectly constrains, inhibits, curtails, or denies the exercise of religion by any person or compels any action contrary to a person's exercise of religion. The term includes, but is not limited to, withholding benefits; assessing criminal, civil, or administrative penalties; or exclusion from governmental programs or access to governmental facilities.
- (2) Compelling governmental interest. – A governmental interest of the highest magnitude that cannot otherwise be achieved without burdening the exercise of religion.
- (3) Exercise of religion. – The practice or observance of religion. The term includes, but is not limited to, the ability to act or refuse to act in a manner substantially motivated by one's sincerely held religious beliefs, whether or not the exercise is compulsory or central to a larger system of religious belief.
- (4) Person. – Any individual, association, partnership, corporation, church, religious institution, estate, trust, foundation, or other legal entity.
- (5) State action. – The implementation or application of any law, including, but not limited to, State and local laws, ordinances, rules, regulations, and policies, whether statutory or otherwise, or other action by the State or any political subdivision of the State and any local government, municipality, instrumentality, or public official authorized by law in the State.

"§ 99D-23. Free exercise of religion protected.

(a) State action shall not burden a person's right to exercise of religion, even if the burden results from a rule of general applicability, unless it is demonstrated that applying the burden to that person's exercise of religion in this particular instance is both of the following:

- (1) Essential to further a compelling governmental interest.
- (2) The least restrictive means of furthering that compelling governmental interest.

(b) A person whose exercise of religion has been burdened, or is likely to be burdened, in violation of this Article may assert the violation or impending violation as a claim or defense in a judicial proceeding, regardless of whether the State or one of its political subdivisions is a party to the proceeding. The person asserting the claim or defense may obtain appropriate relief, including relief against the State or its political subdivisions. Appropriate relief shall include attorneys' fees and costs and may include, but is not limited to, injunctive relief, declaratory relief, and compensatory damages for pecuniary and nonpecuniary losses.

"§ 99D-24. Limitations.

(a) Nothing in this Article shall be construed to do any of the following:

- (1) Authorize the State to burden any religious belief.
- (2) Affect, interpret, or in any way address portions of the First Amendment to the United States Constitution or Section 13 of Article I of the North Carolina Constitution that prohibit laws respecting the establishment of religion.

(b) Granting government funding, benefits, or exemptions, to the extent permissible under the First Amendment to the United States Constitution or Section 13 of Article I of the North Carolina Constitution, does not constitute a violation of this Article. As used in this subsection, the term "granting," used with respect to government funding, benefits, or exemptions, does not include the denial of government funding, benefits, or exemptions.

"§ 99D-25. Severability.

1 If any provision of this Article or its application is held invalid, the invalidity does not affect
2 other provisions or applications and, to this end, the provisions of this Article are severable."

3 **SECTION 3.(b)** Chapter 99D of the General Statutes is amended by adding a new
4 Article 1 to be entitled "Interference with Civil Rights" and to consist of G.S. 99D-1. The Revisor
5 of Statutes shall substitute "section" for "Chapter" anywhere it appears in G.S. 99D-1.

6 **SECTION 4.** G.S. 166A-19.2 reads as rewritten:

7 **"§ 166A-19.2. Construction; limitations.**

8 (a) Construction. – Nothing in this Article shall be construed to do any of the following:

9 (1) Interfere with dissemination of news or comment on public affairs; but any
10 communications facility or organization, including, but not limited to, radio
11 and television stations, wire services, and newspapers may be requested to
12 transmit or print public service messages furnishing information or
13 instructions in connection with an emergency, disaster, or war.

14 (2) Limit, modify, or abridge the authority of the Governor to declare martial law
15 or exercise any other powers vested in the Governor under the North Carolina
16 Constitution, statutes, or common law of this State independent of, or in
17 conjunction with, any provisions of this Article.

18 (b) Religious Institutions. – No religious institution ~~shall be~~ is subject to an executive
19 order, secretarial declaration, municipal or local government prohibition or restriction, or a rule
20 or regulation by a political subdivision of this State that distinguishes between religious
21 institutions and other public or private for-profit or nonprofit entities that are subject to or
22 affected by the same or similar emergency in a way that imposes additional limitations on the
23 religious institution. For the purposes of this subsection, the term "religious institution" has the
24 same meaning as in G.S. 131F-2.

25 A religious institution may be required to comply with neutral health, safety, or occupancy
26 requirements during a state of emergency that are applicable to all organizations or businesses
27 providing essential services if those requirements do not impose a substantial burden on religious
28 services or if the State demonstrates that the burden is both (i) essential to further a compelling
29 State interest and (ii) the least restrictive means of furthering that interest. For the purposes of
30 asserting a violation of this subsection, to the extent that G.S. 99D-23 conflicts with Part 7 of this
31 Article, G.S. 99D-23 prevails.

32 (c) Limitation. – Nothing in this Article authorizes or empowers the Governor or the
33 Governor's designee to waive, modify, suspend, or fail to enforce or execute any provision of
34 Chapter 96 of the General Statutes."

35 **SECTION 5.** If any section or provision of this act is declared unconstitutional or
36 invalid by the courts, it does not affect the validity of this act as a whole or any part other than
37 the part so declared to be unconstitutional or invalid.

38 **SECTION 6.** This act is effective when it becomes law and applies to State action
39 in effect on or after that date.