

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 3042

By DELEGATES PINSON, CROUSE, FOSTER, C. PRITT,

FAST, RIDENOUR, BURKHAMMER, KIRBY, MALLOW,

WORRELL AND MARTIN

[Passed February 28, 2023; in effect ninety days from passage.]

1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §35-1A-1, all relating to forbidding excessive government limitations on
3 exercise of religion; forbidding government from treating religious conduct more
4 restrictively than any conduct of reasonably comparable risk; forbidding government from
5 treating religious conduct more restrictively than comparable conduct because of alleged
6 economic need or benefit; ensuring that, in all cases where state action is alleged to
7 substantially burden the exercise of religion, that a compelling interest test is mandated,
8 and strict scrutiny is applied; providing remedies; and addressing applicability and
9 construction.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1A. EQUAL PROTECTION FOR RELIGION ACT.

§35-1A-1. Government limitations related to the exercise of religion.

1 (a) Notwithstanding any other provision of law, no state action may:

2 (1) Substantially burden a person's exercise of religion unless applying the burden to that
3 person's exercise of religion in a particular situation is essential to further a compelling
4 governmental interest; and is the least restrictive means of furthering that compelling
5 governmental interest; nor

6 (2) Treat religious conduct more restrictively than any conduct of reasonably comparable
7 risk; nor

8 (3) Treat religious conduct more restrictively than comparable conduct because of alleged
9 economic need or benefit.

10 (b) (1) A person whose exercise of religion has been substantially burdened, or is likely to
11 be substantially burdened, in violation of this article may assert such violation or impending
12 violation, including against the state or its political subdivisions, as a claim or as a defense in any
13 judicial or administrative proceeding: *Provided*, That relief is limited to injunctive or declaratory
14 relief and reimbursement of costs and reasonable attorney fees.

15 (2) Nothing in this article may be construed to create a cause of action by an employee
16 against a nongovernmental employer; nor may anything in this article be construed to constitute
17 a defense to any claim based upon a refusal to provide emergency medical services as required
18 by the Emergency Medical Treatment and Active Labor Act, 42 U.S.C. § 1395dd; nor may
19 anything in this article be construed to protect actions or decisions to end the life of any human
20 being, born or unborn, including, but limited to, any claim or defense arising out of a violation of
21 §16-2F-1 et seq., §16-2I-1 et seq., §16-2M-1 et seq., §16-2O-1, §16-2P-1, §16-2Q-1, §16-2R-1
22 et seq., §16-5-22, §30-1-26, §33-42-8, or §61-2-8 of this code.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

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Clerk of the House of Delegates

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Clerk of the Senate

Originated in the House of Delegates.

In effect ninety days from passage.

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Speaker of the House of Delegates

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President of the Senate

The within is this the.....
Day of, 2023.

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Governor