



January 21, 2015

SENATE BILL No. 101

DIGEST OF SB 101 (Updated January 20, 2015 9:48 am - DI ck)

Citations Affected: IC 34-13.

Synopsis: Religious freedom restoration. Prohibits a governmental entity from substantially burdening a person's exercise of religion, even if the burden results from a rule of general applicability, unless the governmental entity can demonstrate that the burden: (1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering the compelling governmental interest. Provides a procedure for remedying a violation.

Effective: July 1, 2015.

Kruse

January 6, 2015, read first time and referred to Committee on Rules & Legislative Procedure.

January 20, 2015, amended, reported favorably — Do Pass; reassigned to Committee on Judiciary.

SB 101—LS 6177/DI 13



January 21, 2015

First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE BILL No. 101

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 34-13-9 IS ADDED TO THE INDIANA CODE AS
2 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2015]:
4 **Chapter 9. Religious Freedom Restoration**
5 **Sec. 1. This chapter applies to all governmental entity statutes,**
6 **ordinances, resolutions, executive or administrative orders,**
7 **regulations, customs, and usages regardless of whether they were**
8 **enacted, adopted, or initiated before, on, or after July 1, 2015.**
9 **Sec. 2. A governmental entity statute, ordinance, resolution,**
10 **executive or administrative order, regulation, custom, or usage**
11 **may not be construed to be exempt from the application of this**
12 **chapter unless a state statute expressly exempts the statute,**
13 **ordinance, resolution, executive or administrative order,**
14 **regulation, custom, or usage from the application of this chapter by**
15 **citation to this chapter.**
16 **Sec. 3. (a) The following definitions apply throughout this**

SB 101—LS 6177/DI 13



- 1 section:
- 2 (1) "Establishment Clause" refers to the part of the First
- 3 Amendment of the Constitution of the United States or the
- 4 Constitution of the State of Indiana prohibiting laws
- 5 respecting the establishment of religion.
- 6 (2) "Granting", used with respect to government funding,
- 7 benefits, or exemptions, does not include the denial of
- 8 government funding, benefits, or exemptions.
- 9 (b) This chapter may not be construed to affect, interpret, or in
- 10 any way address the Establishment Clause.
- 11 (c) Granting government funding, benefits, or exemptions, to the
- 12 extent permissible under the Establishment Clause, does not
- 13 constitute a violation of this chapter.
- 14 Sec. 4. As used in this chapter, "demonstrates" means meets the
- 15 burdens of going forward with the evidence and of persuasion.
- 16 Sec. 5. As used in this chapter, "exercise of religion" includes
- 17 any exercise of religion, whether or not compelled by, or central to,
- 18 a system of religious belief.
- 19 Sec. 6. As used in this chapter, "governmental entity" includes
- 20 a branch, department, agency, instrumentality, official, or other
- 21 individual or entity acting under color of law of any of the
- 22 following:
- 23 (1) State government.
- 24 (2) A political subdivision (as defined in IC 36-1-2-13).
- 25 (3) An instrumentality of a governmental entity described in
- 26 subdivision (1) or (2).
- 27 Sec. 7. As used in this chapter, "person" includes the following:
- 28 (1) An individual.
- 29 (2) An organization, a religious society, a church, a body of
- 30 communicants, or a group organized and operated primarily
- 31 for religious purposes.
- 32 (3) A partnership, a limited liability company, a corporation,
- 33 a company, a firm, a society, a joint-stock company, an
- 34 unincorporated association, or another entity that:
- 35 (A) may sue and be sued; and
- 36 (B) exercises practices that are compelled or limited by a
- 37 system of religious belief held by:
- 38 (i) an individual; or
- 39 (ii) the individuals;
- 40 who have control and substantial ownership of the entity,
- 41 regardless of whether the entity is organized and operated for
- 42 profit or nonprofit purposes.



1 **Sec. 8. (a)** Except as provided in subsection (b), a governmental
 2 entity may not substantially burden a person's exercise of religion,
 3 even if the burden results from a rule of general applicability.

4 **(b)** A governmental entity may substantially burden a person's
 5 exercise of religion only if the governmental entity demonstrates
 6 that application of the burden to the person:

7 (1) is in furtherance of a compelling governmental interest;

8 and

9 (2) is the least restrictive means of furthering that compelling
 10 governmental interest.

11 **Sec. 9.** A person whose exercise of religion is substantially
 12 burdened by a violation of this chapter may enforce this chapter
 13 against a governmental entity in any judicial or administrative
 14 proceeding by:

15 (1) asserting the violation as a claim or defense; and

16 (2) if the governmental entity is not a party to the proceeding,
 17 joining the governmental entity as a party in the proceeding;
 18 in accordance with the procedural rules applicable to the court or
 19 other tribunal.

20 **Sec. 10.** If a court or other tribunal in which a violation of this
 21 chapter is asserted in conformity with section 9 of this chapter
 22 determines that:

23 (1) the person's exercise of religion has been substantially
 24 violated; and

25 (2) the governmental entity imposing the burden has not
 26 demonstrated that the burden to the person:

27 (A) is in furtherance of a compelling governmental
 28 interest; and

29 (B) is the least restrictive means of furthering that
 30 compelling governmental interest;

31 the court or other tribunal shall grant appropriate relief against
 32 the governmental entity. Relief may include an injunction or
 33 mandate that prevents, restrains, corrects, or abates the violation
 34 of this chapter.



COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 101, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Judiciary.

(Reference is to SB 101 as introduced.)

LONG, Chairperson

