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HOUSE BILL NO. 668

Offered January 22, 1998

A BILL to amend the Code of Virginia by adding in Title 57 a chapter numbered 1.1, consisting of sections numbered 57-2.5, 57-2.6, and 57-2.7, relating to the protection of religious freedom.

Patrons—Plum, Abbitt, Almand, Barlow, Bennett, Brink, Bryant, Byron, Callahan, Clement, Cranwell, Darner, Davies, Day, Deeds, Devolites, Diamonstein, Dickinson, Drake, Grayson, Guest, Hall, Hargrove, Howell, Ingram, Jackson, Johnson, Jones, D.C., Keating, Marshall, May, McClure, Moran, Morgan, Murphy, Nixon, Parrish, Puller, Purkey, Putney, Ruff, Scott, Sherwood, Shuler, Stump, Tata, Tate, Van Landingham, Van Yahres, Wagner, Wardrup, Watts, Weatherholtz and Woodrum; Senators: Bolling, Couric, Edwards, Hanger, Houck, Howell, Lucas, Quayle, Reynolds, Saslaw, Watkins, Williams and Woods

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 57 a chapter numbered 1.1, consisting of sections numbered 57-2.5, 57-2.6, and 57-2.7, as follows:

CHAPTER 1.1.**VIRGINIA RELIGIOUS FREEDOM PROTECTION ACT.**

§ 57-2.5. As used in this chapter:

"Compelling governmental interest" means a specific and legitimate interest of a government that is of the highest order in the context in which it is asserted.

"Fraudulent claim" means a claim that is dishonest in fact or that is made principally for a patently improper purpose, such as to harass the opposing party.

"Frivolous claim" means a claim that completely lacks merit under existing law and cannot be supported by a good faith argument for the extension, modification, or reversal of existing law or the establishment of new law.

"Government" means any branch, department, agency, instrumentality, and official or other person acting under color of law of this Commonwealth, or any political subdivision thereof.

"Person" means individuals, groups, and organizations, whether or not incorporated.

"Prevails" means to obtain "prevailing party" status as defined by courts construing the federal Civil Rights Attorney's Fees Awards Act of 1976, 42 U.S.C. § 1988.

"Religion" and "religious" derive their content and meaning from Article I, § 16 of the Constitution of Virginia.

"Rule" means any statute, law, ordinance, regulation, order, injunction, judgment, policy or practices.

"Substantially burden" means to meaningfully inhibit or curtail religiously motivated practice.

§ 57-2.6. Free exercise of religion protected.

A. Government shall not discriminate against any person based on religion, nor suppress any religious belief.

B. Government shall not substantially burden the exercise of a person's sincerely held religious belief, even if the burden results from a neutral rule of general application, unless the government proves by clear and convincing evidence that application of the burden to the person is the least restrictive means to achieve a compelling governmental interest.

C. A person whose religious exercise has been burdened by government in violation of this section may assert that violation as a claim or defense in any judicial or administrative proceeding and may obtain such declaratory relief, injunctive relief, and/or monetary damages as may properly be awarded by a court of competent jurisdiction. A person who prevails in any proceeding that enforces this Act against a government shall recover his reasonable costs and attorney's fees.

§ 57-2.7. Frivolous and fraudulent claims prohibited.

Any person found by a court with jurisdiction over the action to have abused the protections of this Act by filing a frivolous or fraudulent claim hereunder may be assessed with the government's court costs, if any, and may be enjoined from filing further claims under this Act without leave of court.

2. That an emergency exists and this act is in force from its passage.

INTRODUCED

HB668