

---

---

# HOUSE BILL No. 1152

---

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 34-13-8.

**Synopsis:** Religious freedom restoration act. Allows the executive branch of state government or a political subdivision to substantially burden a person's exercise of religion only if the governmental entity can demonstrate the application of the burden is: (1) essential to further a compelling governmental interest; and (2) the least restrictive means of imposing the burden. Allows a person to assert as a claim or defense that a governmental entity has substantially burdened the exercise of religion. Allows reasonable costs and attorney's fees to a person who prevails in asserting the claim or defense. Allows a court, upon finding that a person filed a frivolous or fraudulent claim or defense, to enjoin the person from filing further claims or defenses.

**Effective:** July 1, 2007.

---

---

**Noe**

---

---

January 11, 2007, read first time and referred to Committee on Public Policy.

---

---

C  
o  
p  
y



First Regular Session 115th General Assembly (2007)

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 *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

C  
o  
p  
y

# HOUSE BILL No. 1152



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 34-13-8 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2007]:

4 **Chapter 8. Religious Freedom Restoration Act**

5 **Sec. 1. This chapter may not be construed to:**

- 6 (1) **authorize a governmental entity to burden any religious belief; or**
- 7
- 8 (2) **affect, interpret, or in any way address the parts of the**
- 9 **Constitution of the State of Indiana and the Constitution of**
- 10 **the United States that prohibit laws respecting the**
- 11 **establishment of religion.**

12 **However, granting governmental funds, benefits, or exemptions**  
13 **may not be construed to be a violation of this chapter.**

14 **Sec. 2. As used in this chapter, "demonstrates" means meeting**  
15 **the burdens:**

- 16 (1) **of going forward with the evidence; and**
- 17 (2) **of persuasion;**



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

under the standard of clear and convincing evidence.

**Sec. 3. As used in this chapter, "exercise of religion" means the exercise of religion under any of the following:**

- (1) First Amendment to the Constitution of the United States.**
- (2) Constitution of the State of Indiana, Article 1, Section 2.**
- (3) Constitution of the State of Indiana, Article 1, Section 3.**
- (4) Constitution of the State of Indiana, Article 1, Section 4.**
- (5) Constitution of the State of Indiana, Article 1, Section 5.**
- (6) Constitution of the State of Indiana, Article 1, Section 6.**
- (7) Constitution of the State of Indiana, Article 1, Section 7.**

**Sec. 4. As used in this chapter, "fraudulent claim or defense" means a claim or defense that is:**

- (1) dishonest in fact; or**
- (2) made principally for a patently improper purpose, such as to harass an opposing party.**

**Sec. 5. As used in this chapter, "frivolous claim or defense" means a claim or defense that:**

- (1) completely lacks merit under existing law; and**
- (2) cannot be supported by a good faith argument for the extension, modification, or reversal of an existing law or the establishment of a new law.**

**Sec. 6. As used in this chapter, "governmental entity" means any of the following:**

- (1) A department, an agency, or an instrumentality of the executive branch of state government.**
- (2) An official or other person acting under color of state law.**
- (3) A political subdivision (as defined in IC 36-1-2-13).**

**Sec. 7. As used in this chapter, "granting", with respect to governmental funding, benefits, or exemptions, does not include the denial of governmental funding, benefits, or exemptions.**

**Sec. 8. As used in this chapter, "prevails" means to obtain prevailing party status, as defined by the courts construing the federal Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988).**

**Sec. 9. As used in this chapter, "substantially burden" means to inhibit or curtail religiously motivated practice.**

**Sec. 10. (a) Except as provided in subsection (b), a governmental entity may not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability.**

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

**C  
O  
P  
Y**



1           (1) essential to further a compelling governmental interest;  
 2           and  
 3           (2) the least restrictive means of furthering the compelling  
 4           governmental interest.  
 5       Sec. 11. (a) A person whose exercise of religion has been  
 6       burdened in violation of section 10 of this chapter may assert the  
 7       violation as a claim or defense in a judicial or an administrative  
 8       proceeding.  
 9       (b) A person asserting a claim or defense against a  
 10       governmental entity under subsection (a) may obtain:  
 11           (1) declaratory relief;  
 12           (2) monetary damages; or  
 13           (3) both declaratory relief and monetary damages;  
 14       as may properly be awarded by the court or administrative body  
 15       in which the claim or defense is asserted.  
 16       (c) This subsection does not apply to criminal proceedings. A  
 17       person who prevails in a claim or defense asserted against a  
 18       governmental entity under subsection (a) may recover the person's  
 19       reasonable costs and attorney's fees.  
 20       (d) Standing to assert a claim or defense under subsection (a) is  
 21       governed by the general rules of standing applicable to other  
 22       claims and defenses that may be asserted in the judicial or  
 23       administrative proceeding in which the claim or defense is  
 24       asserted.  
 25       Sec. 12. A person found by a court or an administrative body to  
 26       have abused the protections of sections 10 and 11 of this chapter by  
 27       filing a frivolous claim or defense or a fraudulent claim or defense  
 28       in the proceeding may be:  
 29           (1) assessed the governmental entity's court costs, if any; and  
 30           (2) enjoined from filing further claims or defenses under this  
 31       chapter without the approval of a court or an administrative  
 32       body.  
 33       SECTION 2. [EFFECTIVE JULY 1, 2007] IC 34-13-8, as added  
 34       by this act, applies to all proceedings commenced after June 30,  
 35       2007, and all proceedings pending on July 1, 2007.

COPY

