

Arizona Free Exercise of Religion Act

Arizona Revised Statutes sec 41-1493, et. seq.

41-1493. Definitions

In this article, unless the context otherwise requires:

1. "Demonstrates" means meets the burdens of going forward with the evidence and of persuasion.
2. "Exercise of religion" means the ability to act or refusal to act in a manner substantially motivated by a religious belief, whether or not the exercise is compulsory or central to a larger system of religious belief.
3. "Government" includes this state and any agency or political subdivision of this state.
4. "Nonreligious assembly or institution" includes all membership organizations, theaters, cultural centers, dance halls, fraternal orders, amphitheatres and places of public assembly regardless of size that a government or political subdivision allows to meet in a zoning district by code or ordinance or by practice.
5. "Person" includes a religious assembly or institution.
6. "Political subdivision" includes any county, city, including a charter city, town, school district, municipal corporation or special district, any board, commission or agency of a county, city, including a charter city, town, school district, municipal corporation or special district or any other local public agency.
7. "Religion-neutral zoning standards":
 - (a) Means numerically definable standards such as maximum occupancy codes, height restrictions, setbacks, fire codes, parking space requirements, sewer capacity limitations and traffic congestion limitations.
 - (b) Does not include:
 - (i) Synergy with uses that a government holds as more desirable.
 - (ii) The ability to raise tax revenues.
8. "Suitable alternate property" means a financially feasible property considering the person's revenue sources and other financial obligations with respect to the person's exercise of religion and with relation to spending that is in the same zoning district or in a

contiguous area that the person finds acceptable for conducting the person's religious mission and that is large enough to fully accommodate the current and projected seating capacity requirements of the person in a manner that the person deems suitable for the person's religious mission.

9. "Unreasonable burden" means that a person is prevented from using the person's property in a manner that the person finds satisfactory to fulfill the person's religious mission.

41-1493.01. Free exercise of religion protected

A. Free exercise of religion is a fundamental right that applies in this state even if laws, rules or other government actions are facially neutral.

B. Except as provided in subsection C, government shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability.

C. Government may substantially burden a person's exercise of religion only if it demonstrates that application of the burden to the person is both:

1. In furtherance of a compelling governmental interest.
2. The least restrictive means of furthering that compelling governmental interest.

D. A person whose religious exercise is burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. A party who prevails in any action to enforce this article against a government shall recover attorney fees and costs.

E. In this section, the term substantially burden is intended solely to ensure that this article is not triggered by trivial, technical or de minimis infractions.

41-1493.02. Applicability

A. This article applies to all state and local laws and ordinances and the implementation of those laws and ordinances, whether statutory or otherwise, and whether adopted before or after the effective date of this article.

B. State laws that are adopted after the effective date of this article are subject to this article unless the law explicitly excludes application by reference to this article.

C. This article shall not be construed to authorize any government to burden any religious belief.

41-1493.03. Free exercise of religion; land use regulation

A. Government shall not impose or implement a land use regulation in a manner that imposes an unreasonable burden on a person's exercise of religion, regardless of a compelling governmental interest, unless the government demonstrates one of the following:

1. That the person's exercise of religion at a particular location violates religion-neutral zoning standards enacted into the government's laws at the time of the person's application for a permit.
2. That the person's exercise of religion at a particular location would be hazardous due to toxic uses in adjacent properties.
3. The existence of a suitable alternate property the person could use for the exercise of religion.

B. Government shall not impose or implement a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution, regardless of a compelling governmental interest.

C. Government shall not impose or implement a land use regulation in a manner that discriminates against an assembly or institution on the basis of religion, regardless of a compelling governmental interest.

D. Government shall not impose or implement a land use regulation in a manner that completely excludes a religious assembly or institution from a jurisdiction or unreasonably limits religious assemblies, institutions or structures within a jurisdiction, regardless of a compelling governmental interest.

41-1493.04. Free exercise of religion; professional or occupational license; certificate or registration; appointments to governmental offices; definition

A. Government shall not deny, revoke or suspend a person's professional or occupational license, certificate or registration for any of the following and the following are not unprofessional conduct:

1. Declining to provide or participate in providing any service that violates the person's sincerely held religious beliefs except performing the duties of a peace officer.
2. Refusing to affirm a statement or oath that is contrary to the person's sincerely held religious beliefs.

3. Expressing sincerely held religious beliefs in any context, including a professional context as long as the services provided otherwise meet the current standard of care or practice for the profession.

4. Providing faith-based services that otherwise meet the current standard of care or practice for the profession.

5. Making business related decisions in accordance with sincerely held religious beliefs such as:

(a) Employment decisions, unless otherwise prohibited by state or federal law.

(b) Client selection decisions.

(c) Financial decisions.

B. Government shall not deny a person an appointment to public office or a position on a board, commission or committee based on the person's exercise of religion.

C. This section is not a defense to and does not authorize any person to engage in sexual misconduct or any criminal conduct.

D. This section does not authorize any person to engage in conduct that is prohibited under the Constitution of the United States or of this state or section 15-535.

E. This section does not authorize any person to engage in conduct that violates the emergency medical treatment and active labor act (P.L. 99-272; 100 Stat. 164; 42 United States Code section 1395dd) or the religious land use and institutionalized persons act (P.L. 106-274; 114 Stat. 803; 42 United States Code section 2000CC-1) as of the effective date of this section.

F. For the purposes of this section, "government" includes all courts and administrative bodies or entities under the jurisdiction of the Arizona supreme court.