

Florida Religious Freedom Restoration Act

761.01 Short title.—This act may be cited as the “Religious Freedom Restoration Act of 1998.”

761.02 Definitions.—As used in this act:

- (1) “Government” or “state” includes any branch, department, agency, instrumentality, or official or other person acting under color of law of the state, a county, special district, municipality, or any other subdivision of the state.
- (2) “Demonstrates” means to meet the burden of going forward with the evidence and of persuasion.
- (3) “Exercise of religion” means an act or refusal to act that is substantially motivated by a religious belief, whether or not the religious exercise is compulsory or central to a larger system of religious belief.

761.03 Free exercise of religion protected.—

- (1) The government shall not substantially burden a person’s exercise of religion, even if the burden results from a rule of general applicability, except that government may substantially burden a person’s exercise of religion only if it demonstrates that application of the burden to the person:
 - (a) Is in furtherance of a compelling governmental interest; and
 - (b) Is the least restrictive means of furthering that compelling governmental interest.
- (2) A person whose religious exercise has been burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief.

761.04 Attorney’s fees and costs.—The prevailing plaintiff in any action or proceeding to enforce a provision of this act is entitled to reasonable attorney’s fees and costs to be paid by the government.

761.05 Applicability; construction.—

- (1) This act applies to all state law, and the implementation of that law, whether statutory or otherwise, and whether adopted before or after the enactment of this act.
- (2) State law adopted after the date of the enactment of this act is subject to this act unless such law explicitly excludes such application by reference to this act.
- (3) Nothing in this act shall be construed to authorize the government to burden any religious belief.
- (4) Nothing in this act shall be construed to circumvent the provisions of chapter 893.
- (5) Nothing in this act shall be construed to affect, interpret, or in any way address that portion of s. 3, Art. I of the State Constitution prohibiting laws respecting the establishment of religion.
- (6) Nothing in this act shall create any rights by an employee against an employer if the employer is not a governmental agency.
- (7) Nothing in this act shall be construed to affect, interpret, or in any way address that portion of s. 3, Art. I of the State Constitution and the First Amendment to the Constitution of the United States respecting the establishment of religion. This act shall not be construed to permit any practice prohibited by those provisions.

761.061 Rights of certain churches or religious organizations or individuals.—

- (1) The following individuals or entities may not be required to solemnize any marriage or provide services, accommodations, facilities, goods, or privileges for a purpose related to the solemnization, formation, or celebration of any marriage if such an action would cause the individual or entity to violate a sincerely held religious belief of the individual or entity:
 - (a) A church;
 - (b) A religious organization;
 - (c) A religious corporation or association;
 - (d) A religious fraternal benefit society;
 - (e) A religious school or educational institution;
 - (f) An integrated auxiliary of a church;

(g) An individual employed by a church or religious organization while acting in the scope of that employment;

(h) A clergy member; or

(i) A minister.

(2) A refusal to solemnize any marriage or provide services, accommodations, facilities, goods, or privileges under subsection (1) may not serve as the basis for:

(a) A civil cause of action against any entity or individual protected under subsection (1); or

(b) A civil cause of action, criminal cause of action, or any other action by this state or a political subdivision to penalize or withhold benefits or privileges, including tax exemptions or governmental contracts, grants, or licenses, from any entity or individual protected under subsection (1).