

Tennessee Preservation of Religious Freedom Act

Tenn. Code Ann. § 4-1-407

4-1-407. Preservation of religious freedom.

- (a) As used in this section, unless the context otherwise requires:
- (1) "Demonstrates" means meets the burdens of going forward with the evidence and of persuasion under the standard of clear and convincing evidence;
 - (2) "Exercise of religion" means the exercise of religion under article I, § 3 of the Constitution of Tennessee and the first amendment to the United States Constitution;
 - (3) "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;
 - (4) "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;
 - (5) "Government entity" means any branch, department, agency, commission or instrumentality of state government, any official or other person acting under color of state law or any political subdivision of the state;
 - (6) "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); and
 - (7) "Substantially burden" means to inhibit or curtail religiously motivated practice.
- (b) Except as provided in subsection (c), no government entity shall substantially burden a person's free exercise of religion even if the burden results from a rule of general applicability.
- (c) No government entity shall substantially burden a person's free exercise of religion unless it demonstrates that application of the burden to the person is:
- (1) Essential to further a compelling governmental interest; and
 - (2) The least restrictive means of furthering that compelling governmental interest.
- (d) (1) Nothing in this section shall be construed to:
- (A) Authorize any government entity to burden any religious belief; or
 - (B) Affect, interpret or in any way address those portions of article I, § 3 of the Constitution of Tennessee and the first amendment to the United States Constitution that prohibit laws respecting the establishment of religion.

(2) Nothing in this section shall create or preclude a right of any religious organization to receive funding or other assistance from a government or of any person to receive government funding for a religious activity.

(e) 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, monetary damages as may properly be awarded by a court of competent jurisdiction, or both declaratory relief and monetary damages. A person who prevails in any proceeding to enforce this section against a government entity may recover the person's reasonable costs and attorney's fees. Standing to assert a claim or defense under this section shall be governed by general rules of law that establish standing. This subsection (e) relating to attorney's fees shall not apply to criminal prosecutions.

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

(g) A government entity, excluding courts, shall not subpoena a clergy member's sermon, including notes used to prepare a sermon or an audio or video recording of a sermon, or subpoena a clergy member's attendance to testify regarding a sermon, for use in a civil or administrative action.