



# Ohio Legislative Service Commission

## Bill Analysis

Aida S. Montano

### H.B. 376

130th General Assembly  
(As Introduced)

**Reps.** Derickson and Patmon, Henne, Smith, Hottinger, Grossman, Lynch, Amstutz, Hood, Huffman, Boose, McClain, Becker, Hayes, Burkley, Retherford, Young, Beck, Sears, Romanchuk, Barnes, Johnson, Stautberg, Sprague, Conditt, Hall, Scherer, Mallory, J. Adams, Brenner, Terhar, Buchy, R. Adams, Maag, Ruhl, Blessing, Green, Rosenberger, Thompson, Milkovich, Roegner, C. Hagan, Wachtmann, Hill, Blair

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## BILL SUMMARY

- Prohibits state action or an action by any person based on state action from burdening a person's right to exercise of religion, even if the burden results from a rule of general applicability, unless it is demonstrated that applying that burden is both essential to further a compelling governmental interest and the least restrictive means of furthering that compelling governmental interest.
- Authorizes a person whose exercise of religion has been burdened or is likely to be burdened in violation of the above prohibition to assert the violation or impending violation as a claim or defense in a judicial proceeding regardless of whether the state or a political subdivision is a party to the proceeding.
- Designates its provisions as the Ohio Religious Freedom Restoration Act.

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## CONTENT AND OPERATION

### Prohibition against burdening right to exercise of religion

The bill prohibits "state action" or an action by any person based on state action from "burdening" a person's right to "exercise of religion," even if the burden results from a rule of general applicability, unless it is demonstrated that applying the burden to that person's exercise of religion in that particular instance is both of the following (see "**Definitions**" for definitions of the terms in quotation marks):<sup>1</sup>

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<sup>1</sup> R.C. 9.692(A).

- Essential to further a "compelling governmental interest."
- The least restrictive means of furthering that compelling governmental interest.

## Judicial relief

The bill authorizes a person whose exercise of religion has been burdened or is likely to be burdened in violation of the above prohibition to assert that violation or impending violation as a claim or defense in a judicial proceeding, regardless of whether the state or a political subdivision of the state is a party to the proceeding. The person asserting that claim or defense may obtain appropriate relief, including relief against the state or a political subdivision of the state. Appropriate relief includes, but is not limited to, injunctive relief, declaratory relief, compensatory damages, and the recovery of costs and reasonable attorney's fees.<sup>2</sup>

## Designation

The bill designates its provisions, and provides that they may be cited, as the Ohio Religious Freedom Restoration Act.<sup>3</sup>

## Definitions

The bill defines the following terms for purposes of its provisions:<sup>4</sup>

**"Burden"** means any action that directly or indirectly constrains, inhibits, curtails, or denies the exercise of religion by any person or compels any action contrary to a person's exercise of religion. **"Burden"** includes, but is not limited to, withholding benefits, assessing criminal, civil, or administrative penalties, or exclusion from governmental programs or access to governmental facilities.

**"Compelling governmental interest"** means a governmental interest of the highest magnitude that cannot otherwise be achieved without burdening the exercise of religion.

**"Exercise of religion"** means the practice or observance of religion. **"Exercise of religion"** includes, but is not limited to, the ability to act or the refusal to act in a manner that is substantially motivated by one's sincerely held religious belief, whether or not the exercise is compulsory or central to a larger system of religious belief.

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<sup>2</sup> R.C. 9.692(B).

<sup>3</sup> R.C. 9.69.

<sup>4</sup> R.C. 9.691.



"State action" means the implementation or application of any law, including, but not limited to, state and local laws, ordinances, rules, regulations, and policies, whether statutory or otherwise, or any other action by the state, a political subdivision of the state, an instrumentality of the state or political subdivision of the state, or a public official that is authorized by law in the state.

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## HISTORY

ACTION	DATE
Introduced	12-04-13

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