A BILL

Entitled the “Religious Liberty Protection Act of 2000”.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Religious Liberty Pro-
tection Act of 2000”.

SEC. 2. PROTECTION OF RELIGIOUS EXERCISE.

(a) GENERAL RULE.—Except as provided in sub-
section (b), a government shall not substantially burden
a person’s religious exercise—
(1) in a program or activity, operated by a government, that receives Federal financial assistance; or

(2) in any case in which the substantial burden on the person’s religious exercise affects, or in which a removal of that substantial burden would affect, commerce with foreign nations, among the several States, or with Indian tribes; even if the burden results from a rule of general applicability.

(b) Exception.—A government may substantially burden a person’s religious exercise if the government demonstrates that application of the burden to the person—

(1) is in furtherance of a compelling governmental interest; and

(2) is the least restrictive means of furthering that compelling governmental interest.

(c) Limitation.—This Act does not apply if the only basis for applying the Act is subsection (a)(2) and if the government demonstrates that all similar religious exercise and all substantial burdens on, or the removal of all substantial burdens from, similar religious exercise would not lead in the aggregate to a substantial effect on commerce or on activities having a substantial relation to commerce.
(d) Remedies of the United States.—Nothing in this section shall be construed to authorize the United States to deny or withhold Federal financial assistance as a remedy for a violation of this Act. Nothing in this subsection shall be construed to deny, impair, or otherwise affect any right or authority of the Attorney General, the United States, or any agency, officer, or employee of the United States, under law other than this subsection, including section 4(d), to institute or intervene in any action or proceeding.

SEC. 3. ENFORCEMENT OF CONSTITUTIONAL RIGHTS.

(a) Procedure.—If a claimant produces prima facie evidence to support a claim alleging a violation of the Free Exercise Clause or a violation of a provision of this Act enforcing that clause, the government shall bear the burden of persuasion on any element of the claim, except that the claimant shall bear the burden of persuasion on whether the law (including a regulation) or government practice that is challenged by the claim burdens or substantially burdens the claimant’s exercise of religion.

(b) Land Use Regulation.—

(1) Limitation on land use regulation.—

(A) Individualized assessments.—If, in applying or implementing any land use regulation (including an exemption), or system of
land use regulations (including exemptions), a
government has the authority to make individ-
ualized assessments of the proposed uses to
which real property would be put, the govern-
ment may not impose a substantial burden on
the religious exercise of a religious assembly or
institution, or of a person in the person’s home,
unless the government demonstrates that appli-
cation of the burden to that assembly, institu-
tion, or person—

(i) is in furtherance of a compelling
governmental interest; and

(ii) is narrowly tailored to further that
compelling governmental interest.

(B) EQUAL TERMS.—No government shall
impose or implement a land use regulation in a
manner that does not treat religious assemblies
or institutions on equal terms with nonreligious
assemblies or institutions.

(C) NONDISCRIMINATION.—No government
shall impose or implement a land use regulation
that discriminates against any assembly or in-
stitution on the basis of religion or religious de-
nomination.
(D) EXCLUSIONS AND LIMITS.—No government with zoning authority shall unreasonably exclude from the jurisdiction over which that government has authority, or unreasonably limit within that jurisdiction, assemblies or institutions principally devoted to religious exercise.

(2) FULL FAITH AND CREDIT.—Adjudication of a claim of a violation of the Free Exercise Clause or this subsection in a non-Federal forum shall be entitled to full faith and credit in a Federal court only if the claimant had a full and fair adjudication of that claim in the non-Federal forum.

(3) NONPREEMPTION.—Nothing in this subsection shall preempt State law that is equally or more protective of religious exercise.

SEC. 4. JUDICIAL RELIEF.

(a) CAUSE OF ACTION.—A person may assert a violation of this Act as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution.

(b) ATTORNEYS’ FEES.—Section 722(b) of the Revised Statutes (42 U.S.C. 1988(b)) is amended—
(1) by inserting “the Religious Liberty Protec-
tion Act of 2000,” after “Religious Freedom Rest-
toration Act of 1993,”; and

(2) by striking the comma that follows a
comma.

(c) Prisoners.—Any litigation under this Act in
which the claimant is a prisoner shall be subject to the
Prison Litigation Reform Act of 1995 (including provi-
sions of law amended by that Act).

(d) Authority of United States to Enforce
This Act.—The United States may bring an action for
injunctive or declaratory relief to enforce compliance with
this Act.

(e) Sovereign Immunity.—Nothing in this Act
shall be construed to abrogate the sovereign immunity of
a State.

SEC. 5. RULES OF CONSTRUCTION.

(a) Religious Belief Unaffected.—Nothing in
this Act shall be construed to authorize any government
to burden any religious belief.

(b) Religious Exercise Not Regulated.—Noth-
ing in this Act shall create any basis for restricting or
burdening religious exercise or for claims against a reli-
gious organization, including any religiously affiliated
school or university, not acting under color of law.
(c) Claims to Funding Unaffected.—Nothing in this Act 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, but this Act may require government to incur expenses in its own operations to avoid imposing a burden or a substantial burden on religious exercise.

(d) Other Authority To Impose Conditions on Funding Unaffected.—Nothing in this Act shall—

(1) authorize a government to regulate or affect, directly or indirectly, the activities or policies of a person other than a government as a condition of receiving funding or other assistance; or

(2) restrict any authority that may exist under other law to so regulate or affect, except as provided in this Act.

(e) Governmental Discretion in Alleviating Burdens on Religious Exercise.—A government may avoid the preemptive force of any provision of this Act by changing the policy or practice that results in a substantial burden on religious exercise, by retaining the policy or practice and exempting the substantially burdened religious exercise, by providing exemptions from the policy or practice for applications that substantially burden reli-
gious exercise, or by any other means that eliminates the
substantial burden.

(f) Effect on Other Law.—With respect to a
claim brought to enforce section 2(a)(2), proof that a sub-
stantial burden on a person’s religious exercise, or removal
of that burden, affects or would affect commerce shall not
establish any inference or presumption that Congress in-
tends that any religious exercise is, or is not, subject to
any law other than this Act.

(g) Broad Construction.—This Act shall be con-
strued in favor of a broad protection of religious exercise,
to the maximum extent permitted by the terms of this Act
and the Constitution.

(h) Severability.—If any provision of this Act or
of an amendment made by this Act, or any application
of such provision to any person or circumstance, is held
to be unconstitutional, the remainder of this Act, the
amendments made by this Act, and the application of the
provision to any other person or circumstance shall not
be affected.

SEC. 6. ESTABLISHMENT CLAUSE UNAFFECTED.

Nothing in this Act shall be construed to affect, inter-
pret, or in any way address that portion of the first
amendment to the Constitution prohibiting laws respect-
ing an establishment of religion (referred to in this section
as the “Establishment Clause”). Granting government funding, benefits, or exemptions, to the extent permissible under the Establishment Clause, shall not constitute a violation of this Act. As used in this section, the term “granting”, used with respect to government funding, benefits, or exemptions, does not include the denial of government funding, benefits, or exemptions.

SEC. 7. AMENDMENTS TO RELIGIOUS FREEDOM RESTORATION ACT.

(a) DEFINITIONS.—Section 5 of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb–2) is amended—

(1) in paragraph (1), by striking “a State, or subdivision of a State” and inserting “a covered entity or a subdivision of such an entity”;

(2) in paragraph (2), by striking “term” and all that follows through “includes” and inserting “term ‘covered entity’ means”; and

(3) in paragraph (4), by striking all after “means,” and inserting “religious exercise, as defined in section 8 of the Religious Liberty Protection Act of 2000.”.

(b) CONFORMING AMENDMENT.—Section 6(a) of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb–3(a)) is amended by striking “and State”.

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SEC. 8. DEFINITIONS.

In this Act—

(1) the term “demonstrates” means meets the burdens of going forward with the evidence and of persuasion;

(2) the term “Free Exercise Clause” means that portion of the first amendment to the Constitution that proscribes laws prohibiting the free exercise of religion and includes the application of that proscription under the 14th amendment to the Constitution;

(3) the term “government”—

(A) means—

(i) a State, county, municipality, or other governmental entity created under the authority of a State;

(ii) any branch, department, agency, instrumentality, subdivision, or official of an entity listed in clause (i); and

(iii) any other person acting under color of State law; and

(B) for the purposes of sections 3(a) and 5, includes the United States, a branch, department, agency, instrumentality, subdivision, or official of the United States, and any person acting under color of Federal law;
(4) the term “land use regulation” means a law or decision by a government that limits or restricts a private person’s use or development of land (including a structure affixed to land), if—

(A) the law or decision applies to 1 or more particular parcels of land or to land within 1 or more designated geographical zones; and

(B) the private person has an ownership, leasehold, easement, servitude, or other property interest in the regulated land or a contract or option to acquire such an interest;

(5) the term “program or activity” means a program or activity as defined in paragraph (1) or (2) of section 606 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–4a); and

(6) the term “religious exercise”—

(A) means any exercise of religion, whether or not compelled by, or central to, a system of religious belief; and

(B) includes—

(i) the use, building, or conversion of real property by a person or entity intending that property to be used for religious exercise; and
(ii) any conduct protected as exercise of religion under the first amendment to the Constitution.
A BILL

Entitled the “Religious Liberty Protection Act of 2000”.

February 23, 2000
Read the second time and placed on the calendar