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## A BILL FOR AN ACT

RELATING TO EQUAL RIGHTS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. This Act shall be known as the Hawaii Religious  
2 Freedom Restoration Act of 2014.

3           The legislature finds that, while same sex marriage is a  
4 great advancement for human liberty, this change could have  
5 serious implications if steps are not taken to protect the  
6 liberties and equal rights of those religious organizations and  
7 believers who cannot conscientiously recognize or facilitate  
8 same-sex civil marriages. There will be no net gain for human  
9 liberty and equal rights if same-sex couples are permitted to  
10 oppress religious dissenters in the same way that those  
11 dissenters, when they had the power to do so, oppressed same-sex  
12 couples. There is no reason to let either side oppress the  
13 other. Same-sex couples should not be denied the right to  
14 marry, and the State should not force dissenting religious  
15 believers or organizations to recognize or facilitate same-sex  
16 marriage.

17           Therefore, it is the intent of the legislature to:





- 1           (3) Laws neutral toward religion may substantially burden  
2           religious exercise as surely as laws intended to  
3           interfere with religious exercise;
- 4           (4) Government should not substantially burden religious  
5           exercise without compelling justification;
- 6           (5) The United States Supreme Court has virtually  
7           eliminated the requirement that the government justify  
8           burdens on religious exercise imposed by laws neutral  
9           toward religion; and
- 10          (6) The compelling interest test in the free exercise of  
11          religion established by the United States Supreme  
12          Court is a workable test for striking sensible  
13          balances between religious liberty and competing  
14          government interests.
- 15          (b) The legislature declares its intent that:
- 16          (1) It shall be the policy of the State that the  
17          compelling interest test in the free exercise of  
18          religion, as established by the United States Supreme  
19          Court under *Shubert v. Verner*, 374 U.S. 398 (1963),  
20          shall be the standard applicable by the courts of this  
21          State in all cases where religious exercise is  
22          substantially burdened; and



1           (2) This chapter shall provide a claim or defense to  
2                   persons whose religious exercise is substantially  
3                   burdened by government.

4           §   -2 **Free exercise of religion protected.** (a) The  
5 State and its political subdivisions shall not substantially  
6 burden a person's exercise of religion even if the burden  
7 results from a rule of general applicability, except as provided  
8 in subsection (b).

9           (b) Neither the State nor its political subdivisions shall  
10 impose a substantial burden on a person's exercise of religion  
11 unless it demonstrates that imposition of the burden on the  
12 person both:

- 13           (1) Furthers a compelling government interest; and  
14           (2) Is the least restrictive means of furthering that  
15                   compelling interest.

16           (c) Notwithstanding any law to the contrary, a person  
17 whose religious exercise has been substantially burdened in  
18 violation of this section may assert that violation as a claim  
19 or defense in a judicial proceeding and obtain appropriate  
20 relief against the State or its political subdivisions.



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1 (d) Nothing in this chapter shall be construed to  
2 authorize the State or its political subdivisions to  
3 substantially burden the free exercise of any religious belief.

4 (e) Nothing in this chapter shall be construed to affect,  
5 interpret, or in any way address that portion of article I,  
6 section 4 of the Constitution of the State of Hawaii,  
7 prohibiting laws respecting the establishment of religion.  
8 Granting government funding, benefits, or exemptions, to the  
9 extent permissible under article I, section 4 of the  
10 Constitution of the State of Hawaii, shall not constitute a  
11 violation of this chapter."

12 SECTION 3. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 4. This Act shall take effect upon its approval.

15

INTRODUCED BY:



JAN 13 2014



# H.B. NO. 1624

**Report Title:**

Religious Freedom Restoration Act; Established

**Description:**

Provides that government should not substantially burden religious exercise without compelling justification; applies the compelling interest test to balance religious liberty and competing government interest.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

