

_____ offers the following
substitute to HB 757:

A BILL TO BE ENTITLED
AN ACT

1 To protect religious freedoms; to amend Chapter 3 of Title 19 of the Official Code of
2 Georgia Annotated, relating to marriage generally, so as to provide that religious officials
3 shall not be required to perform marriage ceremonies, perform rites, or administer sacraments
4 in violation of their legal right to free exercise of religion; to amend Chapter 1 of Title 10 of
5 the Official Code of Georgia Annotated, relating to selling and other trade practices, so as
6 to change certain provisions relating to days of rest for employees of business and industry;
7 to protect property owners which are religious organizations against infringement of religious
8 freedom; to define a term; to amend Title 50 of the Official Code of Georgia Annotated,
9 relating to state government, so as to prohibit adverse action by government against a person
10 or faith-based organization who believes, speaks, or acts in accordance with certain sincerely
11 held religious beliefs regarding marriage; to provide for definitions; to provide for the
12 granting of relief; to provide for construction and application; to provide for waiver of
13 sovereign immunity under certain circumstances; to provide for a short title; to provide for
14 related matters; to provide for an effective date; to repeal conflicting laws; and for other
15 purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 PART I

18 SECTION 1-1.

19 Chapter 3 of Title 19 of the Official Code of Georgia Annotated, relating to marriage
20 generally, is amended by adding a new Code section to read as follows:

21 *19-3-11.

22 (a) No minister of the gospel or cleric or religious practitioner ordained or authorized to
23 solemnize marriages, perform rites, or administer sacraments according to the usages of the
24 denomination, when acting in his or her official religious capacity, shall be required to
25 solemnize any marriage, perform any rite, or administer any sacrament in violation of his

26 or her right to free exercise of religion under the Constitution of this state or of the United
 27 States.

28 (b) A refusal by an ordained or authorized person pursuant to subsection (a) of this Code
 29 section shall not give rise to a civil claim or cause of action against such person or result
 30 in any state action to penalize, withhold benefits from, or discriminate against such person
 31 based on such refusal."

32 SECTION 1-2.

33 Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other
 34 trade practices, is amended by revising Code Section 10-1-573, relating to day of rest for
 35 employees of business and industry, as follows:

36 "10-1-573.

37 (a) Any business or industry which operates on either of the two rest days (Saturday or
 38 Sunday) and employs those whose habitual day of worship has been chosen by the
 39 employer as a day of work shall make all reasonable accommodations to the religious,
 40 social, and physical needs of such employees so that those employees may enjoy the same
 41 benefits as employees in other occupations.

42 (b) No business or industry shall be required by ordinance or resolution of any county,
 43 municipality, or consolidated government to operate on either of the two rest days
 44 (Saturday or Sunday)."

45 SECTION 1-3.

46 Said chapter is further amended by adding a new article to read as follows:

47 "ARTICLE 35

48 10-1-1000.

49 (a) As used in this Code section, the term 'religious organization' means a church, a
 50 religious school, an association or convention of churches, a convention mission agency,
 51 or an integrated auxiliary of a church or convention or association of churches, when such
 52 entity is qualified as an exempt religious organization under Section 501(c)(3) of the
 53 Internal Revenue Code of 1986, as amended.

54 (b) No religious organization shall be required to rent, lease, or otherwise grant permission
 55 for property to be used by another person for an event which is objectionable to such
 56 religious organization.

57 (c) A refusal by a religious organization pursuant to subsection (b) of this Code section
 58 shall not give rise to a civil claim or cause of action against such religious organization or

59 an employee thereof or result in any state action to penalize, withhold benefits from, or
60 discriminate against the religious organization or employee based on such refusal."

61 PART II

62 SECTION 2-1.

63 This part shall be known and may be cited as the "First Amendment Defense Act of
64 Georgia."

65 SECTION 2-2.

66 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended
67 by adding a new chapter to read as follows:

68 "CHAPTER 15A

69 50-15A-1.

70 As used in this chapter, the term:

71 (1) 'Adverse action' means any action to:

72 (A) Alter in any way state tax treatment of an exemption from taxation under state law;

73 (B) Cause any tax, penalty, or payment to be assessed against a person or faith-based
74 organization or deny, delay, or revoke an exemption from taxation under state law;

75 (C) Disallow a deduction for state tax purposes of any charitable contribution made to
76 or by a person or faith-based organization;

77 (D) Deny, withhold, reduce, exclude, terminate, reprimand, censure, or otherwise make
78 unavailable any government grant, contract, subcontract, cooperative agreement, loan,
79 guarantee, license, certification, scholarship, accreditation, employment, or other
80 similar position or status from or to a person or faith-based organization;

81 (E) Deny, withhold, reduce, exclude, terminate, or otherwise make unavailable any
82 public benefit from or to a person or faith-based organization, including for purposes
83 of this chapter admission to, equal treatment in, or eligibility for a degree from any
84 educational program at any educational facility administered by a government; or

85 (F) Deny, withhold, reduce, exclude, terminate, condition, or otherwise make
86 unavailable access to any speech forum (whether a traditional, limited, or nonpublic
87 forum) administered by a government, including access to education facilities available
88 for use by student or community organizations.

89 (2) 'Faith-based organization' means any organization or other legal entity whose
90 governing documents or mission statement expressly acknowledges a religious belief or
91 purpose.

92 (3) 'Government' means the state or any local subdivision of the state or public
93 instrumentality or public corporate body created by or under authority of state law,
94 including but not limited to the executive, legislative, and judicial branches and every
95 department, agency, board, bureau, office, commission, authority, or similar body
96 thereof; municipalities; counties; school districts; special taxing districts; conservation
97 districts; authorities; and any other state or local public instrumentality or corporation.

98 (4) 'Person' means any natural person.

99 (5) 'Public benefit' shall have the same meaning as set forth in Code Section 50-36-1.

100 50-15A-2.

101 (a) Government shall not take any adverse action against a person or faith-based
102 organization wholly or partially on the basis that such person or faith-based organization
103 believes, speaks, or acts in accordance with a sincerely held religious belief regarding
104 lawful marriage between two people, including the belief that marriage should only be
105 between a man and a woman or that sexual relations are properly reserved to such a union.

106 (b) A person or faith-based organization may assert a violation of this chapter as a claim
107 or defense in a judicial, agency, or other proceeding and obtain a declaratory judgment or
108 injunctive relief against a government.

109 (c) Notwithstanding any other provision of law, an action under this chapter may be
110 commenced, and relief may be granted, in a court of competent jurisdiction without regard
111 to whether the person or faith-based organization commencing the action has sought or
112 exhausted available administrative remedies.

113 (d) The Attorney General may bring an action for a declaratory judgment or injunctive
114 relief for any violation of this chapter.

115 (e) When an aggrieved person or faith-based organization prevails in an action pursuant
116 to this Code section, the court may award reasonable attorney's fees and expenses of
117 litigation.

118 (f) No person or faith-based organization having a claim against a government under this
119 chapter shall bring any action against such government upon such claim without first
120 giving notice of the claim to such government, in writing, by certified mail or statutory
121 overnight delivery, at least 30 days prior to filing such action, setting forth the particular
122 adverse action alleged to have been taken by the government against such person or
123 faith-based organization.

124 50-15A-3.

125 For purposes of this chapter, government shall consider accredited, licensed, or certified
126 any person or faith-based organization that would have been accredited, licensed, or
127 certified by a nongovernmental agency but for a determination by the agency against such
128 person or faith-based organization wholly or partially on the basis that the person or
129 faith-based organization believes, speaks, or acts in accordance with a sincerely held
130 religious belief regarding lawful marriage between two people, including that marriage
131 should only be between a man and a woman or that sexual relations are properly reserved
132 to such a union.

133 50-15A-4.

134 (a) This chapter shall be construed in favor of a broad protection of free exercise of
135 religious beliefs to the maximum extent permitted by the terms of this chapter, the United
136 States Constitution, and the Constitution of this state.

137 (b) Nothing in this chapter shall be construed to narrow the meaning or application of any
138 other law of this state protecting free exercise of religious beliefs.

139 (c) Any other provisions of this chapter notwithstanding, nothing in this chapter shall be
140 applied to afford any protection or relief to a public officer or employee who fails or
141 refuses to perform his or her official duties."

142 **SECTION 2-3.**

143 Said title is further amended by adding a new Code section to Article 2 of Chapter 21,
144 relating to state tort claims, to read as follows:

145 "50-21-38.

146 The defense of sovereign immunity is waived as to any claim, counterclaim, cross-claim,
147 or third-party claim brought in the courts of this state by an aggrieved person or faith-based
148 organization seeking a declaratory judgment, injunctive relief, or reasonable attorney's fees
149 and expenses of litigation against the state or any political subdivision thereof as provided
150 for in Chapter 15A of this title. In any such case, the applicable provisions of Chapter 15A
151 of this title shall control to the extent of any conflict with the provisions of this article."

152 **PART III**

153 **SECTION 3-1.**

154 This Act shall become effective upon its approval by the Governor or upon its becoming law
155 without such approval.

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SECTION 3-2.

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All laws and parts of laws in conflict with this Act are repealed.