



National Association of Christian Lawmakers

NACL Model 2023-09 Conscience Protection Act (____)

**Passed by the NALC-National Legislative Council Executive Committee
by unanimous vote June 9, 2023**

This act shall be known and may be cited as the “Conscience Protection Act”.

Definitions.

As used in this subchapter:

(1) “Compelling governmental interest” means a governmental interest of the highest order as long-recognized in the history and traditions of this state, that is necessary to advance a vital interest and cannot otherwise be achieved without burdening the exercise of religion;

(2) “Demonstrates” means meets the burdens of going forward with the evidence and of persuasion;

(3)(A) “Exercise of religion” means the practice or observance of religion.

(B) “Exercise of religion” includes without limitation an action that is motivated by a sincerely held religious belief, whether or not the exercise is compulsory or central to a larger system of religious belief;

(4) “Government” includes a branch, department, agency, instrumentality, political subdivision, official, or other person acting under color of state law or using any instrumentality of the state to enforce a law, regulation, rule, or policy of the government;

(5) “Person” means an individual, association, partnership, corporation, church, religious institution, estate, trust, foundation, or other legal entity;

(6) “State law” includes without limitation a law of a political subdivision, an ordinance, rule, regulation, or policy, whether statutory or otherwise, or other action by the state or any political subdivision of the state or by any public official authorized by law in the state; and

(7)(A) “Substantially 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.

(B) “Substantially burden” includes without limitation withholding benefits,

assessing criminal, civil, or administrative penalties or damages, or exclusion from governmental programs or access to governmental facilities.

Free exercise of religion protected.

(a) A government shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability, unless it is demonstrated that application of the burden to the person in this particular instance is:

(1) Essential to further a compelling governmental interest; and

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

(b)(1) A person whose religious exercise has been burdened, or will be burdened, in violation of this section may assert that violation or impending violation as a claim or defense in a judicial or administrative proceeding, regardless of whether the government is a party to the proceeding, and obtain appropriate relief against a government, including declaratory relief, injunctive relief, compensatory damages, and reasonable attorneys' fees and costs.

(2) Standing to assert a claim or defense under this section is governed by the general rules of standing under statute, the Arkansas Rules of Criminal Procedure, the Arkansas Rules of Civil Procedure, or any court holding from the state's appellate courts.

(c) An action under this subchapter may be commenced and relief may be granted without regard to whether the person commencing the action has sought or exhausted all available administrative remedies.

(d) This subchapter shall be construed in favor of a broad protection of free exercise of religious beliefs, to the maximum extent permitted by the [state] Constitution and the United States Constitution.