

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 277

Introduced by Brewer, 43; Albrecht, 17; Ballard, 21; Bostelman, 23; Clements, 2; DeKay, 40; Dover, 19; Erdman, 47; Halloran, 33; Hansen, B., 16; Hardin, 48; Holdcroft, 36; Lippincott, 34; Lowe, 37; McDonnell, 5; Moser, 22; Murman, 38; Sanders, 45; Slama, 1; von Gillern, 4.

Read first time January 10, 2023

Committee: Government, Military and Veterans Affairs

- 1 A BILL FOR AN ACT relating to government; to adopt the First Freedom Act;
- 2 to authorize wearing of tribal regalia by students as prescribed; to
- 3 define terms; to harmonize provisions; and to provide operative
- 4 dates.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 5 of this act shall be known and may be
2 cited as the First Freedom Act.

3 Sec. 2. For purposes of the First Freedom Act:

4 (1) Exercise of religion means the practice or observance of
5 religion and includes any action that is motivated by a sincerely held
6 religious belief, whether or not the exercise is compulsory or central to
7 a larger system of religious belief;

8 (2) Person means any individual, association, partnership,
9 corporation, church, religious institution, estate, trust, foundation, or
10 other legal entity;

11 (3) Religious organization means:

12 (a) A house of worship;

13 (b) A religious group, a corporation, an association, an educational
14 institution, a ministry, an order, a society, or a similar entity,
15 regardless of whether it is integrated or affiliated with a church or
16 other house of worship; or

17 (c) An officer, owner, employee, manager, religious leader, clergy,
18 or minister of an entity or organization described in subdivision (3)(a)
19 or (b) of this section;

20 (4) Religious service means a meeting, gathering, or assembly of two
21 or more persons organized by a religious organization for the purpose of
22 worship, teaching, training, providing educational services, conducting
23 religious rituals, or other activities that are deemed necessary by the
24 religious organization for the exercise of religion;

25 (5) State action means the implementation or application of any law,
26 including state and local laws, ordinances, rules, regulations, and
27 policies, whether statutory or otherwise, or other action by the state or
28 any political subdivision thereof and any local government, municipality,
29 instrumentality, or public official authorized by state or local law; and

30 (6)(a) Substantially burden means any action that directly or
31 indirectly constrains, inhibits, curtails, or denies the exercise of

1 religion by any person or compels any action contrary to a person's
2 exercise of religion.

3 (b) Substantially burden includes withholding benefits, imposing
4 criminal, civil, or administrative penalties or damages, or exclusion
5 from governmental programs or access to governmental facilities.

6 Sec. 3. Notwithstanding any other provision of law, state action
7 shall not:

8 (1) Substantially burden a person's right to the exercise of
9 religion unless it is demonstrated that applying the burden to that
10 person's exercise of religion in this particular instance is essential to
11 further a compelling governmental interest and is the least restrictive
12 means of furthering that compelling governmental interest; and

13 (2) Restrict a religious organization from operating and engaging in
14 religious services during a state of emergency to a greater extent than
15 the state restricts other organizations or businesses from operating
16 during a state of emergency.

17 Sec. 4. (1) A person or religious organization whose exercise of
18 religion or religious service has been burdened or restricted, or is
19 likely to be burdened or restricted, in violation of the First Freedom
20 Act, may bring a civil action or assert such violation or impending
21 violation as a defense in a judicial or administrative proceeding.

22 (2) This section applies regardless of whether the state or a
23 political subdivision is a party to the judicial or administrative
24 proceeding.

25 (3) A person or religious organization asserting a claim or defense
26 under this section may obtain appropriate relief, including against the
27 state or a political subdivision. Appropriate relief includes:

28 (a) Actual damages;
29 (b) Such preliminary and other equitable or declaratory relief as
30 may be appropriate; and
31 (c) Reasonable attorney's fees and other litigation costs reasonably

1 incurred.

2 Sec. 5. The First Freedom Act applies to all state and local laws,
3 and the implementation of those laws, whether statutory or otherwise,
4 regardless of whether adopted before or after the effective date of this
5 act.

6 Sec. 6. (1) A person who is a member of an indigenous tribe of the
7 United States or another country and is a student attending an approved
8 or accredited public school may wear tribal regalia in any public or
9 private location where the person is otherwise authorized to be on such
10 school grounds or at any school function. Nothing in this section limits
11 the authority of administrative and teaching personnel to regulate
12 student behavior as provided in section 79-258 or the authority of a
13 school to regulate student behavior to further school purposes or to
14 prevent interference with the educational process.

15 (2) A school may adopt a policy to accommodate this section. Such
16 policy may specify the characteristics of any garment, jewelry, other
17 adornment, or object that such school finds will endanger the safety of a
18 student or others or interfere with school purposes or the educational
19 process if worn by a student during a specified activity.

20 (3) For purposes of this section, tribal regalia means traditional
21 garments, jewelry, other adornments, or similar objects of cultural
22 significance worn by members of an indigenous tribe of the United States
23 or another country. Tribal regalia does not include any firearm or other
24 dangerous weapon. Tribal regalia also does not include, except in
25 compliance with an appropriate federal permit, any object that is
26 otherwise prohibited by federal law.

27 Sec. 7. (1) A person who is a member of an indigenous tribe of the
28 United States or another country and is a student attending any Nebraska
29 public postsecondary institution may wear traditional tribal regalia in
30 any public or private location where the person is otherwise authorized
31 to be on such school grounds or at any school function. Nothing in this

1 section limits the authority of administrative and teaching personnel of
2 a Nebraska public postsecondary institution to regulate student behavior
3 to further school purposes or to prevent interference with the
4 educational process.

5 (2) A Nebraska public postsecondary institution may adopt a policy
6 to accommodate this section. Such policy may specify the characteristics
7 of any garment, jewelry, other adornment, or object that such school
8 finds will endanger the safety of a student or others or interfere with
9 school purposes or the educational process if worn by such student during
10 a specified activity.

11 (3) For purposes of this section:

12 (a) Nebraska public postsecondary institution has the same meaning
13 as in section 85-2403; and

14 (b) Tribal regalia means traditional garments, jewelry, other
15 adornments, or similar objects of cultural significance worn by members
16 of an indigenous tribe of the United States or another country. Tribal
17 regalia does not include any firearm or other dangerous weapon. Tribal
18 regalia also does not include, except in compliance with an appropriate
19 federal permit, any object that is otherwise prohibited by federal law.

20 Sec. 8. Sections 6 and 7 of this act become operative on July 1,
21 2024. The other sections of this act become operative on their effective
22 date.