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HOUSE BILL NO. 773

Offered January 13, 2016

Prefiled January 12, 2016

A BILL to amend the Code of Virginia by adding in Title 57 a chapter numbered 1.1, consisting of sections numbered 57-2.2 through 57-2.5, relating to the Government Nondiscrimination Act; creation.

Patrons—Gilbert, Adams, Cole, Edmunds, Hugo, Ransone and Wright

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 57 a chapter numbered 1.1, consisting of sections numbered 57-2.2 through 57-2.5, as follows:

CHAPTER 1.1.

GOVERNMENT NONDISCRIMINATION ACT.

§ 57-2.2. Definitions.

For purposes of this chapter, unless the context requires a different meaning:

"Benefit program" means any program administered or funded by a government entity that provides money, payments, grants, contracts, loans, or in-kind assistance to eligible persons.

"Government entity" has the same meaning as provided in § 57-2.02.

"Person" includes any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, society, organization, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof. Person does not include (i) employees or officials of a government entity acting within the scope of their official duties or (ii) hospitals, clinics, hospices, nursing homes, or other medical or residential custodial facilities with respect to decisions regarding visitation, recognition of a designated representative for health care decision-making, or refusal to provide emergency medical treatment necessary to cure an illness or injury.

§ 57-2.3. Protection of the free exercise of religious beliefs and moral convictions.

A. Notwithstanding any other statute, regulation, or administrative order to the contrary, a government entity shall not take any discriminatory action against a person, in whole or in part, on the basis that such person believes, speaks, or acts in accordance with a sincerely held religious belief or moral conviction that (i) marriage is or should be recognized as the union of one man and one woman and (ii) the male sex and the term "man" and the female sex and the term "woman" refer to an individual's immutable biological sex as objectively determined by anatomy and genetics of the individual at the time of birth.

B. For purposes of subsection A, a discriminatory action means any action taken by a government entity that:

1. Alters in any way the tax treatment of, or causes any tax, penalty, or payment to be assessed against, or denies, delays, or revokes an exemption from taxation of, any person;

2. Disallows a deduction for tax purposes of any charitable contribution made to or by any person; or

3. Withholds, reduces, excludes, terminates, or otherwise makes unavailable or denies:

a. Any grant, contract, subcontract, cooperative agreement, guarantee, loan, scholarship, license, certification, accreditation, employment, or other similar position or status from or to any person;

b. Any entitlement or benefit under a benefit program, including admission to, equal treatment in, or eligibility for a degree from an educational program, from or to any person; or

c. Any entitlement to state property, facilities, educational institutions, speech forums, or charitable fundraising campaigns from or to any person.

C. Any person that would otherwise be accredited, licensed, or certified for any purpose under state law but for a determination against such person, in whole or in part, on the basis that the person believes, speaks, or acts in accordance with a sincerely held religious belief or moral conviction set forth in subsection A shall be considered to be validly accredited, licensed, or certified in the Commonwealth.

§ 57-2.4. Judicial relief.

A. A person may assert a violation of this chapter as a claim or defense in any judicial or administrative proceeding and obtain compensatory damages, injunctive relief, declaratory relief, or any other appropriate relief. A person that prevails in any proceeding to enforce a provision of this chapter

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HB773

59 *in any proceeding against a government entity, excluding criminal prosecutions, shall be awarded*
60 *reasonable attorney fees and costs.*

61 *B. Notwithstanding any other provision of law, an action under this chapter may be commenced and*
62 *relief may be granted regardless of whether the person commencing the action has sought or exhausted*
63 *available administrative remedies.*

64 *C. The Attorney General or an attorney for the Commonwealth may bring an action for injunctive or*
65 *declaratory relief against any government entity to enforce compliance with this chapter. Nothing in this*
66 *subsection shall be construed to deny, impair, or otherwise affect any right or authority of the Attorney*
67 *General or government entity, acting under any other law, to institute or intervene in any proceeding.*

68 **§ 57-2.5. Construction of chapter; severability.**

69 *A. The protection of a person's free exercise of religious beliefs and moral convictions afforded by*
70 *this chapter are in addition to the protections provided under the United States Constitution, the*
71 *Constitution of Virginia, and federal and state law. Nothing in this chapter shall be construed to (i)*
72 *preempt or repeal any state or local law that is equally or more protective of a person's free exercise of*
73 *religious beliefs or moral convictions, (ii) limit the meaning or application of any state or local law*
74 *protecting a person's free exercise of religious beliefs or moral convictions, or (iii) prevent the*
75 *government entity from providing, either directly or through a person, individual, or entity not seeking*
76 *protection under this chapter, any benefit or service authorized under state law.*

77 *B. If any provision of this chapter or any application of such provision to any person or*
78 *circumstance is held to be unconstitutional, the remainder of this chapter and the application of the*
79 *provision to any other person or circumstance shall not be affected.*