

BILL ANALYSIS

Senate Research Center

H.B. 1239
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State Affairs
5/7/2021
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The coronavirus public health emergency has caused action by the executive branch across the country through emergency powers to protect public health.

One area of concern within the coronavirus response is the use of executive orders that limit religious assemblies and activities. The executive decisions made during the public health emergency and state disaster declaration along with judicial decisions related to the interpretation of these emergency actions leads to a need for state legislative action to protect the rights of freedom of religion and freedom of assembly in the event of future executive orders.

H.B. 1239 seeks to protect the freedom of religious activities by preventing the future closure of places of worship through the use of emergency powers.

H.B. 1239 amends current law relating to the prohibited suspension of laws protecting religious freedom and prohibited closure of places of worship.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 110.001(a), Civil Practice and Remedies Code, by adding Subdivisions (3) and (4), to define "place of worship" and "public official."

SECTION 2. Amends Section 110.002, Civil Practice and Remedies Code, by adding Subsection (d), to provide that, for purposes of a state of disaster declared under Chapter 418 (Emergency Management), Government Code, Chapter 110 (Religious Freedom) is not considered a regulatory statute, and a provision of Chapter 110 is prohibited from being suspended.

SECTION 3. Amends Chapter 110, Civil Practice and Remedies Code, by adding Section 110.0031, as follows:

Sec. 110.0031. PROHIBITION ON ORDERS CLOSING PLACES OF WORSHIP. (a) Prohibits a government agency or public official from issuing an order that closes or has the effect of closing places of worship in this state or in a geographic area of this state.

(b) Defines "effect of closing."

SECTION 4. Amends Section 110.004, Civil Practice and Remedies Code, as follows:

Sec. 110.004. DEFENSE. Authorizes a person whose free exercise of religion has been substantially burdened in violation of Section 110.003 (Religious Freedom Protected) or 110.0031 to assert that violation as a defense in a judicial or administrative proceeding without regard to whether the proceeding is brought in the name of the state or by any other person.

SECTION 5. Provides that Chapter 110, Civil Practice and Remedies Code, as amended by this Act, applies only to a claim or defense that accrues on or after the effective date of this Act. Provides that a claim or defense that accrued before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 6. Effective date: upon passage or September 1, 2021.