



## **Overview of the Law: Freedom of Religion** (updated February 2026)

You have the right to practice your religion if it does not interfere with prison security. This right comes from the First and Fourteenth Amendments of the U.S. Constitution and federal laws, including the *Religious Freedom Restoration Act* (RFRA) and *Religious Land Use and Institutionalized Persons Act* (RLUIPA).

### **First Amendment: Free Exercise Clause**

The First Amendment gives you the right to freely exercise your religion. To sue under the First Amendment, you must first prove that your belief is “**religious**.” The court defines a religious belief as “a genuinely held belief that involves matters of the afterlife, spirituality, or the soul.” *Adeyeye v. Heartland Sweeteners, LLC*, 721 F.3d 444 (7th Cir. 2013).

Second, you must prove that your belief is **sincere**. Explain how well you know the teachings of your religion and how closely you follow your religion’s rules. Note that your understanding of the rules does not have to be shared with any religious “authority.”

Third, you must show that practicing your religion does not create a safety risk. The courts use the test created in *Turner v. Safley*, 482 U.S. 78 (1987) to analyze prison rules that might limit a person’s religious practice. The test has four key questions:

1. Is the rule related to a legitimate government interest? (Judges take safety, security, and prison order very seriously.)
2. Does the rule let you practice your religion in a different way?
3. How does the rule impact other prisoners, prison guards or officials, and prison resources?
4. Are there easy alternatives to the rule that would not harm your religious practice?

### **First Amendment: Establishment Clause**

The First Amendment also prohibits the government from encouraging people to be religious or to choose one religion over another.

In 2022, the Supreme Court created a new test for these cases in *Kennedy v. Bremerton School District*, 597 U.S. 507 (2022) and *Groff v. Dejoy*, 600 U.S. 447 (2023). This new test has three questions:

- What were the historical practices of the U.S. government regarding religion when the Constitution was adopted in 1787?
- Would the government’s involvement in your religion be allowed in 1787?
- Does your current religious practice fit within that tradition?

This test is very new, so there are very few examples of courts using it. It is not clear how to prove that a prison rule fits into our “historical practices and understandings” of religious rights. Because of that, it may be more useful to argue your case under RFRA, RLUIPA, and the Fourteenth Amendment.

**RFRA and RLUIPA: The Religious Freedom Restoration Act and The Religious Land Use and Institutionalized Persons Act**

RFRA and RLUIPA are federal laws that provide more religious freedom protections to prisoners than the First Amendment. The RFRA applies to federal prisoners and the RLUIPA applies to state prisoners.

Under both laws, you have to prove that a prison rule will “substantially burden” your exercise of religion. If you prove this, then the government has to prove two things:

1. The prison rule relates to a “**compelling governmental interest.**” The prison will argue that the rule is for safety and security. You should show how the rule is not related to safety and security.
2. The government must prove that its rule is the “**least restrictive**” way to reach the interest in step 1. You should list some other ways that the prison can maintain safety without affecting your religious practice.

When you are challenging a rule, explain how it affects your sincere religious beliefs and your religious practice.

For example, in *Holt v. Hobbs*, a prisoner argued that a rule prohibiting him from growing a half-inch beard affected his right to practice his Muslim religion. *Holt v. Hobbs*, 574 U.S. 352 (2015). The Supreme Court agreed with the prison that government does have a compelling interest in safety. However, the Supreme Court agreed with the prisoner that allowing him to grow a short beard would not affect prison security. He won that case.

In *Holt*, the Supreme Court also compared the policy of the prison that was being sued to policies of other prisons. This helped them decide whether the rule was actually necessary for security. In your case, you may want to list some examples of other policies that the prison could use instead.

### **The Fourteenth Amendment**

The Fourteenth Amendment provides all people “equal protection under the law.” Under equal protection, a prison needs a good reason to make rules that affect one religion but not another. Similarly, a prison needs a good reason to give special benefits to believers of one religion but not another. A court may find rules like these to be unconstitutional religious discrimination.

The legal standard to prove religious discrimination is called strict scrutiny. Under strict scrutiny, courts will only allow these rules if they are “necessary” for a “compelling” government interest. See *West v. Radtke*, 48 F.4th 836 (7th Cir. 2022).

Prisons usually argue that certain rules are needed for prison safety or security. In response, try to show other ways that the prison can make sure people are safe and secure without affecting your religious practice or favoring one religion over another. If there are other ways to maintain safety and security, a court might find that the rule violates the Constitution.

### **Next Steps**

The following cases explain what tests the courts use for religious rights. Look for the facts of each case. See how your situation compares to these cases. In winning cases, look for facts of your situation that are the same. In losing cases, look for facts of your situation that are different. Then write your story to the court, using the strongest facts.

Remember that you should only sue people who had *personal involvement* in the violation of your rights. This may be the person who created the rule or the person who enforced it against you.

- First Amendment: Free Exercise Clause
  - *Turner v. Safley*, 482 U.S. 78 (1987)
  - *Adeyeye v. Heartland Sweeteners, LLC*, 721 F.3d 444 (7th Cir. 2013)
  - *O'Lone v. Estate of Shabazz*, 482 U.S. 342 (1987)
  - *Cruz v. Beto*, 405 U.S. 319 (1972)
  
- First Amendment: Establishment Clause
  - *Lemon v. Kurtzman*, 403 U.S. 602 (1971)
  - *Lee v. Weisman*, 505 U.S. 577 (1992)
  - *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507 (2022)
  - *Groff v. DeJoy*, 600 U.S. 447 (2023)
  
- The Religious Freedom Restoration Act (RFRA)
  - *City of Boerne v. Flores*, 521 U.S. 507 (1997)
  - *Burwell v. Hobby Lobby*, 573 U.S. 682 (2014)
  
- The Religious Land Use and Institutionalized Persons Act (RLUIPA)
  - *Cutter v. Wilkinson*, 544 U.S. 709 (2005)
  - *Holt v. Hobbs*, 574 U.S. 352 (2015)
  - *Schlemm v. Wall*, 784 F.3d 362 (7th Cir.2015)
  - *Knowles v. Pfister*, 829 F.3d 516 (7th Cir. 2016)

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