

ENROLLED SENATE
BILL NO. 1162

By: Pruitt and Martin of the
Senate

and

Vaughn of the House

An Act relating to religious freedom; creating the Oklahoma Religious Freedom Act and providing short title; defining terms; prohibiting burden upon free exercise of religion and providing exception; applying compelling state interest test to correctional facility regulations; construing act; providing remedies; providing for payment of court costs and attorney fees; allowing injunction against future actions under certain circumstances; stating parameters of authority; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 251 of Title 51, unless there is created a duplication in numbering, reads as follows:

This act may be cited as the "Oklahoma Religious Freedom Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 252 of Title 51, unless there is created a duplication in numbering, reads as follows:

In this act:

1. "Demonstrates" means the burdens of going forward with the evidence and of persuasion under the standard of clear and convincing evidence are met;

2. "Exercise of religion" means the exercise of religion under Article 1, Section 2, of the Constitution of the State of Oklahoma, the Oklahoma Religious Freedom Act, and the First Amendment to the Constitution of the United States;

3. "Fraudulent claim" means a claim that is dishonest in fact or that is made principally for a patently improper purpose, such as to harass the opposing party;

4. "Frivolous claim" means a claim which lacks merit under existing law and which cannot be supported by a good faith argument

for the extension, modification, or reversal of existing law or the establishment of new law;

5. "Governmental entity" means any branch, department, agency, or instrumentality of state government, or any official or other person acting under color of state law, or any political subdivision of this state;

6. "Prevails" means to obtain prevailing party status as defined by courts construing the federal Civil Rights Attorney's Fees Awards Act of 1976, 42 U.S.C. § 1988; and

7. "Substantially burden" means to inhibit or curtail religiously motivated practice.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 253 of Title 51, unless there is created a duplication in numbering, reads as follows:

A. Except as provided in subsection B of this section, no governmental entity shall substantially burden a person's free exercise of religion even if the burden results from a rule of general applicability.

B. No governmental entity shall substantially burden a person's free exercise of religion unless it demonstrates that application of the burden to the person is:

1. Essential to further a compelling governmental interest; and
2. The least restrictive means of furthering that compelling governmental interest.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 254 of Title 51, unless there is created a duplication in numbering, reads as follows:

A state or local correctional facility's regulation must be considered in furtherance of a compelling state interest if the facility demonstrates that the religious activity:

1. Sought to be engaged by a prisoner is presumptively dangerous to the health or safety of that prisoner; or
2. Poses a direct threat to the health, safety, or security of other prisoners, correctional staff, or the public.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 255 of Title 51, unless there is created a duplication in numbering, reads as follows:

A. Nothing in this act shall be construed to:

1. Authorize any government entity to substantially burden any religious belief;

2. Authorize same sex marriages, unions, or the equivalent thereof; or

3. Affect, interpret, or in any way address those portions of Article 1, Section 2, and Article 2, Section 5, of the Constitution of the State of Oklahoma, the Oklahoma Religious Freedom Act, or the First Amendment to the Constitution of the United States that prohibit laws respecting the establishment of religion.

B. Granting governmental funds, benefits, or exemptions to the extent permissible under paragraph 3 of subsection A of this section shall not constitute a violation of this section. As used in this subsection, "granting government funds, benefits, or exemptions" shall not include the denial of government funding, benefits, or exemptions. This provision does not in and of itself require vouchers.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 256 of Title 51, unless there is created a duplication in numbering, reads as follows:

A. Any person whose exercise of religion has been substantially burdened by a governmental entity in violation of this section may assert that violation as a claim or defense in any judicial or administrative proceeding and may obtain declaratory relief or monetary damages.

B. Any person who prevails in any proceeding to enforce this act against a governmental entity may recover reasonable costs and attorney fees.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 257 of Title 51, unless there is created a duplication in numbering, reads as follows:

Any person found by a court of competent jurisdiction to have abused the protection of this act by filing a frivolous or fraudulent claim may be assessed the court costs of the governmental entity and may be enjoined from filing further claims under this act without leave of court.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 258 of Title 51, unless there is created a duplication in numbering, reads as follows:

Notwithstanding any provision of this act, a governmental entity has no less authority to adopt or apply laws and regulations in a nondiscriminatory manner concerning zoning, land use planning, traffic management, urban nuisance, or historic preservation, than the authority of the governmental entity that existed under the law prior to the passage of this act. This section does not affect the authority of a governmental entity to adopt or apply laws and regulations as that authority has been interpreted by any court.

SECTION 9. This act shall become effective November 1, 2000.

Passed the Senate the 23rd day of May, 2000.

President of the Senate

Passed the House of Representatives the 26th day of May, 2000.

Speaker of the House of
Representatives