

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 COMMITTEE SUBSTITUTE  
4 FOR

5 HOUSE BILL NO. 2771

6 By: Peterson (Pam)

7 COMMITTEE SUBSTITUTE

8 An Act relating to public health and safety; creating  
9 the Freedom of Conscience Act; defining terms;  
10 prohibiting employers from discriminating against  
11 certain persons for refusing to perform specified  
12 acts based on certain beliefs; providing defense;  
13 prohibiting forced participation in specified acts by  
14 certain persons under certain circumstances;  
15 providing immunity from liability; providing for  
16 equitable relief and damages; providing statute of  
17 limitations; providing for codification; and  
18 providing an effective date.

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

20 SECTION 1. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 1-729 of Title 63, unless there  
22 is created a duplication in numbering, reads as follows:

23 This act shall be known and may be cited as the "Freedom of  
24 Conscience Act".

SECTION 2. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 1-729.1 of Title 63, unless  
there is created a duplication in numbering, reads as follows:

1 As used in the Freedom of Conscience Act:

2 1. "Health care facility" means any public or private  
3 organization, corporation, authority, partnership, sole  
4 proprietorship, association, agency, network, joint venture, or  
5 other entity that is involved in providing health care services,  
6 including a hospital, clinic, medical center, ambulatory surgical  
7 center, private physician's office, pharmacy, nursing home,  
8 university hospital, medical school, nursing school, medical  
9 training facility, inpatient health care facility, or other place  
10 where health care services are provided;

11 2. "Human embryo" means a human organism that is derived by  
12 fertilization, parthenogenesis, cloning, or any other means from one  
13 or more human gametes or human diploid cells;

14 3. "In vitro human embryo" means a human embryo, whether  
15 cryopreserved or not, living outside of a woman's body;

16 4. "Participate in" means to perform, practice, engage in,  
17 assist in, recommend, counsel in favor of, make referrals for,  
18 prescribe, dispense, or administer drugs or devices, or otherwise  
19 promote or encourage; and

20 5. "Person" means any individual, corporation, industry, firm,  
21 partnership, association, venture, trust, institution, federal,  
22 state or local governmental instrumentality, agency or body or any  
23 other legal entity however organized.

1           SECTION 3.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 1-729.2 of Title 63, unless  
3 there is created a duplication in numbering, reads as follows:

4           An employer shall not discriminate against an employee or  
5 prospective employee by refusing to reasonably accommodate the  
6 religious observance or practice of the employee or prospective  
7 employee, unless the employer can demonstrate that the accommodation  
8 would pose an undue hardship on the program, enterprise, or business  
9 of the employer, in the following circumstances:

10           1. An abortion as defined in Section 1-730 of Title 63 of the  
11 Oklahoma Statutes. As used in the Freedom of Conscience Act, the  
12 term "abortion" shall not include the prescription of  
13 contraceptives;

14           2. An experiment or medical procedure that destroys an in vitro  
15 human embryo or uses cells or tissue derived from the destruction of  
16 an in vitro human embryo;

17           3. An experiment or medical procedure on an in vitro human  
18 embryo that is not related to the beneficial treatment of the in  
19 vitro human embryo;

20           4. An experiment or medical procedure on a developing child in  
21 an artificial womb, at any stage of development, that is not related  
22 to the beneficial treatment of the developing child;

23

24

1           5. A procedure, including a transplant procedure, that uses  
2 fetal tissue or organs that come from a source other than a  
3 stillbirth or miscarriage; or

4           6. An act that intentionally causes or assists in causing the  
5 death of an individual by assisted suicide, euthanasia, or mercy  
6 killing.

7           SECTION 4.           NEW LAW           A new section of law to be codified  
8 in the Oklahoma Statutes as Section 1-729.3 of Title 63, unless  
9 there is created a duplication in numbering, reads as follows:

10           A. No health care facility is required to admit any patient or  
11 to allow the use of the health care facility for the purpose of  
12 performing any of the acts specified in Section 3 of this act.

13           B. A physician, physician's assistant, registered nurse,  
14 practical nurse, pharmacist, or any employee thereof, or any other  
15 person who is an employee of, member of, or associated with the  
16 staff of a health care facility in which the performance of an  
17 activity specified in Section 3 of this act has been authorized, who  
18 in writing refuses or states an intention to refuse to participate  
19 in the activity on moral or religious grounds shall not be required  
20 to participate in the activity and shall not be disciplined by any  
21 professional licensing board or authorized regulatory department for  
22 refusing or stating an intention to refuse to participate in the  
23 practice with respect to the activity.

24

1 C. A physician, physician's assistant, registered nurse,  
2 practical nurse, pharmacist, or any employee thereof, or any other  
3 person who is an employee of, member of, or associated with the  
4 staff of a health care facility is immune from liability for any  
5 damage caused by the refusal of the person to participate in an  
6 activity specified in Section 3 of this act on moral or religious  
7 grounds.

8 SECTION 5. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 1-729.4 of Title 63, unless  
10 there is created a duplication in numbering, reads as follows:

11 A. No health care facility, school, or employer shall  
12 discriminate against any person with regard to admission, hiring or  
13 firing, tenure, term, condition, or privilege of employment, student  
14 status, or staff status on the ground that the person refuses or  
15 states an intention to refuse, whether or not in writing, to  
16 participate in an activity specified in Section 3 of the Freedom of  
17 Conscience Act, if the refusal is based on religious or moral  
18 precepts.

19 B. No person shall be required to:

20 1. Participate in an activity specified in Section 3 of this  
21 act if the individual's participation in the activity is contrary to  
22 the person's religious beliefs or moral convictions;

23 2. Make facilities available for an individual to participate  
24 in an activity specified in Section 3 of this act if the person

1 prohibits the activity from taking place in the facilities on the  
2 basis of religious beliefs or moral convictions; or

3 3. Provide any personnel to participate in an activity  
4 specified in Section 3 of this act if the activity is contrary to  
5 the religious beliefs or moral convictions of the personnel.

6 SECTION 6. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 1-729.5 of Title 63, unless  
8 there is created a duplication in numbering, reads as follows:

9 A. For the purposes of this section, "damages" do not include  
10 noneconomic damages, as defined in Section 1-1708.1C of Title 63 of  
11 the Oklahoma Statutes.

12 B. A person who is adversely affected by conduct that is in  
13 violation of the Freedom of Conscience Act may bring a civil action  
14 for equitable relief, including reinstatement or damages, or both  
15 reinstatement and damages. An action under this subsection may be  
16 commenced against the state and any office, department, independent  
17 agency, authority, institution, association, or other body in state  
18 government created or authorized to be created by the state  
19 constitution or any law. In an action under this subsection, the  
20 court shall award reasonable attorney fees to a person who obtains  
21 equitable relief, damages, or both. An action under this subsection  
22 shall be commenced within one (1) year after the cause of action  
23 accrues or be barred.

24

1 SECTION 7. This act shall become effective November 1, 2008.

2  
3 51-2-10237 MMP 02/21/08  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24