

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL 1878

6 By: Lamb of the Senate

7 and

8 (Peterson (Pam)) of the
9 House

10 COMMITTEE SUBSTITUTE

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

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

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

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

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

4 As used in the Freedom of Conscience Act:

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

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

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

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

23 5. "Person" means any individual, corporation, industry, firm,
24 partnership, association, venture, trust, institution, federal,

1 state or local governmental instrumentality, agency or body or any
2 other legal entity however organized.

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

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

12 1. An abortion as defined in Section 1-730 of Title 63 of the
13 Oklahoma Statutes. As used in this act, the term "abortion" shall
14 not include the prescription of contraceptives;

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

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

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

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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 the
21 respective 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.

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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 this act, if
17 the refusal is based on religious or moral precepts.

18 B. No person shall be required to:

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

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

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

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