

THE HOUSE OF REPRESENTATIVES  
Wednesday, February 27, 2008

Committee Substitute for  
House Bill No. 2771

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2771 - By: PETERSON (PAM),  
COOKSEY, MCCULLOUGH AND TIBBS of the House and LAMB of the Senate.

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

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

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

4 This act shall be known and may be cited as the “Freedom of Conscience Act”.

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

8 As used in the Freedom of Conscience Act:

9 1. “Health care facility” means any public or private organization, corporation,  
10 authority, partnership, sole proprietorship, association, agency, network, joint venture,

1 or other entity that is involved in providing health care services, including a hospital,  
2 clinic, medical center, ambulatory surgical center, private physician’s office, pharmacy,  
3 nursing home, university hospital, medical school, nursing school, medical training  
4 facility, inpatient health care facility, or other place where health care services are  
5 provided;

6 2. “Human embryo” means a human organism that is derived by fertilization,  
7 parthenogenesis, cloning, or any other means from one or more human gametes or  
8 human diploid cells;

9 3. “In vitro human embryo” means a human embryo, whether cryopreserved or not,  
10 living outside of a woman’s body;

11 4. “Participate in” means to perform, practice, engage in, assist in, recommend,  
12 counsel in favor of, make referrals for, prescribe, dispense, or administer drugs or  
13 devices, or otherwise promote or encourage; and

14 5. “Person” means any individual, corporation, industry, firm, partnership,  
15 association, venture, trust, institution, federal, state or local governmental  
16 instrumentality, agency or body or any other legal entity however organized.

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

20 An employer shall not discriminate against an employee or prospective employee by  
21 refusing to reasonably accommodate the religious observance or practice of the employee  
22 or prospective employee, unless the employer can demonstrate that the accommodation

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

1 would pose an undue hardship on the program, enterprise, or business of the employer,  
2 in the following circumstances:

3 1. An abortion as defined in Section 1-730 of Title 63 of the Oklahoma Statutes. As  
4 used in the Freedom of Conscience Act, the term “abortion” shall not include the  
5 prescription of contraceptives;

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

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

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

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

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

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

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

1 B. A physician, physician's assistant, registered nurse, practical nurse, pharmacist,  
2 or any employee thereof, or any other person who is an employee of, member of, or  
3 associated with the staff of a health care facility in which the performance of an activity  
4 specified in Section 3 of this act has been authorized, who in writing refuses or states an  
5 intention to refuse to participate in the activity on moral or religious grounds shall not be  
6 required to participate in the activity and shall not be disciplined by any professional  
7 licensing board or authorized regulatory department for refusing or stating an intention  
8 to refuse to participate in the practice with respect to the activity.

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

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

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

1 B. No person shall be required to:

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

5 2. Make facilities available for an individual to participate in an activity specified  
6 in Section 3 of this act if the person prohibits the activity from taking place in the  
7 facilities on the basis of religious beliefs or moral convictions; or

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

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

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

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

1 or both. An action under this subsection shall be commenced within one (1) year after  
2 the cause of action accrues or be barred.

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

4 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND PUBLIC SAFETY,  
5 dated 02-26-08 - DO PASS, As Amended and Coauthored.