

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 HOUSE BILL 3110

By: Peterson

4
5 AS INTRODUCED

6 An Act relating to public health and safety; creating
7 the Freedom of Conscience Act; defining terms;
8 prohibiting employers from discriminating against
9 certain persons for refusing to perform specified
10 acts based on certain beliefs; providing defense;
11 prohibiting forced participation in specified acts by
12 certain persons under certain circumstances;
13 providing immunity from liability; providing for
14 equitable relief and damages; providing statute of
15 limitations; repealing Sections 1, 2, 3, 4, 5 and 6,
16 Chapter 36, O.S.L. 2008 (63 O.S. Supp. 2009, Sections
17 1-728, 1-728.1, 1-728.2, 1-728.3, 1-728.4 and 1-
18 728.5), which relate to the Freedom of Conscience
19 Act; providing for codification; and declaring an
20 emergency.

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

22 SECTION 1. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 1-728.6 of Title 63, unless
24 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 1-728.7 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 1-728.8 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. The provisions of this section shall not apply
14 if the pregnant woman suffers from a physical disorder, physical
15 injury, or physical illness which, as certified by a physician,
16 causes the woman to be in imminent danger unless an abortion is
17 immediately performed or induced and there are no other competent
18 personnel available to attend to the woman. As used in the Freedom
19 of Conscience Act, the term "abortion" shall not include the
20 prescription of contraceptives;

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

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

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

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

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

13 SECTION 4. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 1-728.9 of Title 63, unless
15 there is created a duplication in numbering, reads as follows:

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

19 B. A physician, physician's assistant, registered nurse,
20 practical nurse, pharmacist, or any employee thereof, or any other
21 person who is an employee of, member of, or associated with the
22 staff of a health care facility in which the performance of an
23 activity specified in Section 3 of this act has been authorized, who
24 in writing refuses or states an intention to refuse to participate

1 in the activity on moral or religious grounds shall not be required
2 to participate in the activity and shall not be disciplined by the
3 respective licensing board or authorized regulatory department for
4 refusing or stating an intention to refuse to participate in the
5 practice with respect to the activity.

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

13 SECTION 5. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 1-728.10 of Title 63, unless
15 there is created a duplication in numbering, reads as follows:

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

24 B. No person shall be required to:

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

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

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

11 SECTION 6. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 1-728.11 of Title 63, unless
13 there is created a duplication in numbering, reads as follows:

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

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

1 court shall award reasonable attorney fees to a person who obtains
2 equitable relief, damages, or both. An action under this subsection
3 shall be commenced within one (1) year after the cause of action
4 accrues or be barred.

5 SECTION 7. REPEALER Sections 1, 2, 3, 4, 5 and 6,
6 Chapter 36, O.S.L. 2008 (63 O.S. Supp. 2009, Sections 1-728, 1-
7 728.1, 1-728.2, 1-728.3, 1-728.4 and 1-728.5), are hereby repealed.

8 SECTION 8. It being immediately necessary for the preservation
9 of the public peace, health and safety, an emergency is hereby
10 declared to exist, by reason whereof this act shall take effect and
11 be in full force from and after its passage and approval.

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