

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 HOUSE BILL 2873

By: Newell

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5
6 AS INTRODUCED

7 An Act relating to officers; amending 51 O.S. 2011,
8 Sections 252 and 253, which relate to the Oklahoma
9 Religious Freedom Act; modifying certain definitions;
10 permitting certain person to assert claim in
11 violation of certain act; and providing an effective
12 date.

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

14 SECTION 1. AMENDATORY 51 O.S. 2011, Section 252, is
15 amended to read as follows:

16 Section 252. ~~In this act~~ As used in the Oklahoma Religious
17 Freedom Act:

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

21 2. "Exercise of religion" means the exercise of religion under
22 Article 1, Section 2, of the Constitution of the State of Oklahoma,
23 the Oklahoma Religious Freedom Act, and the First Amendment to the
24 Constitution of the United States. It includes, but is not limited

1 to, the ability to act or refuse to act in a manner substantially
2 motivated by a person's sincerely held religious belief, whether or
3 not the exercise is compulsory or central to a larger system of
4 religious belief;

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

8 4. "Frivolous claim" means a claim which lacks merit under
9 existing law and which cannot be supported by a good faith argument
10 for the extension, modification, or reversal of existing law or the
11 establishment of new law;

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

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

19 7. "Substantially burden" means ~~to inhibit or curtail~~
20 ~~religiously motivated practice~~ any action that directly or
21 indirectly constrains, inhibits, curtails or denies the exercise of
22 religion by any person or compels any action contrary to a person's
23 exercise of religion and includes, but is not limited to,
24 withholding benefits, assessing criminal, civil or administrative

1 penalties, or exclusion from governmental programs or access to
2 governmental facilities.

3 SECTION 2. AMENDATORY 51 O.S. 2011, Section 253, is
4 amended to read as follows:

5 Section 253. A. Except as provided in subsection B of this
6 section, no governmental entity shall substantially burden a
7 person's free exercise of religion even if the burden results from a
8 rule of general applicability.

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

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

15 C. A person whose exercise of religion has been substantially
16 burdened, or is likely to be substantially burdened, in violation of
17 the Oklahoma Religious Freedom Act may assert such violation or
18 impending violation as a claim or defense in a judicial proceeding,
19 regardless of whether the state or one of its political subdivisions
20 is a party to the proceeding. The person asserting such a claim or
21 defense may obtain appropriate relief, including relief against the
22 state or its political subdivisions. Appropriate relief includes,
23 but is not limited to, injunctive relief, declaratory relief,
24 compensatory damages, and costs and attorney fees.

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SECTION 3. This act shall become effective November 1, 2014.

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