STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

SENATE BILL 440 By: Silk

AS INTRODUCED

An Act relating to religious freedom; creating the Oklahoma Religious Freedom Restoration Act of 2015; defining terms; providing certain protections from governmental action for certain religious beliefs; stating protected actions; stating prohibited remedies and actions; providing defense to certain actions; setting dismissal and transfer procedure; prohibiting certain discovery during certain time; allowing certain attorney fees, costs and damages; ensuring governmental entity provides certain service under certain condition; providing severability; construing provisions; repealing 51 O.S. 2011, Sections 251, 252, 253, 254, 255, 256, 257 and 258, which relate to the Oklahoma Religious Freedom Act; providing for codification; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1850 of Title 25, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Religious Freedom Reformation Act of 2015".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1850.1 of Title 25, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Religious entity" means an organization, regardless of its not-for-profit or for-profit status, and regardless of whether its activities are deemed wholly or aptly religious, that is:

a. a religious corporation, association, educational institution or society,

b. an entity operated, supervised or controlled by, or connected with, a religious corporation, association, educational institution or society, or

c. a privately-held business operating consistently with its sincerely held religious beliefs, with regard to any activity described in this act and amendments thereto; and

2. "Governmental entity" means the executive, legislative, and judicial branches and any and all agencies, boards, commissions, departments, districts, authorities or other entities, subdivisions or part whatsoever of state and local government, as well as any person acting under color of law.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1850.2 of Title 25, unless there is created a duplication in numbering, reads as follows:

Notwithstanding any other provision of law, no individual or religious entity shall be required by any governmental entity to do any of the following, if it would be contrary to the sincerely held

religious beliefs of the individual or religious entity regarding sex, gender or sexual orientation:

1. Provide any services, accommodations, advantages, facilities, goods or privileges;

2. Provide counseling, adoption, foster care, and other social services;

3. Provide employment or employment benefits, related to, or related to the celebration of, any marriage, domestic partnership, civil union or similar arrangement;

4. Solemnize any marriage, domestic partnership, civil union or similar arrangement; or

5. Treat any marriage, domestic partnership, civil union or similar arrangement as valid.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1850.3 of Title 25, unless there is created a duplication in numbering, reads as follows:

A. Notwithstanding any other provision of law, no refusal by an individual or religious entity to engage in any activity described in Section 3 of this act, and amendments thereto, shall result in:

1. A civil claim or cause of action under state or local law based upon such refusal; or

2. An action by any governmental entity to penalize, withhold benefits from, discriminate against or otherwise disadvantage any

protected individual or religious entity, under any state or local law.

B. Any individual or religious entity named in or subject to a civil action, an administrative action or any action by a governmental entity may immediately assert the protections provided in Section 3 of this act, and amendments thereto, or this section, as a defense by moving to dismiss such action. If the motion to dismiss is filed in an action before an administrative tribunal, within fifteen (15) days after filing such motion any party to the action may elect to transfer jurisdiction of the action to a district court with proper venue. Within sixty (60) days after the transfer of jurisdiction, the district court shall decide whether the claimed protection applies. The district court shall not permit any additional discovery or fact-finding prior to making its decision.

C. If a governmental entity, or any person asserts a claim or cause of action, or takes any adverse action against an individual or religious entity in violation of subsection A of this section, the individual or religious entity shall be entitled, upon request, to recover all reasonable attorney fees, costs and damages such individual or religious entity incurred as a result of the violation.

D. If an individual employed by a governmental entity or other non-religious entity invokes any of the protections provided in

Section 3 of this act, and amendments thereto, as a basis for declining to provide a lawful service that is otherwise consistent with the entity's duties or policies, the individual's employer, in directing the performance of such service, shall otherwise ensure that the requested service is provided, if it can be done without undue hardship to the employer.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1850.4 of Title 25, unless there is created a duplication in numbering, reads as follows:

A. If any word, phrase, clause or provision of this act, and any amendments thereto, or the application of any such word, phrase, clause or provision to any person or circumstance is held invalid, the remaining provisions shall be given effect without the invalid portion and to this end the provisions of Sections 1 through 4 of this act, and amendments thereto, are severable.

B. Nothing in Sections 1 through 4 of this act, and amendments thereto, shall be construed to allow any individual or entity acting under color of state law to perform any marriage prohibited by state law including, but not limited to, laws relating to plural marriage, incest, consanguinity and marriageable age.

C. Nothing in Sections 1 through 4 of this act, and amendments thereto, shall be construed to authorize any governmental discrimination or penalty against any individual or religious entity

based upon its performance, facilitation or support of any celebrations of same-gender unions or relationships.

D. The provisions of Sections 1 through 4 of this act, and amendments thereto, shall be construed in favor of a broad protection of religious exercise, to the maximum extent permitted by their terms and by the constitution of this state and the United States of America.

SECTION 6. REPEALER 51 O.S. 2011, Sections 251, 252, 253, 254, 255, 256, 257 and 258, are hereby repealed.

SECTION 7. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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