

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

SENATE BILL 723

By: Brecheen

AS INTRODUCED

An Act relating to the Oklahoma Religious Freedom Act; amending 51 O.S. 2011, Sections 252 and 253, which relate to definitions and burden upon free exercise of religion; modifying definitions; authorizing certain action; authorizing certain relief; and providing an effective date.

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

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

Section 252. In this act:

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

2. "Exercise of religion" means the practice, observance, and exercise of religion under Article 1, Section 2, of the Constitution of the State of Oklahoma, the Oklahoma Religious Freedom Act, and the First Amendment to the Constitution of the United States. It

1 includes, but is not limited to, the ability to act or refuse to act
2 in a manner substantially motivated by one's sincerely held
3 religious belief, whether or not the exercise is compulsory or
4 central to a larger system of 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. § 1988; and

19 7. "Substantially burden" means to ~~inhibit or curtail~~
20 ~~religiously motivated practice~~ directly or indirectly constrain,
21 inhibit, curtail or deny the exercise of religion by any person or
22 compel any action contrary to a person's exercise of religion and
23 includes, but is not limited to, withholding benefits, assessing
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1 criminal, civil or administrative penalties or excluding from
2 governmental programs or access to 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 this act may assert such violation or impending violation as a claim
18 or defense in a judicial proceeding, regardless of whether the state
19 or a political subdivision is a party to the proceeding. The person
20 asserting such a claim or defense may obtain appropriate relief,
21 including relief against the state or its political subdivisions.
22 Appropriate relief includes, but is not limited to, injunctive or
23 declaratory relief, compensatory damages, and attorney fees and
24 costs.

SECTION 3. This act shall become effective November 1, 2015.

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