

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

HOUSE JOINT
RESOLUTION 1059

By: McCullough

AS INTRODUCED

A Joint Resolution directing the Secretary of State to refer to the people for their approval or rejection a proposed amendment to the Constitution of the State of Oklahoma by adding new Sections 2A, 2B, 2C and 2D to Article I; allowing religious organization, private business or individual to refuse certain acts that violate a sincerely held religious belief; prohibiting civil or criminal cause of action due to refusal; barring state action to penalize an organization or individual that refuses; defining term; construing resolution provisions in favor of a wide protection of religious beliefs; prohibiting licensing entity from denying, revoking or suspending a license based on religious beliefs; disallowing licensing entity from penalizing licensee based on religious beliefs; permitting private child-placing agency to refuse participation in any placement that violates written religious convictions or policies of the agency; prohibiting denial, revocation or suspension of agency license due to refusal; barring an action by the state or a private party to penalize or recover damages against agency; directing state to accredit individual or organization that meets certain standards; providing ballot title; and directing filing.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE
2ND SESSION OF THE 55TH OKLAHOMA LEGISLATURE:

1 SECTION 1. The Secretary of State shall refer to the people for
2 their approval or rejection, as and in the manner provided by law,
3 the following proposed amendment to the Constitution of the State of
4 Oklahoma by adding a new Section 2A to Article I thereof, to read as
5 follows:

6 A. A religious organization, an organization supervised by or
7 controlled by or in connection with a religious organization, an
8 authorized official or individual employed by a religious
9 organization while acting in the scope of that employment, any other
10 private business or individual shall not be required to solemnize or
11 recognize any marriage or the natural consequences thereof or
12 provide services, accommodations, facilities, goods or privileges
13 for a purpose related to the solemnization, recognition, formation
14 or celebration of any marriage or the natural consequences thereof
15 if the action would cause the organization or individual to violate
16 a sincerely held religious belief.

17 B. A refusal to provide services, accommodations, facilities,
18 goods or privileges under subsection A of this section shall not be
19 the basis for any civil or criminal cause of action. A refusal to
20 provide services, accommodations, facilities, goods or privileges
21 also shall not be the basis for any action by the state or a
22 political subdivision of the state to penalize or withhold benefits
23 or privileges, including tax exemptions, governmental contracts,
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1 grants or licenses, from any religious organization, private
2 business or individual.

3 C. As used in Sections 2A and 2D of Article I of the Oklahoma
4 Constitution, "religious organization" means:

5 1. A nonprofit religious corporation, association, educational
6 institution or society;

7 2. An entity operated, supervised or controlled by, or
8 connected with a nonprofit religious corporation, association,
9 educational institution or society; or

10 3. Any corporation or association constituting a wholly owned
11 subsidiary, affiliate or agency of any nonprofit religious
12 organization, association, educational institution or society.

13 A "religious organization" includes but shall not be limited to a
14 nonprofit organization that is a house of worship, a religious
15 group, society corporation, association, entity, partnership, order,
16 preschool, school, institution of higher education, ministry,
17 charity, social-service provider, children's home, hospital or other
18 health care facility, hospice, elder care facility or crisis
19 pregnancy center, and associated counseling, courses and teaching,
20 where such organization holds itself out to the public in whole or
21 in part as religious and its purposes and activities are in whole or
22 in part religious; and includes any clergy, authorized official,
23 officer, manager, employee, member or volunteer of any entity
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1 described herein, while acting in the scope of their office,
2 employment or duties of position.

3 D. Courts shall broadly construe the provisions of Sections 2A,
4 2B, 2C and 2D of Article I of the Oklahoma Constitution in favor of
5 a wide protection of religious beliefs, exercise and conscience to
6 the maximum extent permitted by terms of this section, the United
7 States Constitution and the Oklahoma Constitution. Nothing in this
8 section repeals or supersedes any provision of the Oklahoma
9 Constitution or Oklahoma Statutes that is equally or more protective
10 of religious beliefs or practices.

11 SECTION 2. The Secretary of State shall refer to the people for
12 their approval or rejection, as and in the manner provided by law,
13 the following proposed amendment to the Constitution of the State of
14 Oklahoma by adding a new Section 2B to Article I thereof, to read as
15 follows:

16 Notwithstanding other provisions of the Constitution or Oklahoma
17 Statutes to the contrary, a state or local government department,
18 agency, board, commission or entity, a state or local government
19 official or another accrediting, certifying, registering or
20 licensing entity shall not:

21 1. Deny, revoke or suspend a professional or business license
22 based on any act or refusal to act by the licensee pursuant to the
23 protections provided by Section 2A of Article I of the Oklahoma
24 Constitution; or

1 2. Penalize, discipline, censure, disadvantage, discriminate
2 against or retaliate against a licensee who holds a professional or
3 business license based on any act or refusal to act by the licensee
4 pursuant to the protections provided by Section 2A of Article I of
5 the Oklahoma Constitution.

6 SECTION 3. The Secretary of State shall refer to the people for
7 their approval or rejection, as and in the manner provided by law,
8 the following proposed amendment to the Constitution of the State of
9 Oklahoma by adding a new Section 2C to Article I thereof, to read as
10 follows:

11 A. To the extent allowed by federal law, no private child-
12 placing agency shall be required to perform, assist, counsel,
13 recommend, consent to, refer or participate in any placement of a
14 child for foster care or adoption when the proposed placement would
15 violate the written religious or moral convictions or policies of
16 the agency.

17 B. The Department of Human Services shall not deny an
18 application for an initial license or renewal of a license or revoke
19 the license of a private child-placing agency because of the
20 agency's objection to performing, assisting, counseling,
21 recommending, consenting to, referring or participating in a
22 placement that violates the written religious or moral convictions
23 or policies of the agency.
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1 C. A state or local government department, agency, board,
2 commission or entity shall not deny a private child-placing agency
3 any grant, contract or participation in a government program because
4 of the agency's objection to performing, assisting, counseling,
5 recommending, consenting to, referring or participating in a
6 placement that violates the written religious or moral convictions
7 or policies of the agency.

8 D. Refusal of a private child-placing agency to perform,
9 assist, counsel, recommend, consent to, refer or participate in a
10 placement that violates the written religious or moral convictions
11 or policies of the agency shall not form the basis of any action for
12 damages.

13 SECTION 4. The Secretary of State shall refer to the people for
14 their approval or rejection, as and in the manner provided by law,
15 the following proposed amendment to the Constitution of the State of
16 Oklahoma by adding a new Section 2D to Article I thereof, to read as
17 follows:

18 The state and any political subdivision of the state shall
19 consider accredited, for purposes of state law, any individual
20 clergy, religious leader or religious organization that would be
21 accredited but for the accrediting agency's reliance on standards
22 that preclude accreditation on the basis of such person's or
23 organization's moral conviction, beliefs or the lawful expression of
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1 those beliefs, including sincerely held religious beliefs regarding
2 marriage, family or sexuality.

3 SECTION 5. The Ballot Title for the proposed Constitutional
4 amendments as set forth in SECTIONS 1, 2, 3 and 4 of this resolution
5 shall be in the following form:

6 BALLOT TITLE

7 Legislative Referendum No. _____ State Question No. _____

8 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

9 This resolution amends the Oklahoma Constitution. It would
10 allow a religious organization, authorized official, private
11 business or individual to refuse to solemnize or recognize any
12 marriage or provide goods or services related to the marriage
13 that violate a sincerely held religious belief. It would
14 prohibit a civil or criminal cause of action. It would also
15 preclude any action by the state attempting to penalize an
16 organization or individual based on the refusal. It would
17 provide a definition for a religious organization. It would
18 require courts to broadly construe all provisions of the
19 resolution in favor of a wide protection of religious beliefs.
20 The amendment would bar a licensing or certifying entity from
21 denying, revoking or suspending a professional or business
22 license based on religious beliefs. It would permit a private
23 child-placing agency to refuse to participate in any child
24 placement that would violate the written religious or moral

convictions or policies of the agency. It would also prohibit an action by the state to penalize the agency and any action for damages. It would require the state to accredit individual clergy or religious organizations that would otherwise be accredited but for the beliefs of the person or organization.

SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL — YES _____

AGAINST THE PROPOSAL — NO _____

SECTION 6. The Chief Clerk of the House of Representatives, immediately after the passage of this resolution, shall prepare and file one copy thereof, including the Ballot Title set forth in SECTION 5 hereof, with the Secretary of State and one copy with the Attorney General.

55-2-8329 EK 01/20/16