

**SENATE CHAMBER**  
**STATE OF OKLAHOMA**

DISPOSITION

☐ FLOOR AMENDMENT

No. \_\_\_\_\_

\_\_\_\_\_

☐ COMMITTEE AMENDMENT

\_\_\_\_\_  
(Date)

Mr./Madame President:

I move to amend Senate Bill No. 197, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

\_\_\_\_\_  
Senator Silk

Silk-MD-FS-Req#3449  
3/14/2018 11:10 AM

(Floor Amendments Only)    Date and Time Filed: \_\_\_\_\_

☐ Untimely

☐ Amendment Cycle Extended

☐ Secondary Amendment

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

FLOOR SUBSTITUTE

FOR

SENATE BILL NO. 197

By: Silk and Brecheen of the  
Senate

and

Dunlap of the House

FLOOR SUBSTITUTE

[ freedom of conscience - Protecting Freedom of  
Conscience from Government Discrimination Act -  
codification - effective date ]

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 "Protecting  
Freedom of Conscience from Government Discrimination Act".

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:

The sincerely held religious beliefs or moral convictions  
protected by this act are the belief or conviction that:

1        1. Marriage is or should be recognized as the union of one man  
2 and one woman;

3        2. Sexual relations are properly reserved to such a marriage;  
4 and

5        3. The terms "male" or "female" refer to an individual's  
6 immutable biological sex as objectively determined by anatomy and  
7 genetics at time of birth.

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

11        A. The state government shall not take any discriminatory  
12 action against a religious organization wholly or partially on the  
13 basis that such organization:

14        1. Solemnizes or declines to solemnize any marriage, or  
15 provides or declines to provide services, accommodations,  
16 facilities, goods or privileges for a purpose related to the  
17 solemnization, formation, celebration or recognition of any  
18 marriage, based upon or in a manner consistent with a sincerely held  
19 religious belief or moral conviction described in Section 2 of this  
20 act;

21        2. Makes any employment-related decision including, but not  
22 limited to, the decision whether or not to hire, terminate or  
23 discipline an individual whose conduct or religious beliefs are  
24 inconsistent with those of the religious organization, based upon or

1 in a manner consistent with a sincerely held religious belief or  
2 moral conviction described in Section 2 of this act; or

3 3. Makes any decision concerning the sale, rental, occupancy  
4 of, or terms and conditions of occupying a dwelling or other housing  
5 under its control, based upon or in a manner consistent with a  
6 sincerely held religious belief or moral conviction described in  
7 Section 2 of this act.

8 B. The state government shall not take any discriminatory  
9 action against a religious organization that advertises, provides or  
10 facilitates adoption or foster care, wholly or partially on the  
11 basis that such organization has provided or declined to provide any  
12 adoption or foster care service, or related service, based upon or  
13 in a manner consistent with a sincerely held religious belief or  
14 moral conviction described in Section 2 of this act.

15 C. The state government shall not take any discriminatory  
16 action against a person who the state grants custody of a foster or  
17 adoptive child, or who seeks from the state custody of a foster or  
18 adoptive child, wholly or partially on the basis that the person  
19 guides, instructs or raises a child, or intends to guide, instruct,  
20 or raise a child based upon or in a manner consistent with a  
21 sincerely held religious belief or moral conviction described in  
22 Section 2 of this act.

23 D. The state government shall not take any discriminatory  
24 action against a person wholly or partially on the basis that the

1 person declines to participate in the provision of treatments,  
2 counseling, or surgeries related to sex reassignment or gender  
3 identity transitioning or declines to participate in the provision  
4 of psychological, counseling, or fertility services based upon a  
5 sincerely held religious belief or moral conviction described in  
6 Section 2 of this act. This subsection shall not be construed to  
7 allow any person to deny visitation, recognition of a designated  
8 representative for health care decision-making, or emergency medical  
9 treatment necessary to cure an illness or injury as required by law.

10 E. The state government shall not take any discriminatory  
11 action against a person wholly or partially on the basis that the  
12 person has provided or declined to provide the following services,  
13 accommodations, facilities, goods, or privileges for a purpose  
14 related to the solemnization, formation, celebration, or recognition  
15 of any marriage, based upon or in a manner consistent with a  
16 sincerely held religious belief or moral conviction described in  
17 Section 2 of this act:

18 1. Photography, poetry, videography, disc-jockey services,  
19 wedding planning, printing, publishing or similar marriage-related  
20 goods or services; or

21 2. Floral arrangements, dress making, cake or pastry artistry,  
22 assembly-hall or other wedding-venue rentals, limousine or other  
23 car-service rentals, jewelry sales and services, or similar  
24 marriage-related services, accommodations, facilities or goods.

1 F. The state government shall not take any discriminatory  
2 action against a person wholly or partially on the basis that the  
3 person establishes sex-specific standards or policies concerning  
4 employee or student dress or grooming, or concerning access to  
5 restrooms, spas, baths, showers, dressing rooms, locker rooms, or  
6 other intimate facilities or settings, based upon or in a manner  
7 consistent with a sincerely held religious belief or moral  
8 conviction described in Section 2 of this act.

9 G. The state government shall not take any discriminatory  
10 action against a state employee wholly or partially on the basis  
11 that such employee lawfully speaks or engages in expressive conduct  
12 based upon or in a manner consistent with a sincerely held religious  
13 belief or moral conviction described in Section 2 of this act, so  
14 long as:

15 1. If the employee's speech or expressive conduct occurs in the  
16 workplace, that speech or expressive conduct is consistent with the  
17 time, place, manner and frequency of any other expression of a  
18 religious, political, or moral belief or conviction allowed; or

19 2. If the employee's speech or expressive conduct occurs  
20 outside the workplace, that speech or expressive conduct is in the  
21 employee's personal capacity and outside the course of performing  
22 work duties.

23 H. 1. Any person employed or acting on behalf of the state  
24 government who has authority to authorize or license marriages

1 including, but not limited to, clerks, registrars of deeds or their  
2 deputies, may seek recusal from authorizing or licensing lawful  
3 marriages based upon or in a manner consistent with a sincerely held  
4 religious belief or moral conviction described in Section 2 of this  
5 act. Any person making such recusal shall provide prior written  
6 notice to the Administrative Office of the Courts who shall keep a  
7 record of such recusal, and the state government shall not take any  
8 discriminatory action against that person wholly or partially on the  
9 basis of such recusal. The person who is recusing himself or  
10 herself shall take all necessary steps to ensure that the  
11 authorization and licensing of any legally valid marriage is not  
12 impeded or delayed as a result of any recusal.

13 2. Any person employed or acting on behalf of the state  
14 government who has authority to perform or solemnize marriages  
15 including, but not limited to, judges, magistrates, justices of the  
16 peace or their deputies, may seek recusal from performing or  
17 solemnizing lawful marriages based upon or in a manner consistent  
18 with a sincerely held religious belief or moral conviction described  
19 in Section 2 of this act. Any person making such recusal shall  
20 provide prior written notice to the Administrative Office of the  
21 Courts, and the state government shall not take any discriminatory  
22 action against that person wholly or partially on the basis of such  
23 recusal. The Administrative Office of the Courts shall take all  
24 necessary steps to ensure that the performance or solemnization of

1 any legally valid marriage is not impeded or delayed as a result of  
2 any recusal.

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

6 A. As used in this act, discriminatory action includes any  
7 action taken by the state government to:

8 1. Alter in any way the tax treatment of, or cause any tax,  
9 penalty, or payment to be assessed against, or deny, delay, revoke,  
10 or otherwise make unavailable an exemption from taxation of any  
11 person referred to in Section 3 of this act;

12 2. Disallow, deny or otherwise make unavailable a deduction for  
13 state tax purposes of any charitable contribution made to or by such  
14 person;

15 3. Withhold, reduce, exclude, terminate, materially alter the  
16 terms or conditions of, or otherwise make unavailable or deny any  
17 state grant, contract, subcontract, cooperative agreement,  
18 guarantee, loan, scholarship, or other similar benefit from or to  
19 such person;

20 4. Withhold, reduce, exclude, terminate, materially alter the  
21 terms or conditions of, or otherwise make unavailable or deny any  
22 entitlement or benefit under a state benefit program from or to such  
23 person;

24



1        5. Impose, levy or assess a monetary fine, fee, penalty or  
2 injunction;

3        6. Withhold, reduce, exclude, terminate, materially alter the  
4 terms or conditions of, or otherwise make unavailable or deny any  
5 license, certification, accreditation, custody award or agreement,  
6 diploma, grade, recognition, or other similar benefit, position, or  
7 status from or to any person; or

8        7. Refuse to hire or promote, force to resign, fire, demote,  
9 sanction, discipline, materially alter the terms or conditions of  
10 employment, or retaliate or take other adverse employment action  
11 against a person employed or commissioned by the state government.

12        B. The state government shall consider accredited, licensed or  
13 certified any person that would otherwise be accredited, licensed or  
14 certified, respectively, for any purposes under state law but for a  
15 determination against such person wholly or partially on the basis  
16 that the person believes, speaks or acts in accordance with a  
17 sincerely held religious belief or moral conviction described in  
18 Section 2 of this act.

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

22        A. A person may assert a violation of this act as a claim  
23 against the state government in any judicial or administrative  
24 proceeding or as defense in any judicial or administrative

1 proceeding without regard to whether the proceeding is brought by or  
2 in the name of the state government, any private person or any other  
3 party.

4 B. An action under this act may be commenced, and relief may be  
5 granted, in a court of the state without regard to whether the  
6 person commencing the action has sought or exhausted available  
7 administrative remedies.

8 SECTION 6. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 1850.5 of Title 25, unless there  
10 is created a duplication in numbering, reads as follows:

11 An aggrieved person shall first seek injunctive relief to  
12 prevent or remedy a violation of this act or the effects of a  
13 violation of this act. If injunctive relief is granted by the court  
14 and the injunction is thereafter violated, the aggrieved party may  
15 then seek the following:

- 16 1. Compensatory damages for pecuniary and nonpecuniary losses;
- 17 2. Reasonable attorney fees and costs; and
- 18 3. Any other appropriate relief, except that only declaratory  
19 relief and injunctive relief shall be available against a private  
20 person not acting under color of state law upon a successful  
21 assertion of a claim or defense under this act.

22 SECTION 7. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 1850.6 of Title 25, unless there  
24 is created a duplication in numbering, reads as follows:

1 A person shall bring an action to assert a claim under this act  
2 not later than two (2) years after the date that the person knew or  
3 should have known that a discriminatory action was taken against  
4 that person.

5 SECTION 8. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 1850.7 of Title 25, unless there  
7 is created a duplication in numbering, reads as follows:

8 A. This act shall be construed in favor of a broad protection  
9 of free exercise of religious beliefs and moral convictions, to the  
10 maximum extent permitted by the state and federal constitutions.

11 B. The protection of free exercise of religious beliefs and  
12 moral convictions afforded by this act are in addition to the  
13 protections provided under federal law, state law, and the state and  
14 federal constitutions. Nothing in this act shall be construed to  
15 preempt or repeal any state or local law that is equally or more  
16 protective of free exercise of religious beliefs or moral  
17 convictions. Nothing in this act shall be construed to narrow the  
18 meaning or application of any state or local law protecting free  
19 exercise of religious beliefs or moral convictions. Nothing in this  
20 act shall be construed to prevent the state government from  
21 providing, either directly or through an individual or entity not  
22 seeking protection under this act, any benefit or service authorized  
23 under state law.

24

1 C. This act applies to, and in cases of conflict supersedes,  
2 each statute of the state that impinges upon the free exercise of  
3 religious beliefs and moral convictions protected by this act,  
4 unless a conflicting statute is expressly made exempt from the  
5 application of this act. This act also applies to, and in cases of  
6 conflict supersedes, any ordinance, rule, regulation, order,  
7 opinion, decision, practice or other exercise of the state  
8 government's authority that impinges upon the free exercise of  
9 religious beliefs or moral convictions protected by this act.

10 SECTION 9. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 1850.8 of Title 25, unless there  
12 is created a duplication in numbering, reads as follows:

13 As used in this act:

14 1. "State benefit program" means any program administered or  
15 funded by the state, or by any agent on behalf of the state,  
16 providing cash, payments, grants, contracts, loans or in-kind  
17 assistance;

18 2. "State government" means:

19 a. the State of Oklahoma or a political subdivision of  
20 the state,

21 b. any agency of the state or of a political subdivision  
22 of the state, including a department, bureau, board,  
23 commission, council, court or public institution of  
24 higher education,

- c. any person acting under color of state law, and
- d. any private party or third party suing under or enforcing a law, ordinance, rule or regulation of the state or political subdivision of the state;

3. "Person" means:

- a. a natural person, in his or her individual capacity, regardless of religious affiliation or lack thereof, or in his or her capacity as a member, officer, owner, volunteer, employee, manager, religious leader, clergy or minister of any entity described in this section,
- b. a religious organization,
- c. a sole proprietorship, or closely held company, partnership, association, organization, firm, corporation, cooperative, trust, society or other closely held entity operating with a sincerely held religious belief or moral conviction described in this act, or
- d. cooperatives, ventures or enterprises comprised of two or more individuals or entities described in this subsection;

4. "Religious organization" means:

- a. a house of worship including, but not limited to, churches, synagogues, shrines, mosques and temples,

1           b.    a religious group, corporation, association, school or  
2               educational institution, ministry, order, society or  
3               similar entity, regardless of whether it is integrated  
4               or affiliated with a church or other house of worship,  
5               and

6           c.    an officer, owner, employee, manager, religious  
7               leader, clergy or minister of an entity or  
8               organization described in this paragraph; and

9           5.    "Adoption or foster care" or "adoption or foster care  
10           service" means social services provided to or on behalf of children,  
11           including:

- 12           a.    assisting abused or neglected children,  
13           b.    teaching children and parents occupational, homemaking  
14               and other domestic skills,  
15           c.    promoting foster parenting,  
16           d.    providing foster homes, residential care, group homes  
17               or temporary group shelters for children,  
18           e.    recruiting foster parents,  
19           f.    placing children in foster homes,  
20           g.    licensing foster homes,  
21           h.    promoting adoption or recruiting adoptive parents,  
22           i.    assisting adoptions or supporting adoptive families,  
23           j.    performing or assisting home studies,  
24           k.    assisting kinship guardianships or kinship caregivers,

- 1. providing family preservation services,
- m. providing family support services, and
- n. providing temporary family reunification services.

SECTION 10. This act shall become effective November 1, 2018.

56-2-3449 MD 3/14/2018 11:10:42 AM