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February 21, 2017

**AS AMENDED**

SENATE BILL NO. 197

By: Silk and Brecheen

[ individual's right of conscience - Oklahoma Right  
of Conscience Act - protections from governmental  
action - 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 "Oklahoma Right of Conscience 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:

As used in this act:

1. "Individual" means a natural person, a privately-held business, or a church or recognized religious organization with regard to any activity described in this act and amendments thereto; and

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

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

9        Notwithstanding any other provision of law, no individual shall  
10 be required by any governmental entity to do any of the following,  
11 if it would be contrary to the sincerely held religious beliefs or  
12 conscience of the individual regarding marriage, lifestyle or  
13 behavior:

14        1. Provide any services, accommodations, advantages,  
15 facilities, goods or privileges used in a marriage ceremony or  
16 celebration of a specific lifestyle or behavior; or

17        2. Provide any services, accommodations, advantages,  
18 facilities, goods or privileges to be used to promote, advertise,  
19 endorse or advocate for a specific marriage, lifestyle or behavior;

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

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

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

6       2. An action by any governmental entity to penalize, withhold  
7 benefits from, discriminate against or otherwise disadvantage any  
8 protected individual under any state or local law.

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

21       C. If a governmental entity, or any person asserts a claim or  
22 cause of action, or takes any adverse action against an individual  
23 in violation of subsection A of this section, the individual shall  
24 be entitled, upon request, to recover all reasonable attorney fees,

1 costs and damages such individual incurred as a result of the  
2 violation.

3 D. If an individual employed by a governmental entity or other  
4 non-religious entity invokes any of the protections provided in  
5 Section 3 of this act, and amendments thereto, as a basis for  
6 declining to provide a lawful service that is otherwise consistent  
7 with the entity's duties or policies, the individual's employer, in  
8 directing the performance of such service, shall otherwise ensure  
9 that the requested service is provided, if it can be done without  
10 undue hardship to the employer.

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

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

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

1 C. Nothing in Sections 1 through 4 of this act, and amendments  
2 thereto, shall be construed to authorize any governmental  
3 discrimination or penalty against any individual based upon its  
4 performance, facilitation or support of any celebrations of same-  
5 gender unions or relationships.

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

11 E. Nothing in this act shall be construed to permit, authorize  
12 or grant any immunity or protection for any act or omission  
13 initiated, directly or indirectly, by an individual whose rights of  
14 religious exercise or conscience are protected by this act if such  
15 act or omission threatens or endangers the life, health, safety, or  
16 business establishment of another person.

17 SECTION 6. This act shall become effective November 1, 2017.

18 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY  
19 February 21, 2017 - DO PASS AS AMENDED  
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