

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 COMMITTEE SUBSTITUTE
4 FOR
5 SENATE BILL NO. 1503

By: Daniels

6
7 COMMITTEE SUBSTITUTE

8 An Act relating to abortion; creating the Oklahoma
9 Heartbeat Act; defining terms; prohibiting
10 performance of abortion except under certain
11 conditions; requiring certain test to meet specified
12 criteria; requiring physician to record certain
13 information; prohibiting performance of abortion
14 under certain conditions; clarifying allowed conduct;
15 specifying effect of certain provisions; providing
16 exception for medical emergency; requiring physician
17 to record certain information; providing exception
18 for abortion performed at the behest of federal
19 entities; providing for and prohibiting certain
20 enforcement; allowing certain persons to bring
21 certain civil action; requiring and prohibiting
22 certain civil relief; establishing deadline for
23 filing of civil action; allowing and disallowing
24 certain defenses; prohibiting certain acts by
specified persons and entities; specifying
applicability of certain provisions; prohibiting
certain civil actions; authorizing and prohibiting
affirmative defense under certain conditions;
specifying venue for civil action; prohibiting
certain transfer of venue; granting specified
entities certain immunities; prohibiting certain
waiver of immunity; limiting jurisdiction of courts;
establishing liability for court costs and attorney
fees; defining term; establishing statute of
limitation for bringing certain actions; prohibiting
use of certain defenses; providing for severability;
expressing legislative intent and declarations;
providing for certain interpretation and enforcement;
providing certain construction; amending 12 O.S.
2021, Section 1439, which relates to the Oklahoma

1 Citizens Participation Act; adding exception;
2 amending 51 O.S. 2021, Section 255, which relates to
3 the Oklahoma Religious Freedom Act; limiting
4 applicability of act; providing for codification; and
5 declaring an emergency.

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

7 SECTION 1. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 1-745.31 of Title 63, unless
9 there is created a duplication in numbering, reads as follows:

10 This act shall be known and may be cited as the "Oklahoma
11 Heartbeat Act".

12 SECTION 2. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 1-745.32 of Title 63, unless
14 there is created a duplication in numbering, reads as follows:

15 As used in this act:

16 1. "Fetal heartbeat" means cardiac activity or the steady and
17 repetitive rhythmic contraction of the fetal heart within the
18 gestational sac;

19 2. "Gestational age" means the amount of time that has elapsed
20 from the first day of a woman's last menstrual period;

21 3. "Gestational sac" means the structure comprising the
22 extraembryonic membranes that envelop the unborn child and that is
23 typically visible by ultrasound after the fourth week of pregnancy;

1 4. "Physician" means an individual licensed to practice
2 medicine in this state including a medical doctor and a doctor of
3 osteopathic medicine;

4 5. "Pregnancy" means the human female reproductive condition
5 that:

- 6 a. begins with fertilization,
- 7 b. occurs when the woman is carrying the developing human
8 offspring, and
- 9 c. is calculated from the first day of the woman's last
10 menstrual period;

11 6. "Standard medical practice" means the degree of skill, care,
12 and diligence that an obstetrician of ordinary judgment, learning,
13 and skill would employ in like circumstances;

14 7. "Unborn child" means a human fetus or embryo in any stage of
15 gestation from fertilization until birth; and

16 8. "Woman" and "women" include any person whose biological sex
17 is female including any person with XX chromosomes and any person
18 with a uterus, regardless of any gender identity that the person
19 attempts to assert or claim.

20 SECTION 3. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 1-745.33 of Title 63, unless
22 there is created a duplication in numbering, reads as follows:

23 A. For the purposes of determining the presence of a fetal
24 heartbeat under this section, "standard medical practice" includes

1 employing the appropriate means of detecting the heartbeat based on
2 the estimated gestational age of the unborn child and the condition
3 of the woman and her pregnancy.

4 B. Except as provided by Sections 5 and 6 of this act, an
5 abortion may not be performed or induced on a pregnant woman unless
6 a physician has determined, in accordance with this section, whether
7 the woman's unborn child has a detectable fetal heartbeat.

8 C. In making a determination under subsection B of this
9 section, the physician must use a test that is:

10 1. Consistent with the physician's good faith and reasonable
11 understanding of standard medical practice; and

12 2. Appropriate for the estimated gestational age of the unborn
13 child and the condition of the pregnant woman and her pregnancy.

14 D. A physician making a determination under subsection B of
15 this section shall record in the pregnant woman's medical record:

16 1. The estimated gestational age of the unborn child;

17 2. The method used to estimate the gestational age; and

18 3. The test used for detecting a fetal heartbeat including the
19 date, time, and results of the test.

20 SECTION 4. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 1-745.34 of Title 63, unless
22 there is created a duplication in numbering, reads as follows:

23 A. Except as provided by Sections 5 and 6 of this act, a
24 physician shall not knowingly perform or induce an abortion on a

1 pregnant woman if the physician detected a fetal heartbeat for the
2 unborn child as required by Section 3 of this act or failed to
3 perform a test to detect a fetal heartbeat.

4 B. A physician shall not be in violation of this section if the
5 physician performed a test for a fetal heartbeat as required by
6 Section 3 of this act and did not detect a fetal heartbeat.

7 C. This section shall not affect any provision of state law
8 that regulates or prohibits abortion including but not limited to
9 any provision that restricts or regulates an abortion by a
10 particular method or during a particular stage of pregnancy.

11 SECTION 5. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 1-745.35 of Title 63, unless
13 there is created a duplication in numbering, reads as follows:

14 A. Sections 3 and 4 of this act shall not apply if a physician
15 believes a medical emergency exists that prevents compliance with
16 this act.

17 B. A physician who performs or induces an abortion under
18 circumstances described by subsection A of this section shall make
19 written notations in the pregnant woman's medical record of:

20 1. The physician's belief that a medical emergency necessitated
21 the abortion; and

22 2. The medical condition of the pregnant woman that prevented
23 compliance with this act.

24

1 C. A physician performing or inducing an abortion under this
2 section shall maintain in the physician's practice records a copy of
3 the notations made under subsection B of this section.

4 SECTION 6. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 1-745.36 of Title 63, unless
6 there is created a duplication in numbering, reads as follows:

7 Sections 3 and 4 of this act do not apply to an abortion
8 performed at the behest of federal agencies, contractors, or
9 employees that are carrying out duties under federal law, if a
10 prohibition on that abortion would violate the doctrines of
11 preemption or intergovernmental immunity.

12 SECTION 7. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 1-745.37 of Title 63, unless
14 there is created a duplication in numbering, reads as follows:

15 This act shall not be construed to:

16 1. Create or recognize a right to abortion before a fetal
17 heartbeat is detected;

18 2. Authorize the initiation of a cause of action against or the
19 prosecution of a woman on whom an abortion is performed or induced
20 or attempted to be performed or induced in violation of this act;

21 3. Wholly or partly repeal, either expressly or by implication,
22 any other statute that regulates or prohibits abortion; or

23 4. Restrict a political subdivision from regulating or
24 prohibiting abortion in any manner.

1 SECTION 8. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1-745.38 of Title 63, unless
3 there is created a duplication in numbering, reads as follows:

4 Notwithstanding any other law, the requirements of this act
5 shall be enforced exclusively through a private civil action
6 described in Section 9 of this act. No direct or indirect
7 enforcement of this act may be taken or threatened by the state, a
8 political subdivision, a district attorney, or an executive or
9 administrative officer or employee of this state or a political
10 subdivision against any person or entity, in any manner whatsoever,
11 except as provided in Section 9 of this act, and no violation of
12 this act may be used to justify or trigger the enforcement of any
13 other law or any type of adverse consequence under any other law,
14 except as provided in Section 9 of this act; provided, that this
15 section does not preclude enforcement of any other law or regulation
16 against conduct that is independently prohibited by such other law
17 or regulation.

18 SECTION 9. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 1-745.39 of Title 63, unless
20 there is created a duplication in numbering, reads as follows:

21 A. Any person, other than the state, its political
22 subdivisions, and any officer or employee of a state or local
23 governmental entity in this state, may bring a civil action against
24 any person who:

1 1. Performs or induces an abortion in violation of this act;

2 2. Knowingly engages in conduct that aids or abets the
3 performance or inducement of an abortion including paying for or
4 reimbursing the costs of an abortion through insurance or otherwise,
5 if the abortion is performed or induced in violation of this act,
6 regardless of whether the person knew or should have known that the
7 abortion would be performed or induced in violation of this act; or

8 3. Intends to engage in the conduct described by paragraph 1 or
9 2 of this subsection.

10 B. If a claimant prevails in an action brought under this
11 section, the court shall award:

12 1. Injunctive relief sufficient to prevent the defendant from
13 violating this act or engaging in acts that aid or abet violations
14 of this act;

15 2. Statutory damages in an amount of not less than Ten Thousand
16 Dollars (\$10,000.00) for each abortion that the defendant performed
17 or induced in violation of this act, and for each abortion performed
18 or induced in violation of this act that the defendant aided or
19 abetted;

20 3. Nominal and compensatory damages if the plaintiff has
21 suffered harm from the defendant's conduct including but not limited
22 to loss of consortium and emotional distress; and

23 4. Court costs and attorney fees.
24

1 C. Notwithstanding subsection B of this section, a court shall
2 not award relief under paragraphs 2 or 4 of subsection B of this
3 section in response to a violation of paragraph 1 or 2 of subsection
4 A of this section if the defendant demonstrates that a court has
5 already ordered the defendant to pay not less than Ten Thousand
6 Dollars (\$10,000.00) of statutory damages as provided in paragraph 2
7 of subsection B of this section in a previous action for that
8 particular abortion performed or induced in violation of this act,
9 or for the particular conduct that aided or abetted an abortion
10 performed or induced in violation of this act.

11 D. Notwithstanding any other law, a person may bring an action
12 under this section not later than six (6) years after the date the
13 cause of action accrues.

14 E. Notwithstanding any other law, the following are not a
15 defense to an action brought under this section:

16 1. Ignorance or mistake of law;

17 2. A defendant's belief that the requirements of this act are
18 unconstitutional or were unconstitutional;

19 3. A defendant's reliance on any court decision that has been
20 overruled on appeal or by a subsequent court, even if that court
21 decision had not been overruled when the defendant engaged in
22 conduct that violates this act;

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1 4. A defendant's reliance on any state or federal court
2 decision that is not binding on the court in which the action has
3 been brought;

4 5. Non-mutual issue preclusion or non-mutual claim preclusion;

5 6. The consent of the unborn child's mother to the abortion; or

6 7. Any claim that the enforcement of this act or the imposition
7 of civil liability against the defendant will violate the
8 constitutional rights of third parties, except as provided by
9 Section 10 of this act.

10 F. 1. It is an affirmative defense if a person sued under
11 paragraph 2 or 3 of subsection A of this section reasonably
12 believed, after conducting a reasonable investigation, that the
13 individuals and organizations involved with performing or
14 facilitating the abortion would comply with this act.

15 2. The defendant has the burden of proving an affirmative
16 defense under paragraph 1 of this subsection by a preponderance of
17 the evidence.

18 G. This section shall not be construed to impose liability on
19 any speech or conduct protected by the First Amendment of the United
20 States Constitution, as made applicable to the states through the
21 United States Supreme Court's interpretation of the Fourteenth
22 Amendment of the United States Constitution, or by Section 3 or 22
23 of Article II of the Oklahoma Constitution.

1 H. 1. Notwithstanding any other law, neither the state, nor
2 any of its political subdivisions, nor any district or county
3 attorney, nor any executive or administrative officer or employee of
4 this state or a political subdivision may:

5 a. act in concert or participation with anyone who brings
6 suit under this section,

7 b. establish or attempt to establish any type of agency
8 or fiduciary relationship with a plaintiff who brings
9 suit under this section,

10 c. make any attempt to control or influence a plaintiff's
11 decision to bring suit under this section or the
12 plaintiff's conduct of the litigation, or

13 d. intervene in an action brought under this section.

14 2. This subsection shall not prohibit a person or entity
15 described by this subsection from filing an amicus curiae brief in
16 the action, so long as that person or entity does not act in concert
17 or participation with the plaintiff or plaintiffs who sue under this
18 section or violate any provision of paragraph 1 of this subsection.

19 I. Notwithstanding any other law, a court shall not award court
20 costs or attorney fees to a defendant in an action brought under
21 this section.

22 J. Notwithstanding any other law, a civil action under this
23 section shall not be subject to any provision of the Oklahoma
24 Citizens Participation Act, Section 1430 et seq. of Title 12 of the

1 Oklahoma Statutes, and shall not be subject to any provision of the
2 Oklahoma Religious Freedom Act, Section 251 et seq. of Title 51 of
3 the Oklahoma Statutes.

4 K. Notwithstanding any other law, a civil action under this
5 section shall not be brought:

6 1. Against the woman upon whom an abortion was performed or
7 induced or attempted to be performed or induced in violation of this
8 act, or against a pregnant woman who intends or seeks to abort her
9 unborn child in violation of this act;

10 2. Against any person or entity that performs, aids or abets,
11 or attempts to perform or aid or abet an abortion at the behest of
12 federal agencies, contractors, or employees that are carrying out
13 duties under federal law, if a prohibition on that abortion would
14 violate the doctrines of preemption or intergovernmental immunity;

15 3. Against any common carrier that transports a pregnant woman
16 to an abortion provider, if the common carrier is unaware that the
17 woman intends to abort her unborn child; or

18 4. By a person who impregnated a woman seeking an abortion
19 through an act of rape, sexual assault, incest, or any other act
20 prohibited by state law.

21 SECTION 10. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 1-745.40 of Title 63, unless
23 there is created a duplication in numbering, reads as follows:

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1 A. 1. A defendant against whom an action is brought under
2 Section 9 of this act may assert an affirmative defense to liability
3 under this section if:

4 a. the defendant has standing to assert the rights of
5 women seeking an abortion under the tests for third-
6 party standing established by the United States
7 Supreme Court, and

8 b. the imposition of civil liability on the defendant
9 will result in an undue burden on a woman or group of
10 women seeking an abortion.

11 2. The defendant shall bear the burden of proving the
12 affirmative defense in this subsection by a preponderance of the
13 evidence.

14 B. The affirmative defense under subsection A of this section
15 shall not be available if the United States Supreme Court overrules
16 *Roe v. Wade*, 410 U.S. 113 (1973) or *Planned Parenthood v. Casey*, 505
17 U.S. 833 (1992), regardless of whether the conduct on which the
18 cause of action is based under Section 9 of this act occurred before
19 the Supreme Court overruled either of those decisions.

20 C. Nothing in this section or this act shall in any way limit
21 or preclude a defendant from asserting the defendant's personal
22 constitutional rights as a defense to liability under Section 9 of
23 this act, and a court shall not award relief under Section 9 of this
24 act if the conduct for which the defendant has been sued was an

1 exercise of state or federal constitutional rights that personally
2 belong to the defendant.

3 D. Nothing in this section or this act shall limit or preclude
4 a defendant from asserting the unconstitutionality of any provision
5 of this act as a defense to liability under Section 9 of this act.

6 SECTION 11. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 1-745.41 of Title 63, unless
8 there is created a duplication in numbering, reads as follows:

9 A. Notwithstanding any other law, a civil action brought under
10 Section 9 of this act shall be brought in:

11 1. The county in which all or a substantial part of the events
12 or omissions giving rise to the claim occurred;

13 2. The county of residence for any one of the natural person
14 defendants at the time the cause of action accrued;

15 3. The county of the principal office in this state of any one
16 of the defendants that is not a natural person; or

17 4. The county of residence for the claimant if the claimant is
18 a natural person residing in this state.

19 B. If a civil action is brought under Section 9 of this act in
20 any one of the venues described by subsection A of this section, the
21 action shall not be transferred to a different venue without the
22 written consent of all parties.

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1 SECTION 12. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1-745.42 of Title 63, unless
3 there is created a duplication in numbering, reads as follows:

4 A. Notwithstanding any other law, this state has sovereign
5 immunity, a political subdivision has governmental immunity, and
6 each officer and employee of this state or a political subdivision
7 has official immunity in any action, claim, counterclaim, or any
8 type of legal or equitable action that challenges the validity of
9 any provision or application of this act, on constitutional grounds
10 or otherwise, or that seeks to prevent or enjoin the state, its
11 political subdivisions, or any officer or employee of this state or
12 a political subdivision from enforcing any provision or application
13 of this act, unless that immunity has been abrogated or preempted by
14 federal law in a manner consistent with the Constitution of the
15 United States.

16 B. Notwithstanding any other law, no provision of state law may
17 be construed to waive or abrogate an immunity described by
18 subsection A of this section unless it expressly waives immunity
19 with specific reference to this section.

20 C. Notwithstanding any other law, no attorney representing this
21 state, a political subdivision, or any officer or employee of this
22 state or a political subdivision is authorized or permitted to waive
23 an immunity described in subsection A or take any action that would
24 result in a waiver of that immunity.

1 D. Notwithstanding any other law, no court of this state shall
2 have jurisdiction to consider any action, claim, or counterclaim
3 that seeks declaratory or injunctive relief to prevent this state, a
4 political subdivision, any officer or employee of this state or a
5 political subdivision, or any person from enforcing any provision or
6 application of this act, or from filing a civil action under this
7 act.

8 E. Nothing in this section or this act shall be construed to
9 prevent a litigant from asserting the invalidity or
10 unconstitutionality of any provision or application of this act as a
11 defense to any action, claim, or counterclaim brought against that
12 litigant.

13 SECTION 13. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 1-745.43 of Title 63, unless
15 there is created a duplication in numbering, reads as follows:

16 A. Notwithstanding any other law, any party including an
17 entity, attorney, or law firm, who seeks declaratory or injunctive
18 relief to prevent this state, a political subdivision, any
19 governmental entity or public official in this state, or any person
20 in this state from enforcing any statute, ordinance, rule,
21 regulation, or any other type of law that regulates or restricts
22 abortion or that limits taxpayer funding for individuals or entities
23 that perform or promote abortions, in any state or federal court, or
24 that represents any litigant seeking such relief in any state or

1 federal court, shall be jointly and severally liable for court costs
2 and attorney fees of the prevailing party.

3 B. For purposes of this section, a party is considered a
4 prevailing party with respect to a claim or cause of action if a
5 state or federal court:

6 1. Dismisses that claim or cause of action brought against the
7 party that seeks the declaratory or injunctive relief described by
8 subsection A of this section, regardless of the reason for the
9 dismissal; or

10 2. Enters judgment in the party's favor on that claim or cause
11 of action.

12 C. Regardless of whether a prevailing party sought to recover
13 court costs or attorney fees in the underlying action, a prevailing
14 party under this section may bring a civil action to recover court
15 costs and attorney fees against a party including an entity,
16 attorney, or law firm, that sought declaratory or injunctive relief
17 described by subsection A of this section not later than three (3)
18 years after the date on which, as applicable:

19 1. The dismissal or judgment described by subsection B of this
20 section becomes final on the conclusion of appellate review; or

21 2. The time for seeking appellate review expires.

22 D. It is not a defense to an action brought under subsection C
23 of this section that:

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1 1. A prevailing party under this section failed to seek
2 recovery of court costs or attorney fees in the underlying action;

3 2. The court in the underlying action declined to recognize or
4 enforce the requirements of this section; or

5 3. The court in the underlying action held that any provisions
6 of this section are invalid, unconstitutional, or preempted by
7 federal law, notwithstanding the doctrines of issue or claim
8 preclusion.

9 SECTION 14. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 1-745.44 of Title 63, unless
11 there is created a duplication in numbering, reads as follows:

12 A. Mindful of *Leavitt v. Jane L.*, 518 U.S. 137 (1996), in which
13 in the context of determining the severability of a state statute
14 regulating abortion the Supreme Court of the United States held that
15 an explicit statement of legislative intent is controlling, it is
16 the intent of the Legislature that every provision, section,
17 subsection, sentence, clause, phrase, or word in this act, and every
18 application of the provisions in this act to every person, group of
19 persons, or circumstances, are severable from each other.

20 B. If any application of any provision in this act to any
21 person, group of persons, or circumstances is found by a court to be
22 invalid, preempted, unconstitutional, or to impose an undue burden
23 on any woman or group of women seeking an abortion, then the
24 remaining applications of that provision to all other persons and

1 circumstances shall be severed and preserved, and shall remain in
2 effect. All constitutionally valid applications of the provisions
3 in this act, and every application of those provisions that can be
4 enforced without imposing an undue burden on women seeking
5 abortions, shall be severed from any applications that a court finds
6 to be invalid, preempted, unconstitutional, or to impose an undue
7 burden on women seeking abortions, and the valid applications shall
8 remain in force, because it is the Legislature's intent and priority
9 that every valid application be allowed to stand alone. Even if a
10 reviewing court finds a provision of this act to impose an undue
11 burden in a large or substantial fraction of relevant cases, the
12 applications that do not present an undue burden shall be severed
13 from the remaining applications and shall remain in force, and shall
14 be treated as if the Legislature had enacted a statute limited to
15 the persons, group of persons, or circumstances for which the
16 statute's application does not impose an undue burden.

17 C. The Legislature further declares that it would have enacted
18 this act, and each provision, section, subsection, sentence, clause,
19 phrase, or word, and all constitutional applications of the
20 provisions of this act, irrespective of the fact that any provision,
21 section, subsection, sentence, clause, phrase, or word, or
22 applications of this act were to be declared invalid, preempted,
23 unconstitutional, or to impose an undue burden.

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1 D. If any provision of this act is found by any court to be
2 unconstitutionally vague, then the applications of that provision
3 that do not present constitutional vagueness problems shall be
4 severed and remain in force, consistent with the severability
5 requirements of subsections A, B, and C of this section.

6 E. No court may decline to enforce the severability
7 requirements of subsections A, B, C, and D of this section on the
8 ground that severance would "rewrite" the statute or involve the
9 court in legislative or lawmaking activity. A court that declines
10 to enforce or enjoins a state official from enforcing a statutory
11 provision does not rewrite a statute, as the statute continues to
12 contain the same words as before the court's decision. A judicial
13 injunction or declaration of unconstitutionality:

14 1. Is nothing more than an edict prohibiting enforcement that
15 may subsequently be vacated by a later court if that court has a
16 different understanding of the requirements of the Oklahoma
17 Constitution or United States Constitution;

18 2. Is not a formal amendment of the language in a statute; and

19 3. No more rewrites a statute than a decision by the executive
20 not to enforce a duly enacted statute in a limited and defined set
21 of circumstances.

22 F. If any state or federal court disregards the severability
23 requirements of subsections A, B, C, D, and E of this section, and
24 declares or finds any provision of this act facially

1 unconstitutional, when there are discrete applications of that
2 provision that can be enforced against a person, group of persons,
3 or circumstances without violating federal law, the federal or state
4 constitutions, or imposing an undue burden on women seeking
5 abortions, then that provision shall be interpreted, as a matter of
6 state law, as if the Legislature had enacted a provision limited to
7 the persons, group of persons, or circumstances for which the
8 provision's application will not violate federal law, the federal or
9 state constitutions, or impose an undue burden on women seeking
10 abortions, and every court shall adopt this saving construction of
11 that provision until the court ruling that pronounced the provision
12 facially unconstitutional is vacated or overruled.

13 SECTION 15. AMENDATORY 12 O.S. 2021, Section 1439, is
14 amended to read as follows:

15 Section 1439. The Oklahoma Citizens Participation Act shall not
16 apply to:

17 1. An enforcement action that is brought in the name of this
18 state or a political subdivision of this state by the Attorney
19 General or a district attorney;

20 2. A legal action brought against a person primarily engaged in
21 the business of selling or leasing goods or services, if the
22 statement or conduct the action is based upon arises out of the sale
23 or lease of goods, services, or an insurance product, insurance
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1 services, or a commercial transaction in which the intended audience
2 is an actual or potential buyer or customer;

3 3. A legal action seeking recovery for bodily injury, wrongful
4 death or survival or to statements made regarding that legal action;
5 ~~or~~

6 4. A legal action brought under the Oklahoma Insurance Code or
7 arising out of an insurance contract; or

8 5. A civil action brought under Section 9 of this act.

9 SECTION 16. AMENDATORY 51 O.S. 2021, Section 255, is
10 amended to read as follows:

11 Section 255. A. Nothing in this act shall be construed to:

12 1. Authorize any government entity to substantially burden any
13 religious belief;

14 2. Authorize same sex marriages, unions, or the equivalent
15 thereof; or

16 3. Affect, interpret, or in any way address those portions of
17 Article 1, Section 2, and Article 2, Section 5, of the Constitution
18 of the State of Oklahoma, the Oklahoma Religious Freedom Act, or the
19 First Amendment to the Constitution of the United States that
20 prohibit laws respecting the establishment of religion.

21 B. Granting governmental funds, benefits, or exemptions to the
22 extent permissible under paragraph 3 of subsection A of this section
23 shall not constitute a violation of this section. As used in this
24 subsection, "granting government funds, benefits, or exemptions"

1 shall not include the denial of government funding, benefits, or
2 exemptions. This provision does not in and of itself require
3 vouchers.

4 C. A civil action brought under Section 9 of this act shall not
5 be subject to any provision of the Oklahoma Religious Freedom Act.

6 SECTION 17. It being immediately necessary for the preservation
7 of the public peace, health or safety, an emergency is hereby
8 declared to exist, by reason whereof this act shall take effect and
9 be in full force from and after its passage and approval.

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