

1 STATE OF OKLAHOMA

2 2nd Session of the 60th Legislature (2026)

3 SENATE BILL 2054

By: Guthrie

6 AS INTRODUCED

7 An Act relating to abortion; creating the Oklahoma
8 Mother and Child Protection Act; providing short
9 title; defining terms; limiting applicability of act;
10 providing certain construction; prohibiting
11 manufacture or provision of abortion-inducing drugs;
12 limiting effect of prohibition; providing for and
13 prohibiting certain enforcement; authorizing certain
14 qui tam actions; specifying conditions for bringing
15 qui tam action; prohibiting certain actions and
16 litigation; specifying deadline for certain actions;
17 voiding certain waivers; creating and prohibiting
18 certain affirmative defenses; specifying burden of
19 proof; directing and prohibiting award of certain
20 relief; prohibiting certain acts by public entities;
specifying jurisdiction; specifying applicability of
certain provisions; defining term; specifying
applicability of certain laws; directing award of
certain relief; prohibiting enforcement of certain
judgments; prohibiting certain defenses; providing
certain exceptions; providing certain immunities;
providing for application of immunities; prohibiting
certain acts by attorneys and courts; providing
certain construction; providing for severability;
expressing legislative intent and declarations;
providing for certain interpretation and enforcement;
providing for noncodification; providing for
codification; and declaring an emergency.

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

1 SECTION 1. NEW LAW A new section of law not to be
2 codified in the Oklahoma Statutes reads as follows:

3 This act shall be known and may be cited as the "Oklahoma Mother
4 and Child Protection Act".

5 SECTION 2. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 1-745.61 of Title 63, unless
7 there is created a duplication in numbering, reads as follows:

8 1. "Abortion" means the use or prescription of any instrument,
9 medicine, drug, or any other substance or device intentionally to
10 terminate the pregnancy of a female known to be pregnant with an
11 intention other than to increase the probability of a live birth, to
12 preserve the life or health of the child after live birth, to remove
13 an ectopic pregnancy, or to remove a dead unborn child who died as
14 the result of a spontaneous miscarriage, accidental trauma, or a
15 criminal assault on the pregnant female or her unborn child; and

16 2. "Abortion-inducing drug" means a medicine, drug, or any
17 other substance prescribed or dispensed with the intent of
18 terminating the pregnancy of a woman known to be pregnant, with
19 knowledge that the termination will with reasonable likelihood cause
20 the death of the unborn child. This includes the off-label use of
21 drugs known to have abortion-inducing properties, which are
22 prescribed specifically with the intent of causing an abortion, such
23 as mifepristone (Mifeprex), misoprostol (Cytotec), and methotrexate.
24 This definition does not apply to drugs that may be known to cause

1 an abortion, but which are prescribed for other medical indications,
2 such as chemotherapeutic agents and diagnostic drugs. The use of
3 such drugs to induce abortion is also known as "medical",
4 "medication", "RU-486", "chemical", "Mifeprex regimen", or "drug-
5 induced" abortion.

6 SECTION 3. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 1-745.62 of Title 63, unless
8 there is created a duplication in numbering, reads as follows:

9 A. This act does not apply to and a civil action under this act
10 may not be brought against a person who manufactures, distributes,
11 mails, transports, delivers, prescribes, provides, or possesses
12 abortion-inducing drugs in this state solely for one or more of the
13 following purposes:

14 1. Treating a life-threatening medical condition through an
15 abortion performed under Section 861 of Title 21 of the Oklahoma
16 Statutes;

17 2. Removing an ectopic pregnancy;

18 3. Removing a dead, unborn child who died as the result of a
19 spontaneous miscarriage, accidental trauma, or a criminal assault on
20 the pregnant female or her unborn child; or

21 4. A purpose that does not include performing, inducing,
22 attempting, or assisting an abortion, other than an abortion
23 performed to preserve the life of a pregnant woman as provided by
24 Section 861 of Title 21 of the Oklahoma Statutes.

1 B. This act may not be construed to require the actual
2 performance, inducement, or attempted performance of an abortion in
3 order for a person to bring a civil action authorized by this act.

4 SECTION 4. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 1-745.63 of Title 63, unless
6 there is created a duplication in numbering, reads as follows:

7 A. Except as provided by subsection B of this section or
8 Section 3 of this act, a person may not:

9 1. Manufacture or distribute an abortion-inducing drug in this
10 state;

11 2. Mail, transport, deliver, prescribe, or provide an abortion-
12 inducing drug in any manner to or from any person or location in
13 this state; or

14 3. Aid or abet any person in any of the acts described in
15 paragraph 1 or 2 of this subsection including, but not limited to,
16 knowingly providing financial assistance or transport to a person
17 who intends to engage an act described in paragraph 1 or 2 of this
18 subsection or otherwise furnishing the means to procure an abortion-
19 inducing drug in violation of state law.

20 B. Subsection A of this section does not prohibit:

21 1. Speech or conduct protected by the First Amendment to the
22 United States Constitution, as made applicable to the states through
23 the United States Supreme Court's interpretation of the Fourteenth
24 Amendment to the United States Constitution, or protected by Section

1 22 of Article II of the Oklahoma Constitution;

2 2. Conduct a pregnant woman engages in during the course of
3 aborting or attempting to abort the woman's unborn child;

4 3. The manufacture, distribution, mailing, transport, delivery,
5 prescribing, provision, or possession of an abortion-inducing drug
6 solely for one or more of the purposes described by subsection A of
7 Section 3 of this act; or

8 4. Conduct a person engages in under the direction of a federal
9 agency, contractor, or employee to carry out a duty under federal
10 law, if prohibiting that conduct would violate the doctrine of
11 preemption or intergovernmental immunity.

12 SECTION 5. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 1-745.64 of Title 63, unless
14 there is created a duplication in numbering, reads as follows:

15 A. This act may be enforced only through a qui tam action
16 brought under Section 6 of this act.

17 B. No other direct or indirect enforcement of this act may be
18 taken or threatened by this state, a political subdivision of this
19 state, a district or county attorney, or any officer or employee of
20 this state or a political subdivision of this state against any
21 person, by any means whatsoever, except as provided in this act.

22 C. This section does not preclude or limit the enforcement of
23 any other law or regulation against conduct that is independently
24 prohibited by the other law or regulation and that would remain

1 prohibited by the other law or regulation in the absence of this
2 act.

3 SECTION 6. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1-745.65 of Title 63, unless
5 there is created a duplication in numbering, reads as follows:

6 A. A person, other than this state, a political subdivision of
7 this state, or an officer or employee of this state or a political
8 subdivision of this state, has standing to bring and may bring a qui
9 tam action against a person who:

10 1. Violates Section 4 of this act; or

11 2. Intends to violate Section 4 of this act.

12 B. An action brought under this section shall be brought in the
13 name of the qui tam relator, who is an assignee of this state's
14 claim for relief. Notwithstanding any other law, the transfer of
15 this state's claim to the qui tam relator is absolute, with the
16 state retaining no interest in the subject matter of the claim.

17 C. A qui tam relator may not bring an action under this section
18 if the action is preempted by 47 U.S.C., Section 230(c).

19 D. A qui tam action may not be brought under this section:

20 1. Against a woman for using, obtaining, or seeking to obtain
21 abortion-inducing drugs to abort or attempt to abort her unborn
22 child;

23 2. Against a person acting under the direction of a federal
24 agency, contractor, or employee who is carrying out a duty under

1 federal law if the imposition of liability would violate the
2 doctrine of preemption or intergovernmental immunity;

3 3. By any person who:

4 a. impregnated a woman through conduct constituting
5 sexual assault under Section 112 of Title 21 of the
6 Oklahoma Statutes,
7 b. committed an offense for which an affirmative finding
8 of domestic abuse was made under Section 644 of Title
9 21 of the Oklahoma Statutes,
10 c. provided an abortion-inducing drug to a pregnant woman
11 for the purpose of performing, inducing, or attempting
12 an abortion without the woman's consent or knowledge,
13 d. has been convicted of an offense under Section 1173 of
14 Title 21 of the Oklahoma Statutes, or
15 e. acts in concert or participation with a person
16 described by this subdivision;

17 4. Against a transportation network company (TNC) or a TNC
18 driver for using a transportation network company's digital network
19 to provide a prearranged ride. As used in this paragraph, the terms
20 "transportation network company (TNC)", "TNC driver", "digital
21 network", and "prearranged ride" have the same meanings as provided
22 by Section 1011 of Title 47 of the Oklahoma Statutes;

23 5. Against a courier application service (CAS) or a CAS driver
24 for using a delivery network company's digital network to provide

1 courier service. As used in this paragraph, the terms "courier
2 application service (CAS)", "CAS driver", "digital network", and
3 "courier service" have the same meanings as provided by Section 1071
4 of Title 47 of the Oklahoma Statutes;

5 6. Against a person to whom this act does not apply and against
6 whom a civil action under this act may not be brought under
7 subsection A of Section 3 of this act;

8 7. Against a health care provider, unless the qui tam relator
9 pleads and proves that the provider engaged in conduct constituting
10 a violation of Section 4 of this act while located outside this
11 state; or

12 8. Against a pharmaceutical manufacturer, pharmaceutical
13 distributor, or common carrier, including an air carrier conducting
14 domestic or flag operations under 14 C.F.R., Part 121 or a foreign
15 air carrier conducting scheduled operations under 14 C.F.R., Part
16 129, unless the qui tam relator pleads and proves that the defendant
17 failed to adopt and implement a policy to not distribute, mail,
18 transport, deliver, provide, or possess abortion-inducing drugs
19 other than for one or more of the purposes described by subsection A
20 of Section 3 of this act.

21 E. Notwithstanding any other law, including rules of civil
22 procedure adopted under Title 12 of the Oklahoma Statutes, an action
23 brought under this section may not be litigated on behalf of a
24 claimant class or a defendant class, and a court may not certify a

1 class in the action.

2 F. A person may bring an action under this section not later
3 than the sixth anniversary of the date the cause of action accrues.

4 G. Notwithstanding any other provision of law, any waiver or
5 purported waiver of the right to sue under this section shall be
6 void as against public policy, and shall not be enforceable in any
7 court.

8 SECTION 7. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 1-745.66 of Title 63, unless
10 there is created a duplication in numbering, reads as follows:

11 A. It is an affirmative defense to an action brought under
12 Section 6 of this act that the defendant:

13 1. Was unaware the defendant was engaged in the conduct
14 prohibited under Section 4 of this act; and

15 2. Took reasonable precautions to ensure the defendant would
16 not violate Section 4 of this act.

17 B. It is an affirmative defense to an action brought under
18 Section 6 of this act that:

19 1. The imposition of civil liability on the defendant will
20 violate the defendant's rights under federal law, including the
21 United States Constitution;

22 2. The defendant:

1 a. has standing to assert the rights of a third party
2 under the tests for third-party standing established
3 by the United States Supreme Court, and
4 b. demonstrates that the imposition of civil liability on
5 the defendant will violate the third party's rights
6 under federal law, including the United States
7 Constitution;

8 3. The imposition of civil liability on the defendant will
9 violate the defendant's rights under the Oklahoma Constitution; or

10 4. The imposition of civil liability on the defendant will
11 violate limits on extraterritorial jurisdiction imposed by the
12 United States Constitution or the Oklahoma Constitution.

13 C. The defendant has the burden of proving an affirmative
14 defense under this section by a preponderance of the evidence.

15 D. The following are not defenses to an action brought under
16 Section 6 of this act:

17 1. A defendant's ignorance or mistake of law, including a
18 defendant's mistaken belief that the requirements or provisions of
19 this act are unconstitutional or were unconstitutional;

20 2. A defendant's reliance on a court decision that has been
21 vacated, reversed, or overruled on appeal or by a subsequent court,
22 even if the court decision had not been vacated, reversed, or
23 overruled when the cause of action accrued;

24 3. A defendant's reliance on a state or federal court decision

1 that is not binding on the court in which the action has been
2 brought;

3 4. A defendant's reliance on a federal agency rule or action
4 that has been repealed, superseded, or declared invalid or
5 unconstitutional, even if the federal agency rule or action had not
6 been repealed, superseded, or declared invalid or unconstitutional
7 when the cause of action accrued;

8 5. The laws of another state or jurisdiction, including an
9 abortion shield law, unless the Oklahoma Constitution or federal law
10 compels the court to enforce that law;

11 6. Nonmutual issue preclusion or nonmutual claim preclusion;

12 7. Sovereign immunity, governmental immunity, or official
13 immunity, other than sovereign immunity, governmental immunity, or
14 official immunity applicable to:

15 a. a hospital owned, maintained, or operated by this
16 state that facilitates the availability of or makes
17 available abortion-inducing drugs solely for one or
18 more of the purposes described by subsection A of
19 Section 3 of this act,

20 b. a political subdivision of this state, including a
21 hospital district, that facilitates the availability
22 of or makes available abortion-inducing drugs solely
23 for one or more of the purposes described by
24 subsection A of Section 3 of this act, or

c. a health care provider employed by a hospital owned or operated by this state or a political subdivision of this state, including a hospital district, acting within the scope of the provider's employment who prescribes, distributes, administers, or otherwise makes available abortion-inducing drugs solely for one or more of the purposes described by subsection A of Section 3 of this act;

8. A claim that the enforcement of this act or the imposition of civil liability against the defendant will violate the constitutional or federally protected rights of third parties, except as provided by subsection B of this section; or

9. Consent to the abortion by the claimant or the unborn child's mother.

SECTION 8. NEW LAW A new section of law to be codified

in the Oklahoma Statutes as Section 1-745.67 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Notwithstanding any other law, if a qui tam relator prevails in an action brought under Section 6 of this act, the court shall award to the relator:

1. Injunctive relief sufficient to prevent the defendant from violating Section 4 of this act;

2. An amount not less than One Hundred Thousand Dollars (\$100,000.00) for each violation of Section 4 of this act; an

1 3. Costs and reasonable attorney fees.

2 B. A court may not award relief under paragraph 2 or 3 of
3 subsection A of this section in response to a violation of Section 4
4 of this act if the defendant demonstrates that:

5 1. A court previously ordered the defendant to pay an amount
6 under paragraph 2 of subsection A of this section in another action
7 for that particular violation; and

8 2. The court order described by paragraph 1 of this subsection
9 has not been vacated, reversed, or overturned.

10 C. A court may not award costs or attorney fees to a defendant
11 against whom an action is brought under Section 6 of this act.

12 D. Subsection C of this section does not preclude a court from
13 sanctioning a litigant or attorney for frivolous, malicious, or bad-
14 faith conduct.

15 SECTION 9. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 1-745.68 of Title 63, unless
17 there is created a duplication in numbering, reads as follows:

18 A. This state, a political subdivision of this state, or an
19 officer or employee of this state or a political subdivision of this
20 state may not:

21 1. Act in concert or participation with a qui tam relator
22 bringing an action under Section 6 of this act;

23 2. Establish or attempt to establish any type of agency or
24 fiduciary relationship with a qui tam relator bringing an action

1 under Section 6 of this act;

2 3. Attempt to control or influence a person's decision to bring
3 an action under Section 6 of this act or that person's conduct of
4 the litigation; or

5 4. Intervene in an action brought under Section 6 of this act.

6 B. This section does not prohibit this state, a political
7 subdivision of this state, or an officer or employee of this state
8 or a political subdivision of this state from filing an amicus
9 curiae brief in an action brought under Section 6 of this act if
10 this state, the political subdivision, the officer, or the employee
11 does not act in concert or participation with the qui tam relator.

12 C. Notwithstanding any other law, a civil action under this
13 section shall not be subject to any provision of the Oklahoma
14 Citizens Participation Act, Section 1430 et seq. of Title 12 of the
15 Oklahoma Statutes, and shall not be subject to any provision of the
16 Oklahoma Religious Freedom Act, Section 251 et seq. of Title 51 of
17 the Oklahoma Statutes.

18 SECTION 10. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 1-745.69 of Title 63, unless
20 there is created a duplication in numbering, reads as follows:

21 A. Notwithstanding any other law, the courts of this state have
22 personal jurisdiction over a defendant sued under Section 6 of this
23 act to the maximum extent permitted by the Fourteenth Amendment to
24 the United States Constitution, and the defendant may be served

1 outside this state.

2 B. Notwithstanding any other law, the law of this state applies
3 to an action brought under Section 6 of this act to the maximum
4 extent permitted by the Oklahoma Constitution and federal law,
5 including the United States Constitution.

6 C. Notwithstanding any other law, any contractual provision
7 that requires or purports to require application of the laws of a
8 different jurisdiction, or that requires or purports to require a
9 qui tam action under Section 6 of this act to be litigated in a
10 particular forum, is void based on this state's public policy and is
11 not enforceable in any court.

12 D. Notwithstanding any other law, a court may not apply the law
13 of another state or jurisdiction to any qui tam action brought under
14 Section 6 of this act unless the Oklahoma Constitution or federal
15 law compels the court to apply that law.

16 SECTION 11. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 1-745.70 of Title 63, unless
18 there is created a duplication in numbering, reads as follows:

19 A. For purposes of this section, the term "clawback provision"
20 refers to any law of another state or jurisdiction that authorizes
21 the bringing of a civil action against a person for:

22 1. Bringing or engaging in an action authorized by this act,
23 including subsection F of this section;

24 2. Bringing or engaging in an action that alleges a violation

1 of Section 4 of this act;

2 3. Attempting, intending, or threatening to bring or engage in
3 an action described by paragraph 1 or 2 of this subsection; or

4 4. Providing legal representation or any type of assistance to
5 a person who brings or engages in an action described by paragraph 1
6 or 2 of this subsection.

7 B. Notwithstanding any other law and except as otherwise
8 provided by federal law or the Oklahoma Constitution, the laws of
9 this state apply to:

10 1. Conduct described by subsection A of this section;

11 2. An action brought against a person for engaging in conduct
12 described by subsection A of this section;

13 3. An action brought under a clawback provision against a
14 resident of this state; and

15 4. An action brought under subsection F of this section.

16 C. Notwithstanding any other law, in an action described by
17 paragraph 1 or 2 of subsection A of this section, the court shall,
18 on request, issue a temporary, preliminary, or permanent injunction
19 that restrains each defendant in the action, each person in privity
20 with the defendant, and each person with whom the defendant is in
21 active concert or participation from:

22 1. Bringing an action under any clawback provision against a
23 claimant or prosecutor, a person in privity with the claimant or
24 prosecutor, or a person providing legal representation or any type

1 of assistance to the claimant or prosecutor; and

2 2. Continuing to litigate an action under any clawback
3 provision that has been brought against a claimant or prosecutor, a
4 person in privity with the claimant or prosecutor, or a person
5 providing legal representation or any type of assistance to the
6 claimant or prosecutor.

7 D. Notwithstanding any other law, the doctrines of res judicata
8 and collateral estoppel preclude a defendant against whom a judgment
9 is entered in an action described by paragraph 1 or 2 of subsection
10 A of this section and each person in privity with the defendant from
11 litigating or relitigating any claim or issue under any clawback
12 provision against a claimant, prosecutor, or person in privity with
13 the claimant or prosecutor that was raised or could have been raised
14 as a claim, cross-claim, counterclaim, or affirmative defense under
15 the federal or this state's rules of civil procedure.

16 E. Notwithstanding any other law, a court of this state may not
17 enforce an out-of-state judgment obtained in an action brought under
18 a clawback provision unless federal law or the Oklahoma Constitution
19 requires the court to enforce the judgment.

20 F. Notwithstanding any other law, if an action is brought or
21 judgment is entered against a person under a clawback provision
22 based wholly or partly on the person's decision to engage in conduct
23 described by subsection A of this section, that person is entitled
24 to injunctive relief and damages from any person who brought the

1 action or obtained the judgment or who sought to enforce the
2 judgment. Notwithstanding any other law, the relief described by
3 this subsection must include:

4 1. Compensatory damages, including money damages in an amount
5 equal to the judgment damages and costs, expenses, and reasonable
6 attorney fees spent in defending the action;

7 2. Costs, expenses, and reasonable attorney fees incurred in
8 bringing an action under this subsection;

9 3. Additional amounts consisting of the greater of:

10 a. twice the sum of the damages, costs, expenses, and
11 fees described by paragraphs 1 and 2 of this
12 subsection, or

13 b. One Hundred Thousand Dollars (\$100,000.00); and

14 4. Injunctive relief that restrains each person who brought the
15 action under the clawback provision, each person in privity with the
16 person, and each person acting in concert or participation with the
17 person from:

18 a. bringing further actions under any clawback provision
19 against the person against whom the action was
20 brought, each person in privity with the person, or
21 any person providing legal representation or any type
22 of assistance to the person,

- b. continuing to litigate any actions brought under a clawback provision against the persons described by subparagraph a of this paragraph, and
- c. enforcing or attempting to enforce any judgment obtained in any actions brought under a clawback provision against the persons described by subparagraph a of this paragraph.

G. It is not a defense to an action brought under subsection F of this section that:

1. The claimant failed to seek recovery under subsection F of this section in an action brought against the claimant under a clawback provision; or

2. A court in a preceding action brought against the claimant declined to recognize or enforce subsection F of this section or held any provision of that subsection invalid, unconstitutional, or preempted by federal law, notwithstanding the doctrines of issue or claim preclusion.

H. Notwithstanding any other law, an action brought under subsection F of this section shall not be subject to any provision of the Oklahoma Citizens Participation Act, Section 1430 et seq. of Title 12 of the Oklahoma Statutes, and shall not be subject to any provision of the Oklahoma Religious Freedom Act, Section 251 et seq. of Title 51 of the Oklahoma Statutes.

1 SECTION 12. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1-745.71 of Title 63, unless
3 there is created a duplication in numbering, reads as follows:

4 A. Notwithstanding any other law, the state shall have
5 sovereign immunity, each of its political subdivisions shall have
6 governmental immunity, and each officer and employee of this state
7 or a political subdivision shall have official immunity, as well as
8 sovereign or governmental immunity, as appropriate, in any action,
9 claim, counterclaim, or any type of legal or equitable action that
10 challenges the validity of any provision or application of this act,
11 on constitutional grounds or otherwise, or that seeks to prevent or
12 enjoin the state, its political subdivisions, or any officer or
13 employee of this state or a political subdivision from enforcing any
14 provision or application of this act, or from hearing, adjudicating,
15 or docketing an action brought under Section 6 or Section 7 of this
16 act, unless that immunity has been abrogated or preempted by federal
17 law in a manner consistent with the Constitution of the United
18 States. The sovereign immunity conferred by this section upon the
19 state and each of its officers and employees includes the
20 constitutional sovereign immunity recognized by the Supreme Court of
21 the United States in Seminole Tribe of Florida v. Florida, 517 U.S.
22 44 (1996), and Alden v. Maine, 527 U.S. 706 (1999), which applies in
23 both state and federal court and which may not be abrogated by
24 Congress or by any state or federal court except pursuant to

1 congressional legislation authorized by Section 5 of the Fourteenth
2 Amendment, by the Bankruptcy Clause of Article I, or by Congress's
3 powers to raise and support Armies and to provide and maintain a
4 Navy, or by any other ground that might be recognized by the Supreme
5 Court of the United States.

6 B. Notwithstanding any other law to the contrary, the
7 immunities conferred by subsection A of this section shall apply in
8 every court, both state and federal, and in every adjudicative
9 proceeding of any type whatsoever.

10 C. Notwithstanding any other law, no provision of state law may
11 be construed to waive or abrogate an immunity described in
12 subsection A of this section unless it expressly waives or abrogates
13 immunity with specific reference to this section.

14 D. Notwithstanding any other law, no attorney representing the
15 state, its political subdivisions, or any officer or employee of
16 this state or a political subdivision is authorized or permitted to
17 waive an immunity described in subsection A of this section or take
18 any action that would result in a waiver of that immunity, and any
19 such action or purported waiver shall be regarded as a legal nullity
20 and an ultra vires act.

21 E. Notwithstanding any other law, no court of this state may
22 award declaratory or injunctive relief, or any type of stay or writ,
23 including a writ of prohibition, that would pronounce any provision
24 or application of this act invalid or unconstitutional, or that

1 would restrain the state, its political subdivisions, any officer,
2 employee, or agent of this state or a political subdivision, or any
3 person from enforcing any provision or application of this act, or
4 from hearing, adjudicating, docketing, or filing an action brought
5 under Section 6 or Section 7 of this act, and no court of this state
6 shall have jurisdiction to consider any action, claim, or
7 counterclaim that seeks such relief, and no such action, claim, or
8 counterclaim may be litigated on behalf of a plaintiff or defendant
9 class, notwithstanding Section 2023 of Title 12 of the Oklahoma
10 Statutes and Rule 23 of the Oklahoma Rules of Civil Procedure, and
11 no court may certify a plaintiff or defendant class in any action
12 seeking the relief described in this subsection.

13 F. Nothing in this section or this act shall be construed to
14 prevent a litigant from asserting the invalidity or
15 unconstitutionality of any provision or application of this act as a
16 defense to any action, claim, or counterclaim brought against that
17 litigant.

18 SECTION 13. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 1-745.72 of Title 63, unless
20 there is created a duplication in numbering, reads as follows:

21 A. Mindful of *Brockett v. Spokane Arcades, Inc.*, 472 U.S. 491,
22 501, 506 & n.14 (1985), in which in the context of determining the
23 severability of a state statute the Supreme Court of the United
24 States held that an explicit statement of legislative intent is

1 controlling, even when the statute is attacked under the overbreadth
2 doctrine, it is the intent of the legislature that every single
3 provision, section, subsection, sentence, clause, phrase, or word in
4 this section, and every single application of the every provision,
5 section, subsection, sentence, clause, phrase, or word in this act
6 to every discrete person, group of persons, or circumstances, are
7 severable from each other.

8 B. If any application of any provision, section, subsection,
9 sentence, clause, phrase, or word in this act to any person, group
10 of persons, or circumstances is found by a court to be invalid,
11 preempted, or unconstitutional, for any reason whatsoever, then the
12 remaining applications of that provision, section, subsection,
13 sentence, clause, phrase, or word to all other persons and
14 circumstances shall be severed and preserved, and shall remain in
15 effect. All constitutionally valid applications of the provisions,
16 sections, subsections, sentences, clauses, phrases, or words in this
17 act shall be severed from any applications that a court finds to be
18 invalid, preempted, or unconstitutional, because it is the
19 Legislature's intent and priority that every single valid
20 application of every provision, section, subsection, sentence,
21 clause, phrase, or word in this act be allowed to stand alone. Even
22 if the court concludes that a substantial number of the applications
23 of any provision, section, subsection, sentence, clause, phrase, or
24 word in this act are unconstitutional, judged in relation to its

1 plainly legitimate sweep, the applications of that provision,
2 section, subsection, sentence, clause, phrase, or word that do not
3 violate the Constitution shall be severed from the remaining
4 applications and shall remain in force, and shall be treated as if
5 the Legislature had enacted a provision, section, subsection,
6 sentence, clause, phrase, or word limited to the persons, groups of
7 persons, or circumstances for which its application does not violate
8 the Constitution.

9 C. The Legislature further declares that it would have enacted
10 this act, and each provision, section, subsection, sentence, clause,
11 phrase, or word, and all constitutional applications of the
12 provisions, sections, subsections, sentences, clauses, phrases, and
13 words of this act, irrespective of the fact that any provision,
14 section, subsection, sentence, clause, phrase, or word, or any
15 applications of the provisions, sections, subsections, sentences,
16 clauses, phrases, and words of this act, were to be declared
17 invalid, preempted, or unconstitutional.

18 D. If any provision, section, subsection, sentence, clause,
19 phrase, or word of this of this act is found by any court to be
20 unconstitutionally vague, then the applications of that provision,
21 section, subsection, sentence, clause, phrase, or word that do not
22 present constitutional vagueness problems shall be severed and
23 remain in force, consistent with the severability requirements of
24 subsections A, B, and C of this section.

1 E. No court may decline to enforce the severability
2 requirements of subsections A, B, C, and D of this section on the
3 ground that severance would "rewrite" the statute or involve the
4 court in legislative or lawmaking activity. A court that declines
5 to enforce or enjoins a state official from enforcing a statutory
6 provision is never rewriting a statute or engaging in legislative or
7 lawmaking activity, as the statute continues to contain the same
8 words as before the court's decision. A judicial injunction or
9 declaration of unconstitutionality:

10 1. Is nothing more than an edict prohibiting enforcement of the
11 disputed statute against the named parties to that lawsuit, which
12 may subsequently be vacated by a later court if that court has a
13 different understanding of the requirements of the Oklahoma
14 Constitution or United States Constitution;

15 2. Is not a formal amendment of the language in a statute; and
16 3. No more rewrites a statute than a decision by the executive
17 not to enforce a duly enacted statute in a limited and defined set
18 of circumstances.

19 F. If any state or federal court disregards any of the
20 severability requirements in subsections A, B, C, D, or E of this
21 section, and declares or finds any provision, section, subsection,
22 sentence, clause, phrase, or word of this act facially invalid,
23 preempted, or unconstitutional, when there are discrete applications
24 of that provision, section, subsection, sentence, clause, phrase, or

1 word can be enforced against a person, group of persons, or
2 circumstances without violating federal law or the federal or state
3 constitutions, then that provision, section, subsection, sentence,
4 clause, phrase, or word shall be interpreted, as a matter of state
5 law, as if the legislature had enacted a provision, section,
6 subsection, sentence, clause, phrase, or word limited to the
7 persons, group of persons, or circumstances for which its
8 application will not violate federal law or the federal or state
9 constitutions, and every court and every state official shall adopt
10 this saving construction of that provision, section, subsection,
11 sentence, clause, phrase, or word until the court ruling that
12 pronounced the provision, section, subsection, sentence, clause,
13 phrase, or word facially invalid, preempted, or unconstitutional is
14 vacated or overruled.

15 SECTION 14. It being immediately necessary for the preservation
16 of the public peace, health or safety, an emergency is hereby
17 declared to exist, by reason whereof this act shall take effect and
18 be in full force from and after its passage and approval.

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