

STATE OF OKLAHOMA

2nd Session of the 60th Legislature (2026)

SENATE BILL 2054

By: Guthrie

AS INTRODUCED

An Act relating to abortion; creating the Oklahoma Mother and Child Protection Act; providing short title; defining terms; limiting applicability of act; providing certain construction; prohibiting manufacture or provision of abortion-inducing drugs; limiting effect of prohibition; providing for and prohibiting certain enforcement; authorizing certain qui tam actions; specifying conditions for bringing qui tam action; prohibiting certain actions and litigation; specifying deadline for certain actions; voiding certain waivers; creating and prohibiting certain affirmative defenses; specifying burden of proof; directing and prohibiting award of certain 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.

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

22 of Article II of the Oklahoma Constitution;

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

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

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

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

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

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

C. This section does not preclude or limit the enforcement of any other law or regulation against conduct that is independently 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  
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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  
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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:  
23  
24  
25

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

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

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

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

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

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

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

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

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

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

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

15 SECTION 8. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 1-745.67 of Title 63, unless  
17 there is created a duplication in numbering, reads as follows:

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

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

23 2. An amount not less than One Hundred Thousand Dollars  
24 (\$100,000.00) for each violation of Section 4 of this act; and

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  
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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  
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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  
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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,  
23  
24  
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1           b. continuing to litigate any actions brought under a  
2           clawback provision against the persons described by  
3           subparagraph a of this paragraph, and

4           c. enforcing or attempting to enforce any judgment  
5           obtained in any actions brought under a clawback  
6           provision against the persons described by  
7           subparagraph a of this paragraph.

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

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

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

18          H. Notwithstanding any other law, an action brought under  
19 subsection F of this section shall not be subject to any provision  
20 of the Oklahoma Citizens Participation Act, Section 1430 et seq. of  
21 Title 12 of the Oklahoma Statutes, and shall not be subject to any  
22 provision of the Oklahoma Religious Freedom Act, Section 251 et seq.  
23 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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