STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

SENATE BILL 1328

By: Silk

AS INTRODUCED

An Act relating to an individual's right of conscience; creating the Oklahoma Right of Conscience Act; providing short title; defining terms; providing certain protections from governmental action for certain beliefs; stating protected actions; stating prohibited remedies and actions; providing defense to certain actions; setting dismissal and transfer procedure; prohibiting certain discovery during certain time; allowing certain attorney fees, costs and damages; ensuring governmental entity provides certain service under certain condition; providing severability; construing provisions; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1850 of Title 25, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Right of Conscience Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1850.1 of Title 25, unless there is created a duplication in numbering, reads as follows:
As used in this act:

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

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

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

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

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

2. Provide any services, accommodations, advantages, facilities, goods or privileges to be used to promote, advertise, endorse or advocate for a specific marriage, lifestyle or behavior;
SECTION 4. NEW LAW  A new section of law to be codified in the Oklahoma Statutes as Section 1850.3 of Title 25, unless there is created a duplication in numbering, reads as follows:

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

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

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

B. Any individual named in or subject to a civil action, an administrative action or any action by a governmental entity may immediately assert the protections provided in Section 3 of this act, and amendments thereto, or this section, as a defense by moving to dismiss such action. If the motion to dismiss is filed in an action before an administrative tribunal, within fifteen (15) days after filing such motion any party to the action may elect to transfer jurisdiction of the action to a district court with proper venue. Within sixty (60) days after the transfer of jurisdiction, the district court shall decide whether the claimed protection applies. The district court shall not permit any additional discovery or fact-finding prior to making its decision.
C. If a governmental entity, or any person asserts a claim or cause of action, or takes any adverse action against an individual in violation of subsection A of this section, the individual shall be entitled, upon request, to recover all reasonable attorney fees, costs and damages such individual incurred as a result of the violation.

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

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

A. If any word, phrase, clause or provision of this act, and any amendments thereto, or the application of any such word, phrase, clause or provision to any person or circumstance is held invalid, the remaining provisions shall be given effect without the invalid portion and to this end the provisions of Sections 1 through 4 of this act, and amendments thereto, are severable.
B. Nothing in Sections 1 through 4 of this act, and amendments thereto, shall be construed to allow any individual or entity acting under color of state law to perform any marriage prohibited by state law including, but not limited to, laws relating to plural marriage, incest, consanguinity and marriageable age.

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

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

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

SECTION 6. This act shall become effective November 1, 2016.