

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 SENATE BILL 1328

By: Silk

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5
6 AS INTRODUCED

7 An Act relating to an individual's right of
8 conscience; creating the Oklahoma Right of Conscience
9 Act; providing short title; defining terms; providing
10 certain protections from governmental action for
11 certain beliefs; stating protected actions; stating
12 prohibited remedies and actions; providing defense to
13 certain actions; setting dismissal and transfer
14 procedure; prohibiting certain discovery during
15 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.

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

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

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

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

1 As used in this act:

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

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

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

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

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

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

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

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

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

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

12 B. Any individual named in or subject to a civil action, an
13 administrative action or any action by a governmental entity may
14 immediately assert the protections provided in Section 3 of this
15 act, and amendments thereto, or this section, as a defense by moving
16 to dismiss such action. If the motion to dismiss is filed in an
17 action before an administrative tribunal, within fifteen (15) days
18 after filing such motion any party to the action may elect to
19 transfer jurisdiction of the action to a district court with proper
20 venue. Within sixty (60) days after the transfer of jurisdiction,
21 the district court shall decide whether the claimed protection
22 applies. The district court shall not permit any additional
23 discovery or fact-finding prior to making its decision.
24

1 C. If a governmental entity, or any person asserts a claim or
2 cause of action, or takes any adverse action against an individual
3 in violation of subsection A of this section, the individual shall
4 be entitled, upon request, to recover all reasonable attorney fees,
5 costs and damages such individual incurred as a result of the
6 violation.

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

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

18 A. If any word, phrase, clause or provision of this act, and
19 any amendments thereto, or the application of any such word, phrase,
20 clause or provision to any person or circumstance is held invalid,
21 the remaining provisions shall be given effect without the invalid
22 portion and to this end the provisions of Sections 1 through 4 of
23 this act, and amendments thereto, are severable.
24

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

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

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

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

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