

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 SENATE BILL 1891

By: Lamb

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5  
6 AS INTRODUCED

7 An Act relating to public health and safety; creating  
8 the Freedom of Conscience Act; providing short title;  
9 defining terms; prohibiting employers from  
10 discriminating against certain persons for refusing  
11 to perform specified acts based on certain beliefs;  
12 making certain provisions inapplicable under certain  
13 circumstances; providing defense; prohibiting forced  
14 participation in specified acts by certain persons  
15 under certain circumstances; providing immunity from  
16 liability; providing for equitable relief and  
17 damages; providing statute of limitations; repealing  
18 Sections 1, 2, 3, 4, 5 and 6, Chapter 36, O.S.L. 2008  
19 (63 O.S. Supp. 2009, Sections 1-728, 1-728.1, 1-  
20 728.2, 1-728.3, 1-728.3, 1-728.4 and 1-728.5), which  
21 relate to the Freedom of Conscience Act; providing  
22 for codification; and declaring an emergency.

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

26 SECTION 1. NEW LAW A new section of law to be codified  
27 in the Oklahoma Statutes as Section 1-728a of Title 63, unless there  
28 is created a duplication in numbering, reads as follows:

29 This act shall be known and may be cited as the "Freedom of  
30 Conscience Act".

1           SECTION 2.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 1-728b of Title 63, unless there  
3 is created a duplication in numbering, reads as follows:

4           As used in the Freedom of Conscience Act:

5           1. "Health care facility" means any public or private  
6 organization, corporation, authority, partnership, sole  
7 proprietorship, association, agency, network, joint venture, or  
8 other entity that is involved in providing health care services,  
9 including a hospital, clinic, medical center, ambulatory surgical  
10 center, private physician's office, pharmacy, nursing home,  
11 university hospital, medical school, nursing school, medical  
12 training facility, inpatient health care facility, or other place  
13 where health care services are provided;

14           2. "Human embryo" means a human organism that is derived by  
15 fertilization, parthenogenesis, cloning, or any other means from one  
16 or more human gametes or human diploid cells;

17           3. "In vitro human embryo" means a human embryo, whether  
18 cryopreserved or not, living outside of a woman's body;

19           4. "Participate in" means to perform, practice, engage in,  
20 assist in, recommend, counsel in favor of, make referrals for,  
21 prescribe, dispense, or administer drugs or devices or otherwise  
22 promote or encourage; and

23           5. "Person" means any individual, corporation, industry, firm,  
24 partnership, association, venture, trust, institution, federal,

1 state or local governmental instrumentality, agency or body or any  
2 other legal entity however organized.

3 SECTION 3. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 1-728c of Title 63, unless there  
5 is created a duplication in numbering, reads as follows:

6 An employer shall not discriminate against an employee or  
7 prospective employee by refusing to reasonably accommodate the  
8 religious observance or practice of the employee or prospective  
9 employee, unless the employer can demonstrate that the accommodation  
10 would pose an undue hardship on the program, enterprise, or business  
11 of the employer, in the following circumstances:

12 1. An abortion as defined in Section 1-730 of Title 63 of the  
13 Oklahoma Statutes. The provisions of this section shall not apply  
14 if the pregnant woman suffers from a physical disorder, physical  
15 injury, or physical illness which, as certified by a physician,  
16 causes the woman to be in imminent danger of death unless an  
17 abortion is immediately performed or induced and there are no other  
18 competent personnel available to attend to the woman. As used in  
19 this act, the term "abortion" shall not include the prescription of  
20 contraceptives;

21 2. An experiment or medical procedure that destroys an in vitro  
22 human embryo or uses cells or tissue derived from the destruction of  
23 an in vitro human embryo;

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1           3. An experiment or medical procedure on an in vitro human  
2 embryo that is not related to the beneficial treatment of the in  
3 vitro human embryo;

4           4. An experiment or medical procedure on a developing child in  
5 an artificial womb, at any stage of development, that is not related  
6 to the beneficial treatment of the developing child;

7           5. A procedure, including a transplant procedure, that uses  
8 fetal tissue or organs that come from a source other than a  
9 stillbirth or miscarriage; or

10          6. An act that intentionally causes or assists in causing the  
11 death of an individual by assisted suicide, euthanasia, or mercy  
12 killing.

13          SECTION 4.        NEW LAW        A new section of law to be codified  
14 in the Oklahoma Statutes as Section 1-728d of Title 63, unless there  
15 is created a duplication in numbering, reads as follows:

16          A. No health care facility is required to admit any patient or  
17 to allow the use of the health care facility for the purpose of  
18 performing any of the acts specified in Section 3 of this act.

19          B. A physician, physician's assistant, registered nurse,  
20 practical nurse, pharmacist, or any employee thereof, or any other  
21 person who is an employee of, member of, or associated with the  
22 staff of a health care facility in which the performance of an  
23 activity specified in Section 3 of this act has been authorized, who  
24 in writing, refuses or states an intention to refuse to participate

1 in the activity on moral or religious grounds shall not be required  
2 to participate in the activity and shall not be disciplined by the  
3 respective licensing board or authorized regulatory department for  
4 refusing or stating an intention to refuse to participate in the  
5 practice with respect to the activity.

6 C. A physician, physician's assistant, registered nurse,  
7 practical nurse, pharmacist, or any employee thereof, or any other  
8 person who is an employee of, member of, or associated with the  
9 staff of a health care facility is immune from liability for any  
10 damage caused by the refusal of the person to participate in an  
11 activity specified in Section 3 of this act on moral or religious  
12 grounds.

13 SECTION 5. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 1-728e of Title 63, unless there  
15 is created a duplication in numbering, reads as follows:

16 A. No health care facility, school, or employer shall  
17 discriminate against any person with regard to admission, hiring or  
18 firing, tenure, term, condition, or privilege of employment, student  
19 status, or staff status on the ground that the person refuses or  
20 states an intention to refuse, whether or not in writing, to  
21 participate in an activity specified in Section 3 of this act, if  
22 the refusal is based on religious or moral precepts.

23 B. No person shall be required to:  
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1 1. Participate in an activity specified in Section 3 of this  
2 act if the individual's participation in the activity is contrary to  
3 the person's religious beliefs or moral convictions;

4 2. Make facilities available for an individual to participate  
5 in an activity specified in Section 3 of this act if the person  
6 prohibits the activity from taking place in the facilities on the  
7 basis of religious beliefs or moral convictions; or

8 3. Provide any personnel to participate in an activity  
9 specified in Section 3 of this act if the activity is contrary to  
10 the religious beliefs or moral convictions of the personnel.

11 SECTION 6. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 1-728f of Title 63, unless there  
13 is created a duplication in numbering, reads as follows:

14 A. For the purposes of this section, "damages" do not include  
15 noneconomic damages, as defined in Section 1-1708.1C of Title 63 of  
16 the Oklahoma Statutes.

17 B. A person who is adversely affected by conduct that is in  
18 violation of the Freedom of Conscience Act may bring a civil action  
19 for equitable relief, including reinstatement or damages, or both  
20 reinstatement and damages. An action under this subsection may be  
21 commenced against the state and any office, department, independent  
22 agency, authority, institution, association, or other body in state  
23 government created or authorized to be created by the state  
24 constitution or any law. In an action under this subsection, the

1 court shall award reasonable attorney fees to a person who obtains  
2 equitable relief, damages, or both. An action under this subsection  
3 shall be commenced within one (1) year after the cause of action  
4 accrues or be barred.

5 SECTION 7. REPEALER Sections 1, 2, 3, 4, 5 and 6,  
6 Chapter 36, O.S.L. 2008 (63 O.S. Supp. 2009, Sections 1-728, 1-  
7 728.1, 1-728.2, 1-728.3, 1-728.3, 1-728.4 and 1-728.5), are hereby  
8 repealed.

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

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