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STATE OF OKLAHOMA

1 2nd Session of the 52nd Legislature (2010)

2 HOUSE BILL 3110 By: Peterson

3 AS INTRODUCED

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

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

20 SECTION 1. NEW LAW A new section of law to be
21 codified in the Oklahoma Statutes as Section 1-728.6 of Title 63,
22 unless there is created a duplication in numbering, reads as

23 follows:

24 This act shall be known and may be cited as the "Freedom of

1

1 Conscience Act".

2 SECTION 2. NEW LAW A new section of law to be
3 codified in the Oklahoma Statutes as Section 1-728.7 of Title 63,
4 unless there is created a duplication in numbering, reads as
5 follows:

6 As used in the Freedom of Conscience Act:

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

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

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

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

25 5. "Person" means any individual, corporation, industry,
26 firm, partnership, association, venture, trust, institution,
27 federal, state or local governmental instrumentality, agency or

1 body or any other legal entity however organized.

2 SECTION 3. NEW LAW A new section of law to be
3 codified in the Oklahoma Statutes as Section 1-728.8 of Title 63,
4 unless there is created a duplication in numbering, reads as
5 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
10 accommodation would pose an undue hardship on the program,
11 enterprise, or business of the employer, in the following
12 circumstances:

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

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

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

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

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

7 6. An act that intentionally causes or assists in causing
8 the death of an individual by assisted suicide, euthanasia, or
9 mercy killing.

10 SECTION 4. NEW LAW A new section of law to be
11 codified in the Oklahoma Statutes as Section 1-728.9 of Title 63,
12 unless there is created a duplication in numbering, reads as
13 follows:

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

17 B. A physician, physician's assistant, registered nurse,
18 practical nurse, pharmacist, or any employee thereof, or any other
19 person who is an employee of, member of, or associated with the
20 staff of a health care facility in which the performance of an
21 activity specified in Section 3 of this act has been authorized,
22 who in writing refuses or states an intention to refuse to
23 participate in the activity on moral or religious grounds shall
24 not be required to participate in the activity and shall not be
25 disciplined by the respective licensing board or authorized
26 regulatory department for refusing or stating an intention to
27 refuse to participate in the practice with respect to the

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1 activity.

2 C. A physician, physician's assistant, registered nurse,

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3 practical nurse, pharmacist, or any employee thereof, or any other
4 person who is an employee of, member of, or associated with the
5 staff of a health care facility is immune from liability for any
6 damage caused by the refusal of the person to participate in an
7 activity specified in Section 3 of this act on moral or religious
8 grounds.

9 SECTION 5. NEW LAW A new section of law to be
10 codified in the Oklahoma Statutes as Section 1-728.10 of Title 63,
11 unless there is created a duplication in numbering, reads as
12 follows:

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

21 B. No person shall be required to:

22 1. Participate in an activity specified in Section 3 of
23 this act if the individual's participation in the activity is
24 contrary to the person's religious beliefs or moral convictions;

25 2. Make facilities available for an individual to
26 participate in an activity specified in Section 3 of this act if
27 the person prohibits the activity from taking place in the

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1 facilities on the basis of religious beliefs or moral convictions;
2 or

3 3. Provide any personnel to participate in an activity
4 specified in Section 3 of this act if the activity is contrary to

5 the religious beliefs or moral convictions of the personnel.

6 SECTION 6. NEW LAW A new section of law to be
7 codified in the Oklahoma Statutes as Section 1-728.11 of Title 63,
8 unless there is created a duplication in numbering, reads as
9 follows:

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

13 B. A person who is adversely affected by conduct that is in
14 violation of the Freedom of Conscience Act may bring a civil
15 action for equitable relief, including reinstatement or damages,
16 or both reinstatement and damages. An action under this
17 subsection may be commenced against the state and any office,
18 department, independent agency, authority, institution,
19 association, or other body in state government created or
20 authorized to be created by the State Constitution or any law. In
21 an action under this subsection, the court shall award reasonable
22 attorney fees to a person who obtains equitable relief, damages,
23 or both. An action under this subsection shall be commenced
24 within one (1) year after the cause of action accrues or be
25 barred.

26 SECTION 7. REPEALER Sections 1, 2, 3, 4, 5 and 6,
27 Chapter 36, O.S.L. 2008 (63 O.S. Supp. 2009, Sections 1-728, 1-

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1 728.1, 1-728.2, 1-728.3, 1-728.4 and 1-728.5), are hereby
2 repealed.

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

7 approval.

8 52-2-9536 AM 01/13/10

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