An Act

ENROLLED SENATE
BILL NO. 1891

By: Sykes, Jolley, Lamb, Marlatt and Aldridge of the Senate

and

Peterson, Reynolds, Cooksey, McCullough, Derby, Thompson, Kern, Tibbs, Wright (John) Walker, Faught, McDaniel (Randy) and Wesselhoft of the House

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

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 1-728a of Title 63, unless there is created a duplication in numbering, reads as follows:

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

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

As used in the Freedom of Conscience Act:

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

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

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

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

5. "Person" means any individual, corporation, industry, firm, partnership, association, venture, trust, institution, federal, state or local governmental instrumentality, agency or body or any other legal entity however organized.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

B. No person shall be required to:

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

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

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

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

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

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

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

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

Passed the Senate the 10th day of March, 2010.

A. Bryce Marlatt
Presiding Officer of the Senate

Passed the House of Representatives the 29th day of March, 2010.

Chris Steele
Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Governor this 30th
day of March, **20** 10,
at 3:45 **o'clock** P **M.**

By:

Approved by the Governor of the State of Oklahoma the 2nd **day of**
April, **20** 10, **at** 6:00 **o'clock** P **M.**

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this
5th **day of** April, **20** 10,
at 10:45 **o'clock** A **M.**

By: M. Susan Savage