

1 **SENATE FLOOR VERSION**

2 February 21, 2017

3 **AS AMENDED**

4 SENATE BILL NO. 197

5 By: Silk and Brecheen

6
7 **[individual's right of conscience - Oklahoma Right**
8 **of Conscience Act - protections from governmental**
9 **action - codification - effective date]**
10

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

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

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

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

20 As used in this act:

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

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

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

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

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

21 C. If a governmental entity, or any person asserts a claim or
22 cause of action, or takes any adverse action against an individual
23 in violation of subsection A of this section, the individual shall
24 be entitled, upon request, to recover all reasonable attorney fees,

1 costs and damages such individual incurred as a result of the
2 violation.

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

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

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

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

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

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

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

17 SECTION 6. This act shall become effective November 1, 2017.

18 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
19 February 21, 2017 - DO PASS AS AMENDED
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