

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 SENATE BILL 778

By: Silk

4  
5  
6 AS INTRODUCED

7 An Act relating to abortion; providing short title;  
8 stating legislative findings; defining terms;  
9 prohibiting certain grant funding; specifying certain  
10 exceptions; providing certain construction and  
11 recognition; providing for codification; and  
12 providing an effective date.

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

14 SECTION 1. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 1-760 of Title 63, unless there  
16 is created a duplication in numbering, reads as follows:

17 This act shall be known and may be cited as the "Life  
18 Appropriation Act".

19 SECTION 2. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 1-761 of Title 63, unless there  
21 is created a duplication in numbering, reads as follows:

22 The Legislature finds that:

23 1. The State of Oklahoma facilitates the disbursement of both  
24 State and Federal funds to qualifying entities for purposes of  
25 conducting certain activities;

1           2. Public dollars awarded to qualifying entities may facilitate  
2 or subsidize directly or indirectly expenses or activities not  
3 directly related to those for which the funds were intended,  
4 including without limitation shared administrative costs, overhead,  
5 employee salaries, rent, utilities and various other expenses;

6           3. It is possible that public dollars made available by or  
7 through the State of Oklahoma may be awarded to an entity that  
8 performs convenience abortions or subsidizes or otherwise  
9 facilitates the entity's ability to perform convenience abortions  
10 although the funds were not disbursed specifically for the purpose  
11 of performing convenience abortions;

12           4. As elected representatives of the people of Oklahoma, the  
13 members of the Legislature are entrusted with ensuring that all  
14 activities conducted with the aid of public funds are in accordance  
15 with the wishes of the people of Oklahoma and the intent of the laws  
16 of this state;

17           5. It is within the purview of the Legislature to establish  
18 criteria as the basis on which public funds are disbursed unless  
19 prohibited by the United States Constitution;

20           6. The United States is a Constitutional Republic that the  
21 State of Oklahoma is part of;

22           7. The United States Constitution preempts state action, when  
23 they conflict under the doctrine of preemption;

1 8. The Establishment Clause of the First Amendment of the  
2 United States Constitution states, "Congress shall make no law  
3 respecting an establishment of religion;"

4 9. The Establishment Clause of the First Amendment of the  
5 United States Constitution applies to the State of Oklahoma through  
6 the Fourteenth Amendment of the United States Constitution;

7 10. As elected representatives, the members of the Legislature  
8 have a duty under Article IV of the United States Constitution to  
9 not appropriate funds in a manner that violates the Establishment  
10 Clause of the United States Constitution;

11 11. The United States Supreme Court has recognized that Secular  
12 Humanism is a religion for purposes of the Establishment Clause in  
13 *Torcaso v. Watkins*, 367 U.S. 488 (1961), *Edwards v. Aguillard*, 482  
14 U.S. 578 (1987), and elsewhere;

15 12. The naked assertions that "abortion is not murder," "that  
16 abortion is not immoral" and that "life does not begin at  
17 conception" are unproven faith-based assumptions that are implicitly  
18 religious and are unproven truth claims that are inseparably linked  
19 to the religion of Secular Humanism;

20 13. Whereas, many taxpayers, who are nonobservers to the  
21 religion of Secular Humanism, object to their tax dollars being  
22 spent to enable convenience abortions because such appropriations  
23 coercively cause them to violate their conscience by forcing them to  
24

1 indirectly endorse nonsecular acts that they consider to be immoral  
2 and offensive;

3 14. Whereas, some taxpayers in Oklahoma consider convenience  
4 abortions to be modern day child sacrifice conducted on the altar of  
5 convenience, which is a practice that is nonsecular and  
6 controversial;

7 15. Whereas, the Establishment Clause prohibits the State of  
8 Oklahoma from enforcing, respecting, recognizing, favoring or  
9 endorsing policies that fund abortion facilities with tax dollars  
10 because the practices are nonsecular and such appropriations have  
11 the effect of excessively entangling the government with the  
12 religion of Secular Humanism, putting religion over nonreligion;

13 16. The direct or indirect subsidization or facilitation of  
14 abortion with funds distributed by the State of Oklahoma constitutes  
15 paying for an abortion and, therefore, conflicts with the First  
16 Amendment Establishment Clause of the United States Constitution;

17 17. The State of Oklahoma may not favor or endorse one religion  
18 over another, nor may the State of Oklahoma favor or endorse the  
19 religion of Secular Humanism generally over nonreligion;

20 18. It is the policy of the State of Oklahoma to:

- 21 a. favor childbirth and family planning services that do  
22 not include convenience abortions or the promotion of  
23 convenience abortions within the continuum of care or  
24 services, and

1           b.    avoid the direct or indirect use of state funds to  
2                    promote or support convenience abortions;

3           19.   The State of Oklahoma has a compelling interest to uphold  
4 community standards of decency; and

5           20.   Abortion facilities that provide convenience abortions tend  
6 to erode community standards of decency.

7           SECTION 3.       NEW LAW       A new section of law to be codified  
8 in the Oklahoma Statutes as Section 1-762 of Title 63, unless there  
9 is created a duplication in numbering, reads as follows:

10          As used in the Life Appropriation Act:

11          1.    "Convenience Abortion" is an elective abortion that means  
12 the act of using or prescribing an instrument, medicine, drug,  
13 device or another substance or means with the intent to terminate  
14 the clinically diagnosable pregnancy of a woman with knowledge that  
15 the termination by those means will with reasonable likelihood cause  
16 the death of the unborn child. An act is not a convenience abortion  
17 if the act is performed with the intent to:

- 18           a.    save the life of the mother,  
19           b.    save the life or preserve the health of the unborn child,  
20           c.    remove a dead unborn child caused by spontaneous abortion,  
21           d.    remove an ectopic pregnancy, or  
22           e.    abort and remove an unborn child that is the result of  
23 rape or incest;

1           2. "Abortion referral" means the act of recommending a pregnant  
2 woman to a doctor, clinic or other person or entity for the purpose  
3 of obtaining or learning about obtaining a convenience abortion;

4           3. "Affiliate" means an individual or entity that, directly or  
5 indirectly, owns, controls, is controlled by or is under the common  
6 control of another person or entity, in whole or in part, or a  
7 subsidiary, parent or sibling entity;

8           4. "Pregnancy" means the female reproductive condition of  
9 having an unborn child in the woman's uterus; and

10          5. "Unborn child" means the offspring of human beings from  
11 fertilization until birth.

12           SECTION 4.        NEW LAW        A new section of law to be codified  
13 in the Oklahoma Statutes as Section 1-763 of Title 63, unless there  
14 is created a duplication in numbering, reads as follows:

15           A. In view of the First Amendment Establishment Clause of the  
16 United States Constitution, an agency or instrumentality of the  
17 State shall not award a grant to pay the direct or indirect costs of  
18 performing, inducing, referring or counseling in favor of abortions,  
19 including without limitation:

- 20           1. Administrative costs and expenses;
- 21           2. Overhead costs;
- 22           3. Employee salaries;
- 23           4. Rent and mortgage payments; and
- 24           5. Telephone and other utility payments,

1 because such appropriations constitute an endorsement of nonsecular  
2 conduct that is inseparably linked to the religion of Secular  
3 Humanism and has the effect of excessively entangling the State of  
4 Oklahoma with the religion of Secular Humanism.

5 B. In view of the First Amendment Establishment Clause of the  
6 United States Constitution, an agency or instrumentality of the  
7 State shall not grant, appropriate or distribute a grant to an  
8 individual or entity that:

9 1. Performs convenience abortions, induces convenience  
10 abortions, provides convenience abortion referrals or counsels in  
11 favor of convenience abortions; or

12 2. Is an affiliate of a person or entity that performs  
13 abortions, induces abortions, provides abortion referrals or  
14 counsels in favor of convenience abortions because such  
15 appropriations have the effect of endorsing nonsecular practices  
16 that excessively entangles the government with the religion of  
17 Secular Humanism;

18 SECTION 5. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 1-764 of Title 63, unless there  
20 is created a duplication in numbering, reads as follows:

21 A. 1. This act does not affect the funding of a hospital,  
22 medical school or university.

23 2. The restrictions under Section 4 of this act do not apply to  
24 funding available through the Oklahoma Medicaid Program.

1 B. This act does not create or recognize:

2 1. A right to an abortion; or

3 2. A right to public funds, a contract or a grant.

4 C. This act recognizes:

5 1. The members of the Legislature have a duty to comply with  
6 the Establishment Clause of the First Amendment of the United States  
7 Constitution pursuant to Article VI;

8 2. That convenience abortions are, by their nature, nonsecular  
9 practices that are implicitly religious and inseparably linked to  
10 the religion of Secular Humanism;

11 3. That the State of Oklahoma is prohibited under the First  
12 Amendment Establishment Clause from funding or promoting convenience  
13 abortions directly or indirectly because such appropriations  
14 constitute an endorsement of the religion of Secular Humanism and  
15 have the effect of excessively entangling the government with the  
16 religion of Secular Humanism;

17 4. That the United States Supreme Court and this Legislature  
18 have recognized that Secular Humanism is a religion for the purposes  
19 of the Establishment Clause and convenience abortions are nonsecular  
20 practices that are inseparably linked to the religion of Secular  
21 Humanism;

22 5. That it is the policy of the State of Oklahoma to favor  
23 childbirth and family planning services that do not include  
24 convenience abortions or the promotion of convenience abortions



1 within the continuum of care or services and to avoid the direct or  
2 indirect use of state funds to promote or support convenience  
3 abortions;

4 6. That the State of Oklahoma has a compelling interest to  
5 uphold community standards of decency; and

6 7. That facilities that provide convenient abortions tend to  
7 erode community standards of decency by encouraging promiscuity and  
8 normalizing false permission-giving beliefs about sex.

9 SECTION 6. This act shall become effective November 1, 2019.

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11 57-1-1589 LB 1/17/2019 12:59:33 PM

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