

**COMMITTEE AMENDMENT**

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB3700 \_\_\_\_\_  
 \_\_\_\_\_ Of the printed Bill  
 Page \_\_\_\_\_ Section \_\_\_\_\_ Lines \_\_\_\_\_  
 \_\_\_\_\_ Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

**AMEND TITLE TO CONFORM TO AMENDMENTS**

Amendment submitted by: Todd Russ

Adopted: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 PROPOSED COMMITTEE  
4 SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 3700

By: Russ

7 PROPOSED COMMITTEE SUBSTITUTE

8 An Act relating to abortion; creating the Oklahoma  
9 Heartbeat Act; defining terms; prohibiting  
10 performance of abortion except under certain  
11 conditions; requiring certain test to meet specified  
12 criteria; requiring physician to record certain  
13 information; prohibiting performance of abortion  
14 under certain conditions; clarifying allowed conduct;  
15 specifying effect of certain provisions; providing  
16 exception for medical emergency; requiring physician  
17 to record certain information; providing exception  
18 for abortion performed at the behest of federal  
19 entities; providing for and prohibiting certain  
20 enforcement; allowing certain persons to bring  
21 certain civil action; requiring and prohibiting  
22 certain civil relief; establishing deadline for  
23 filing of civil action; allowing and disallowing  
24 certain defenses; prohibiting certain acts by  
specified persons and entities; specifying  
applicability of certain provisions; prohibiting  
certain civil actions; authorizing and prohibiting  
affirmative defense under certain conditions;  
specifying venue for civil action; prohibiting  
certain transfer of venue; granting specified  
entities certain immunities; prohibiting certain  
waiver of immunity; limiting jurisdiction of courts;  
establishing liability for court costs and attorney  
fees; defining term; establishing statute of  
limitation for bringing certain actions; prohibiting  
use of certain defenses; providing for severability;  
expressing legislative intent and declarations;  
providing for certain interpretation and enforcement;  
providing certain construction; amending 12 O.S.  
2021, Section 1439, which relates to the Oklahoma

1 Citizens Participation Act; adding exception;  
2 amending 51 O.S. 2021, Section 255, which relates to  
3 the Oklahoma Religious Freedom Act; limiting  
4 applicability of act; providing for codification; and  
5 declaring an emergency.

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

7 SECTION 1. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 1-745.31 of Title 63, unless  
9 there is created a duplication in numbering, reads as follows:

10 This act shall be known and may be cited as the "Oklahoma  
11 Heartbeat Act".

12 SECTION 2. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 1-745.32 of Title 63, unless  
14 there is created a duplication in numbering, reads as follows:

15 As used in this act:

16 1. "Fetal heartbeat" means cardiac activity or the steady and  
17 repetitive rhythmic contraction of the fetal heart within the  
18 gestational sac;

19 2. "Gestational age" means the amount of time that has elapsed  
20 from the first day of a woman's last menstrual period;

21 3. "Gestational sac" means the structure comprising the  
22 extraembryonic membranes that envelop the unborn child and that is  
23 typically visible by ultrasound after the fourth week of pregnancy;

1 4. "Physician" means an individual licensed to practice  
2 medicine in this state including a medical doctor and a doctor of  
3 osteopathic medicine;

4 5. "Pregnancy" means the human female reproductive condition  
5 that:

- 6 a. begins with fertilization,
- 7 b. occurs when the woman is carrying the developing human  
8 offspring, and
- 9 c. is calculated from the first day of the woman's last  
10 menstrual period;

11 6. "Standard medical practice" means the degree of skill, care,  
12 and diligence that an obstetrician of ordinary judgment, learning,  
13 and skill would employ in like circumstances;

14 7. "Unborn child" means a human fetus or embryo in any stage of  
15 gestation from fertilization until birth; and

16 8. "Woman" and "women" include any person whose biological sex  
17 is female including any person with XX chromosomes and any person  
18 with a uterus, regardless of any gender identity that the person  
19 attempts to assert or claim.

20 SECTION 3. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 1-745.33 of Title 63, unless  
22 there is created a duplication in numbering, reads as follows:

23 A. For the purposes of determining the presence of a fetal  
24 heartbeat under this section, "standard medical practice" includes

1 employing the appropriate means of detecting the heartbeat based on  
2 the estimated gestational age of the unborn child and the condition  
3 of the woman and her pregnancy.

4 B. Except as provided by Sections 5 and 6 of this act, an  
5 abortion may not be performed or induced on a pregnant woman unless  
6 a physician has determined, in accordance with this section, whether  
7 the woman's unborn child has a detectable fetal heartbeat.

8 C. In making a determination under subsection B of this  
9 section, the physician must use a test that is:

10 1. Consistent with the physician's good faith and reasonable  
11 understanding of standard medical practice; and

12 2. Appropriate for the estimated gestational age of the unborn  
13 child and the condition of the pregnant woman and her pregnancy.

14 D. A physician making a determination under subsection B of  
15 this section shall record in the pregnant woman's medical record:

16 1. The estimated gestational age of the unborn child;

17 2. The method used to estimate the gestational age; and

18 3. The test used for detecting a fetal heartbeat including the  
19 date, time, and results of the test.

20 SECTION 4. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 1-745.34 of Title 63, unless  
22 there is created a duplication in numbering, reads as follows:

23 A. Except as provided by Sections 5 and 6 of this act, a  
24 physician shall not knowingly perform or induce an abortion on a

1 pregnant woman if the physician detected a fetal heartbeat for the  
2 unborn child as required by Section 3 of this act or failed to  
3 perform a test to detect a fetal heartbeat.

4 B. A physician shall not be in violation of this section if the  
5 physician performed a test for a fetal heartbeat as required by  
6 Section 3 of this act and did not detect a fetal heartbeat.

7 C. This section shall not affect any provision of state law  
8 that regulates or prohibits abortion including but not limited to  
9 any provision that restricts or regulates an abortion by a  
10 particular method or during a particular stage of pregnancy.

11 SECTION 5. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 1-745.35 of Title 63, unless  
13 there is created a duplication in numbering, reads as follows:

14 A. Sections 3 and 4 of this act shall not apply if a physician  
15 believes a medical emergency exists that prevents compliance with  
16 this act.

17 B. A physician who performs or induces an abortion under  
18 circumstances described by subsection A of this section shall make  
19 written notations in the pregnant woman's medical record of:

20 1. The physician's belief that a medical emergency necessitated  
21 the abortion; and

22 2. The medical condition of the pregnant woman that prevented  
23 compliance with this act.

24

1 C. A physician performing or inducing an abortion under this  
2 section shall maintain in the physician's practice records a copy of  
3 the notations made under subsection B of this section.

4 SECTION 6. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 1-745.36 of Title 63, unless  
6 there is created a duplication in numbering, reads as follows:

7 Sections 3 and 4 of this act do not apply to an abortion  
8 performed at the behest of federal agencies, contractors, or  
9 employees that are carrying out duties under federal law, if a  
10 prohibition on that abortion would violate the doctrines of  
11 preemption or intergovernmental immunity.

12 SECTION 7. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 1-745.37 of Title 63, unless  
14 there is created a duplication in numbering, reads as follows:

15 This act shall not be construed to:

- 16 1. Create or recognize a right to abortion before a fetal  
17 heartbeat is detected;
- 18 2. Authorize the initiation of a cause of action against or the  
19 prosecution of a woman on whom an abortion is performed or induced  
20 or attempted to be performed or induced in violation of this act;
- 21 3. Wholly or partly repeal, either expressly or by implication,  
22 any other statute that regulates or prohibits abortion; or
- 23 4. Restrict a political subdivision from regulating or  
24 prohibiting abortion in any manner.

1 SECTION 8. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 1-745.38 of Title 63, unless  
3 there is created a duplication in numbering, reads as follows:

4 Notwithstanding any other law, the requirements of this act  
5 shall be enforced exclusively through a private civil action  
6 described in Section 9 of this act. No direct or indirect  
7 enforcement of this act may be taken or threatened by the state, a  
8 political subdivision, a district attorney, or an executive or  
9 administrative officer or employee of this state or a political  
10 subdivision against any person or entity, in any manner whatsoever,  
11 except as provided in Section 9 of this act, and no violation of  
12 this act may be used to justify or trigger the enforcement of any  
13 other law or any type of adverse consequence under any other law,  
14 except as provided in Section 9 of this act; provided, that this  
15 section does not preclude enforcement of any other law or regulation  
16 against conduct that is independently prohibited by such other law  
17 or regulation.

18 SECTION 9. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 1-745.39 of Title 63, unless  
20 there is created a duplication in numbering, reads as follows:

21 A. Any person, other than the state, its political  
22 subdivisions, and any officer or employee of a state or local  
23 governmental entity in this state, may bring a civil action against  
24 any person who:



1 1. Performs or induces an abortion in violation of this act;

2 2. Knowingly engages in conduct that aids or abets the  
3 performance or inducement of an abortion including paying for or  
4 reimbursing the costs of an abortion through insurance or otherwise,  
5 if the abortion is performed or induced in violation of this act,  
6 regardless of whether the person knew or should have known that the  
7 abortion would be performed or induced in violation of this act; or

8 3. Intends to engage in the conduct described by paragraph 1 or  
9 2 of this subsection.

10 B. If a claimant prevails in an action brought under this  
11 section, the court shall award:

12 1. Injunctive relief sufficient to prevent the defendant from  
13 violating this act or engaging in acts that aid or abet violations  
14 of this act;

15 2. Statutory damages in an amount of not less than Ten Thousand  
16 Dollars (\$10,000.00) for each abortion that the defendant performed  
17 or induced in violation of this act, and for each abortion performed  
18 or induced in violation of this act that the defendant aided or  
19 abetted;

20 3. Nominal and compensatory damages if the plaintiff has  
21 suffered harm from the defendant's conduct including but not limited  
22 to loss of consortium and emotional distress; and

23 4. Court costs and attorney fees.  
24

1 C. Notwithstanding subsection B of this section, a court shall  
2 not award relief under paragraphs 2 or 4 of subsection B of this  
3 section in response to a violation of paragraph 1 or 2 of subsection  
4 A of this section if the defendant demonstrates that a court has  
5 already ordered the defendant to pay not less than Ten Thousand  
6 Dollars (\$10,000.00) of statutory damages as provided in paragraph 2  
7 of subsection B of this section in a previous action for that  
8 particular abortion performed or induced in violation of this act,  
9 or for the particular conduct that aided or abetted an abortion  
10 performed or induced in violation of this act.

11 D. Notwithstanding any other law, a person may bring an action  
12 under this section not later than six (6) years after the date the  
13 cause of action accrues.

14 E. Notwithstanding any other law, the following are not a  
15 defense to an action brought under this section:

- 16 1. Ignorance or mistake of law;
- 17 2. A defendant's belief that the requirements of this act are  
18 unconstitutional or were unconstitutional;
- 19 3. A defendant's reliance on any court decision that has been  
20 overruled on appeal or by a subsequent court, even if that court  
21 decision had not been overruled when the defendant engaged in  
22 conduct that violates this act;

23  
24

1 4. A defendant's reliance on any state or federal court  
2 decision that is not binding on the court in which the action has  
3 been brought;

4 5. Non-mutual issue preclusion or non-mutual claim preclusion;

5 6. The consent of the unborn child's mother to the abortion; or

6 7. Any claim that the enforcement of this act or the imposition  
7 of civil liability against the defendant will violate the  
8 constitutional rights of third parties, except as provided by  
9 Section 10 of this act.

10 F. 1. It is an affirmative defense if a person sued under  
11 paragraph 2 or 3 of subsection A of this section reasonably  
12 believed, after conducting a reasonable investigation, that the  
13 individuals and organizations involved with performing or  
14 facilitating the abortion would comply with this act.

15 2. The defendant has the burden of proving an affirmative  
16 defense under paragraph 1 of this subsection by a preponderance of  
17 the evidence.

18 G. This section shall not be construed to impose liability on  
19 any speech or conduct protected by the First Amendment of the United  
20 States Constitution, as made applicable to the states through the  
21 United States Supreme Court's interpretation of the Fourteenth  
22 Amendment of the United States Constitution, or by Section 3 or 22  
23 of Article II of the Oklahoma Constitution.

1 H. 1. Notwithstanding any other law, neither the state, nor  
2 any of its political subdivisions, nor any district or county  
3 attorney, nor any executive or administrative officer or employee of  
4 this state or a political subdivision may:

5 a. act in concert or participation with anyone who brings  
6 suit under this section,

7 b. establish or attempt to establish any type of agency  
8 or fiduciary relationship with a plaintiff who brings  
9 suit under this section,

10 c. make any attempt to control or influence a plaintiff's  
11 decision to bring suit under this section or the  
12 plaintiff's conduct of the litigation, or

13 d. intervene in an action brought under this section.

14 2. This subsection shall not prohibit a person or entity  
15 described by this subsection from filing an amicus curiae brief in  
16 the action, so long as that person or entity does not act in concert  
17 or participation with the plaintiff or plaintiffs who sue under this  
18 section or violate any provision of paragraph 1 of this subsection.

19 I. Notwithstanding any other law, a court shall not award court  
20 costs or attorney fees to a defendant in an action brought under  
21 this section.

22 J. Notwithstanding any other law, a civil action under this  
23 section shall not be subject to any provision of the Oklahoma  
24 Citizens Participation Act, Section 1430 et seq. of Title 12 of the

1 Oklahoma Statutes, and shall not be subject to any provision of the  
2 Oklahoma Religious Freedom Act, Section 251 et seq. of Title 51 of  
3 the Oklahoma Statutes.

4 K. Notwithstanding any other law, a civil action under this  
5 section shall not be brought:

6 1. Against the woman upon whom an abortion was performed or  
7 induced or attempted to be performed or induced in violation of this  
8 act, or against a pregnant woman who intends or seeks to abort her  
9 unborn child in violation of this act;

10 2. Against any person or entity that performs, aids or abets,  
11 or attempts to perform or aid or abet an abortion at the behest of  
12 federal agencies, contractors, or employees that are carrying out  
13 duties under federal law, if a prohibition on that abortion would  
14 violate the doctrines of preemption or intergovernmental immunity;

15 3. Against any common carrier that transports a pregnant woman  
16 to an abortion provider, if the common carrier is unaware that the  
17 woman intends to abort her unborn child; or

18 4. By a person who impregnated a woman seeking an abortion  
19 through an act of rape, sexual assault, incest, or any other act  
20 prohibited by state law.

21 SECTION 10. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 1-745.40 of Title 63, unless  
23 there is created a duplication in numbering, reads as follows:

24

1       A. 1. A defendant against whom an action is brought under  
2 Section 9 of this act may assert an affirmative defense to liability  
3 under this section if:

4           a. the defendant has standing to assert the rights of  
5 women seeking an abortion under the tests for third-  
6 party standing established by the United States  
7 Supreme Court, and

8           b. the imposition of civil liability on the defendant  
9 will result in an undue burden on a woman or group of  
10 women seeking an abortion.

11       2. The defendant shall bear the burden of proving the  
12 affirmative defense in this subsection by a preponderance of the  
13 evidence.

14       B. The affirmative defense under subsection A of this section  
15 shall not be available if the United States Supreme Court overrules  
16 *Roe v. Wade*, 410 U.S. 113 (1973) or *Planned Parenthood v. Casey*, 505  
17 U.S. 833 (1992), regardless of whether the conduct on which the  
18 cause of action is based under Section 9 of this act occurred before  
19 the Supreme Court overruled either of those decisions.

20       C. Nothing in this section or this act shall in any way limit  
21 or preclude a defendant from asserting the defendant's personal  
22 constitutional rights as a defense to liability under Section 9 of  
23 this act, and a court shall not award relief under Section 9 of this  
24 act if the conduct for which the defendant has been sued was an

1 exercise of state or federal constitutional rights that personally  
2 belong to the defendant.

3 D. Nothing in this section or this act shall limit or preclude  
4 a defendant from asserting the unconstitutionality of any provision  
5 of this act as a defense to liability under Section 9 of this act.

6 SECTION 11. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 1-745.41 of Title 63, unless  
8 there is created a duplication in numbering, reads as follows:

9 A. Notwithstanding any other law, a civil action brought under  
10 Section 9 of this act shall be brought in:

11 1. The county in which all or a substantial part of the events  
12 or omissions giving rise to the claim occurred;

13 2. The county of residence for any one of the natural person  
14 defendants at the time the cause of action accrued;

15 3. The county of the principal office in this state of any one  
16 of the defendants that is not a natural person; or

17 4. The county of residence for the claimant if the claimant is  
18 a natural person residing in this state.

19 B. If a civil action is brought under Section 9 of this act in  
20 any one of the venues described by subsection A of this section, the  
21 action shall not be transferred to a different venue without the  
22 written consent of all parties.

23

24

1 SECTION 12. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 1-745.42 of Title 63, unless  
3 there is created a duplication in numbering, reads as follows:

4 A. Notwithstanding any other law, this state has sovereign  
5 immunity, a political subdivision has governmental immunity, and  
6 each officer and employee of this state or a political subdivision  
7 has official immunity in any action, claim, counterclaim, or any  
8 type of legal or equitable action that challenges the validity of  
9 any provision or application of this act, on constitutional grounds  
10 or otherwise, or that seeks to prevent or enjoin the state, its  
11 political subdivisions, or any officer or employee of this state or  
12 a political subdivision from enforcing any provision or application  
13 of this act, unless that immunity has been abrogated or preempted by  
14 federal law in a manner consistent with the Constitution of the  
15 United States.

16 B. Notwithstanding any other law, no provision of state law may  
17 be construed to waive or abrogate an immunity described by  
18 subsection A of this section unless it expressly waives immunity  
19 with specific reference to this section.

20 C. Notwithstanding any other law, no attorney representing this  
21 state, a political subdivision, or any officer or employee of this  
22 state or a political subdivision is authorized or permitted to waive  
23 an immunity described in subsection A or take any action that would  
24 result in a waiver of that immunity.



1 D. Notwithstanding any other law, no court of this state shall  
2 have jurisdiction to consider any action, claim, or counterclaim  
3 that seeks declaratory or injunctive relief to prevent this state, a  
4 political subdivision, any officer or employee of this state or a  
5 political subdivision, or any person from enforcing any provision or  
6 application of this act, or from filing a civil action under this  
7 act.

8 E. Nothing in this section or this act shall be construed to  
9 prevent a litigant from asserting the invalidity or  
10 unconstitutionality of any provision or application of this act as a  
11 defense to any action, claim, or counterclaim brought against that  
12 litigant.

13 SECTION 13. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 1-745.43 of Title 63, unless  
15 there is created a duplication in numbering, reads as follows:

16 A. Notwithstanding any other law, any party including an  
17 entity, attorney, or law firm, who seeks declaratory or injunctive  
18 relief to prevent this state, a political subdivision, any  
19 governmental entity or public official in this state, or any person  
20 in this state from enforcing any statute, ordinance, rule,  
21 regulation, or any other type of law that regulates or restricts  
22 abortion or that limits taxpayer funding for individuals or entities  
23 that perform or promote abortions, in any state or federal court, or  
24 that represents any litigant seeking such relief in any state or

1 federal court, shall be jointly and severally liable for court costs  
2 and attorney fees of the prevailing party.

3 B. For purposes of this section, a party is considered a  
4 prevailing party with respect to a claim or cause of action if a  
5 state or federal court:

6 1. Dismisses that claim or cause of action brought against the  
7 party that seeks the declaratory or injunctive relief described by  
8 subsection A of this section, regardless of the reason for the  
9 dismissal; or

10 2. Enters judgment in the party's favor on that claim or cause  
11 of action.

12 C. Regardless of whether a prevailing party sought to recover  
13 court costs or attorney fees in the underlying action, a prevailing  
14 party under this section may bring a civil action to recover court  
15 costs and attorney fees against a party including an entity,  
16 attorney, or law firm, that sought declaratory or injunctive relief  
17 described by subsection A of this section not later than three (3)  
18 years after the date on which, as applicable:

19 1. The dismissal or judgment described by subsection B of this  
20 section becomes final on the conclusion of appellate review; or

21 2. The time for seeking appellate review expires.

22 D. It is not a defense to an action brought under subsection C  
23 of this section that:

24

1 1. A prevailing party under this section failed to seek  
2 recovery of court costs or attorney fees in the underlying action;

3 2. The court in the underlying action declined to recognize or  
4 enforce the requirements of this section; or

5 3. The court in the underlying action held that any provisions  
6 of this section are invalid, unconstitutional, or preempted by  
7 federal law, notwithstanding the doctrines of issue or claim  
8 preclusion.

9 SECTION 14. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 1-745.44 of Title 63, unless  
11 there is created a duplication in numbering, reads as follows:

12 A. Mindful of *Leavitt v. Jane L.*, 518 U.S. 137 (1996), in which  
13 in the context of determining the severability of a state statute  
14 regulating abortion the Supreme Court of the United States held that  
15 an explicit statement of legislative intent is controlling, it is  
16 the intent of the Legislature that every provision, section,  
17 subsection, sentence, clause, phrase, or word in this act, and every  
18 application of the provisions in this act to every person, group of  
19 persons, or circumstances, are severable from each other.

20 B. If any application of any provision in this act to any  
21 person, group of persons, or circumstances is found by a court to be  
22 invalid, preempted, unconstitutional, or to impose an undue burden  
23 on any woman or group of women seeking an abortion, then the  
24 remaining applications of that provision to all other persons and

1 circumstances shall be severed and preserved, and shall remain in  
2 effect. All constitutionally valid applications of the provisions  
3 in this act, and every application of those provisions that can be  
4 enforced without imposing an undue burden on women seeking  
5 abortions, shall be severed from any applications that a court finds  
6 to be invalid, preempted, unconstitutional, or to impose an undue  
7 burden on women seeking abortions, and the valid applications shall  
8 remain in force, because it is the Legislature's intent and priority  
9 that every valid application be allowed to stand alone. Even if a  
10 reviewing court finds a provision of this act to impose an undue  
11 burden in a large or substantial fraction of relevant cases, the  
12 applications that do not present an undue burden shall be severed  
13 from the remaining applications and shall remain in force, and shall  
14 be treated as if the Legislature had enacted a statute limited to  
15 the persons, group of persons, or circumstances for which the  
16 statute's application does not impose an undue burden.

17 C. The Legislature further declares that it would have enacted  
18 this act, and each provision, section, subsection, sentence, clause,  
19 phrase, or word, and all constitutional applications of the  
20 provisions of this act, irrespective of the fact that any provision,  
21 section, subsection, sentence, clause, phrase, or word, or  
22 applications of this act were to be declared invalid, preempted,  
23 unconstitutional, or to impose an undue burden.

24

1 D. If any provision of this act is found by any court to be  
2 unconstitutionally vague, then the applications of that provision  
3 that do not present constitutional vagueness problems shall be  
4 severed and remain in force, consistent with the severability  
5 requirements of subsections A, B, and C of this section.

6 E. No court may decline to enforce the severability  
7 requirements of subsections A, B, C, and D of this section on the  
8 ground that severance would "rewrite" the statute or involve the  
9 court in legislative or lawmaking activity. A court that declines  
10 to enforce or enjoins a state official from enforcing a statutory  
11 provision does not rewrite a statute, as the statute continues to  
12 contain the same words as before the court's decision. A judicial  
13 injunction or declaration of unconstitutionality:

14 1. Is nothing more than an edict prohibiting enforcement that  
15 may subsequently be vacated by a later court if that court has a  
16 different understanding of the requirements of the Oklahoma  
17 Constitution or United States Constitution;

18 2. Is not a formal amendment of the language in a statute; and

19 3. No more rewrites a statute than a decision by the executive  
20 not to enforce a duly enacted statute in a limited and defined set  
21 of circumstances.

22 F. If any state or federal court disregards the severability  
23 requirements of subsections A, B, C, D, and E of this section, and  
24 declares or finds any provision of this act facially

1 unconstitutional, when there are discrete applications of that  
2 provision that can be enforced against a person, group of persons,  
3 or circumstances without violating federal law, the federal or state  
4 constitutions, or imposing an undue burden on women seeking  
5 abortions, then that provision shall be interpreted, as a matter of  
6 state law, as if the Legislature had enacted a provision limited to  
7 the persons, group of persons, or circumstances for which the  
8 provision's application will not violate federal law, the federal or  
9 state constitutions, or impose an undue burden on women seeking  
10 abortions, and every court shall adopt this saving construction of  
11 that provision until the court ruling that pronounced the provision  
12 facially unconstitutional is vacated or overruled.

13 SECTION 15. AMENDATORY 12 O.S. 2021, Section 1439, is  
14 amended to read as follows:

15 Section 1439. The Oklahoma Citizens Participation Act shall not  
16 apply to:

17 1. An enforcement action that is brought in the name of this  
18 state or a political subdivision of this state by the Attorney  
19 General or a district attorney;

20 2. A legal action brought against a person primarily engaged in  
21 the business of selling or leasing goods or services, if the  
22 statement or conduct the action is based upon arises out of the sale  
23 or lease of goods, services, or an insurance product, insurance  
24

1 services, or a commercial transaction in which the intended audience  
2 is an actual or potential buyer or customer;

3 3. A legal action seeking recovery for bodily injury, wrongful  
4 death or survival or to statements made regarding that legal action;  
5 ~~or~~

6 4. A legal action brought under the Oklahoma Insurance Code or  
7 arising out of an insurance contract; or

8 5. A civil action brought under Section 9 of this act.

9 SECTION 16. AMENDATORY 51 O.S. 2021, Section 255, is  
10 amended to read as follows:

11 Section 255. A. Nothing in this act shall be construed to:

12 1. Authorize any government entity to substantially burden any  
13 religious belief;

14 2. Authorize same sex marriages, unions, or the equivalent  
15 thereof; or

16 3. Affect, interpret, or in any way address those portions of  
17 Article 1, Section 2, and Article 2, Section 5, of the Constitution  
18 of the State of Oklahoma, the Oklahoma Religious Freedom Act, or the  
19 First Amendment to the Constitution of the United States that  
20 prohibit laws respecting the establishment of religion.

21 B. Granting governmental funds, benefits, or exemptions to the  
22 extent permissible under paragraph 3 of subsection A of this section  
23 shall not constitute a violation of this section. As used in this  
24 subsection, "granting government funds, benefits, or exemptions"

1 shall not include the denial of government funding, benefits, or  
2 exemptions. This provision does not in and of itself require  
3 vouchers.

4 C. A civil action brought under Section 9 of this act shall not  
5 be subject to any provision of the Oklahoma Religious Freedom Act.

6 SECTION 17. It being immediately necessary for the preservation  
7 of the public peace, health or safety, an emergency is hereby  
8 declared to exist, by reason whereof this act shall take effect and  
9 be in full force from and after its passage and approval.

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