

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 937

By: Jett

AS INTRODUCED

An Act relating to schools; creating the School Establishment Clause Act (SECA); providing short title; defining terms; providing process to establish a student's biological sex; prohibiting a public school from creating, enforcing, or endorsing certain policies; prohibiting a public school from certain activities to create, enforce, or endorse certain policies; prohibiting the enforcement of certain policies or statutes; allowing certain civil action and establishing awards; directing that public school officials that commit certain violations be declared in violation of certain oath and subjected to certain relief; allowing for the dismissal of school officials and officers and state employees who knowingly commit certain violation and directing that they be declared in violation of certain oath; prohibiting certain defense; prohibiting a public school from certain discrimination; allowing certain civil action and establishing awards; providing for affirmative defense; providing for certain construction of act; providing for severability; providing certain legislative recognition; providing for codification; providing for noncodification; providing an effective date; and declaring an emergency.

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

1 SECTION 1. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 1-126 of Title 70, unless there  
3 is created a duplication in numbering, reads as follows:

4 This act shall be known and may be cited as the "School  
5 Establishment Clause Act (SECA)".

6 SECTION 2. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 1-127 of Title 70, unless there  
8 is created a duplication in numbering, reads as follows:

9 As used in the School Establishment Clause Act (SECA):

10 1. "Biological female" means a female person, a woman, or a  
11 girl who was born with female anatomy and with two (2) X chromosomes  
12 in the person's cells;

13 2. "Biological male" means a male person, a man, or a boy who  
14 was born with male anatomy and with X and Y chromosomes in the  
15 person's cells;

16 3. "Coed" means a sports activity designation that permissibly  
17 involves biological males and biological females for secular and  
18 neutral purposes, not to advance a religious worldview;

19 4. "Contemporary community standards of decency" means  
20 standards based on the reasonable observer perspective which are  
21 violated by appeals to the prurient interest or the patently  
22 offensive to the extent the appeals harm the general decency,  
23 safety, health, and welfare of the community. Acts of  
24 licentiousness shall be considered antithetical to this standard;

1           5. "Drag queen story time" means a non-secular event where men  
2 dress up as women and display an inherently sexualized performance  
3 targeting minors with the purpose of promoting and normalizing the  
4 faith-based beliefs and practices that stem from the secular  
5 humanist religion. Drag queen story time shall include but not be  
6 limited to an event that targets children and promotes  
7 licentiousness in attempts to justify practices inconsistent with  
8 the peace or safety of the state from the reasonable observer  
9 perspective;

10           6. "Emotional appeal" means a method of persuasion through  
11 sentiment, not logic, designed to create an emotional response to  
12 achieve certain ends;

13           7. "Gender identity" means a faith-based construct, like the  
14 sexual orientation orthodoxy, that stems from the religion of  
15 secular humanism. Gender identity includes the belief that a person  
16 is the gender that they self-identify as or that they feel they are  
17 in the moment and may be used interchangeably with the term sexual  
18 orientation;

19           8. "Lemon test" means a three-prong test originally created by  
20 the United States Supreme Court and adopted by this state which is  
21 used to determine whether government action is unconstitutional  
22 under the Establishment Clause of the First Amendment to the United  
23 States Constitution. Government action violates the Establishment  
24 Clause and Article II, Section 5 of the Oklahoma Constitution if the

1 action fails to satisfy any of the prongs. The test requires that  
2 state action or government policy:

- 3 a. have a valid secular purpose,
- 4 b. not have the effect of advancing, endorsing, or  
5 inhibiting religion, and
- 6 c. not foster excessive entanglement with a particular  
7 religion;

8 9. "Logical nexus" means at least some minimal, relevant,  
9 legitimate, important, or rational connection and connotes a low-  
10 threshold standard;

11 10. "Non-secular" means faith-based, not proven, predicated on  
12 naked assertions, or emotional feelings, not self-evident objective  
13 fact;

14 11. "Non-secular self-asserted sex-based identity narrative"  
15 means an unproven faith-based identity that is implicitly religious  
16 and is not predicated on self-evident neutral truth and is a story  
17 that provides the individual with a sense of purpose and serves as a  
18 commentary on sexual practices, sexual preference, faith, morality,  
19 and life. The term shall include but not be limited to expressions  
20 and speech that are often controversial, sexualized, questionably  
21 moral, questionably plausible, and have a tendency to erode  
22 community standards of decency and promote licentiousness;

23 12. "Promote" means to advocate for, assist with, encourage, or  
24 popularize through advertising or publicity;

1 13. "Public school" means a public educational institution that  
2 is maintained at public expense for the education of the children of  
3 a community or district and that constitutes a part of a system of  
4 free public education including primary and secondary schools from  
5 grades prekindergarten through twelve. The term shall include  
6 accredited nonpublic educational institutions including primary and  
7 secondary schools from grades prekindergarten through twelve;

8 14. "Reasonable observer" means a person of ordinary prudence  
9 who views a policy or action from an objective standard point in the  
10 context of the state's longstanding practice and through the lens of  
11 self-evident neutral, natural, and non-controversial transcultural  
12 morality;

13 15. "Religion" means a set of unproven answers to the greater  
14 questions like "why are we here," "what should we be doing as  
15 humans," "how do we get our identity," and "what happens after  
16 death." The term means a closed system and group or community that  
17 is organized, full, and provides a comprehensive code by which  
18 individuals may guide their daily activities. Religion includes an  
19 ultimate concern or sincere belief and can be non-theistic or  
20 theistic;

21 16. "Secular humanism" means a faith-based worldview that is  
22 also referred to as postmodern-western-individualistic moral  
23 relativism, expressive individualism, or antitheism and is often the  
24 mirror opposite of theism. The term refers to a religion that

1 worships man as the source of all knowledge and truth. The term  
2 includes a belief system that is centered on the unproven  
3 assumptions that there are no moral absolutes and no one moral  
4 doctrine should be used as the superior basis for law and policy,  
5 except for the religious doctrines of secular humanism. The term  
6 includes a series of unproven faith-based assumptions and naked  
7 assertions that suggest that morality and truth are man-made  
8 conventions and that at the heart of liberty is man's ability to  
9 define his own meaning of the universe. The term refers to a  
10 religion that tends to promote licentiousness and to justify  
11 practices that are inconsistent with the peace and safety of the  
12 state. The term refers to the belief that man is merely a bundle of  
13 chemicals, animated pieces of meat, or accidental particles, that  
14 nature is all there is, and that there is nothing after death.  
15 Nonsecular self-asserted sex-based identity narratives and sexual  
16 orientation orthodoxy are doctrines that are inseparably linked to  
17 secular humanism. The term includes but is not limited to a  
18 religion that has many different denominational sects and is  
19 expressed in widely varying ways;

20 17. "Sexual orientation" means a person's sexual identity or  
21 self-identification as homosexual, lesbian, or transgender. The  
22 term means a mythology, dogma, doctrine, ideology, or orthodoxy that  
23 is inseparably linked to the religion of secular humanism. The term  
24 includes non-secular self-asserted sex-based identity narratives

1 that are often predicated on a series of unproven faith-based  
2 assumptions and naked assertions that are implicitly religious and  
3 have a tendency to erode community standards of decency and promote  
4 licentiousness. The term may be used interchangeably with gender  
5 identity, given that they are both faith-based sexual commentaries  
6 on morality that come from secular humanism; and

7 18. "Taxpayer standing" means the standing of a taxpayer to  
8 file a lawsuit against a government actor that is directly or  
9 symbolically engaging in practices that violate the Establishment  
10 Clause of the First Amendment to the United States Constitution or  
11 Article II, Section 5 of the Oklahoma Constitution after the  
12 government actor actually or prospectively engaged in action that  
13 potentially failed at least one prong of the lemon test. A taxpayer  
14 shall have a logical nexus to a government actor's violation to  
15 assert taxpayer standing. A person who pays sales tax in this state  
16 can successfully assert this form of standing before the courts of  
17 competent jurisdiction.

18 SECTION 3. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 1-128 of Title 70, unless there  
20 is created a duplication in numbering, reads as follows:

21 If the biological sex of a student is disputed, the student may  
22 establish the student's sex by presenting a signed statement by a  
23 licensed physician that indicates the student's sex based solely  
24 upon all of the following factors:

- 1 1. The student's internal and external reproductive anatomy;
- 2 2. The student's normal, endogenously produced levels of
- 3 testosterone; and
- 4 3. An analysis of the student's genetic makeup.

5 SECTION 4. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 1-129 of Title 70, unless there  
7 is created a duplication in numbering, reads as follows:

8 A. Pursuant to the Establishment Clause of the First Amendment  
9 of the United States Constitution and Article II, Section 5 of the  
10 Oklahoma Constitution, a public school is prohibited from creating,  
11 enforcing, or endorsing a policy that respects, favors, endorses, or  
12 promotes non-secular self-asserted sex-based identity narratives or  
13 sexual orientation orthodoxy because such policies fail the lemon  
14 test for:

- 15 1. Constituting non-secular shams that lack a primary secular
- 16 purpose;
- 17 2. Cultivating indefensible legal weapons against non-observers
- 18 of the religion of secular humanism; and
- 19 3. Having the effect of excessively entangling the government
- 20 with the religion of secular humanism.

21 B. Pursuant to the First Amendment to and the Establishment  
22 Clause of the United States Constitution, Article II, Section 5 of  
23 the Oklahoma Constitution, and the state's compelling interest to  
24 discourage licentiousness, a public school shall not create or



1 enforce a policy that respects, endorses, favors, or promotes non-  
2 secular self-asserted sex-based identity narratives or sexual  
3 orientation orthodoxy by:

4 1. Exposing students to curriculum concerning non-secular self-  
5 asserted sex-based identity ideology or sexual orientation orthodoxy  
6 unless the curriculum is part of a sex education program and only  
7 after a student's parent or legal guardian has:

8 a. intentionally opted their child into participating in  
9 the curriculum in writing, and

10 b. received a notification from the school district or  
11 the State Department of Education that the messaging  
12 could expose their child to licentiousness and one  
13 particular religious worldview;

14 2. Permitting biological male students to participate in sports  
15 designated for biological female students, as prohibited by Section  
16 27-106 of Title 70 of the Oklahoma Statutes;

17 3. Permitting biological female students to participate in  
18 sports designated for biological male students;

19 4. Permitting biological male students to enter or use a locker  
20 room or restroom designated for biological female students, as  
21 prohibited by Section 1-125 of Title 70 of the Oklahoma Statutes;

22 5. Permitting biological female students to enter or use a  
23 locker room or restroom designated for biological male students, as  
24 prohibited by Section 1-125 of Title 70 of the Oklahoma Statutes;

1           6. Mandating non-obvious pronoun changes that respect gender  
2 identity ideology and sexual orientation orthodoxy; or

3           7. Hosting or sponsoring drag queen story time for children or  
4 similar programming at a public school.

5           C. Pursuant to the First Amendment to and the Establishment  
6 Clause of the United States Constitution, Article II, Section 5 of  
7 the Oklahoma Constitution, and the state's compelling interest to  
8 discourage licentiousness, all policies or statutes that violate  
9 subsections A or B of this section shall not be enforced by any  
10 school official, executive or judicial officer, or any other agent  
11 of the state.

12           D. The following persons may enforce subsection A or B of this  
13 section in a civil court of competent jurisdiction:

14           1. A taxpayer of this state or a political subdivision of this  
15 state that has taxpayer standing;

16           2. A parent or legal guardian who pays taxes in this state and  
17 who has a student in a public school that has violated subsection A  
18 or B and has taxpayer standing; and

19           3. A public school employee who is disciplined by a public  
20 school for refusing to promote non-secular self-asserted sex-based  
21 identity narratives or sexual orientation orthodoxy.

22           E. A plaintiff who brings a civil action against a public  
23 school for violating subsection A or B of this section may seek and  
24 be awarded the following by a court of competent jurisdiction:

- 1 1. Attorney fees and costs;
- 2 2. Actual damages;
- 3 3. Injunctive relief; and
- 4 4. Other forms of equitable relief deemed appropriate.

5 F. All public school officials that violate subsection A or B  
6 of this section may be declared to be in violation of their oath of  
7 office established under Article VI, Clause 3 of the United States  
8 Constitution and subjected to declaratory relief for a violation in  
9 a court of competent jurisdiction.

10 G. A school official, officer, or employee of the state who  
11 knowingly violates subsection A or B of this section may be  
12 dismissed from the person's office or position, and the person's  
13 employment may be terminated immediately.

14 H. All public school officials that violate subsection A or B  
15 of this section may be declared to be in violation of their oath of  
16 office established under Article VI, Clause 3 of the United States  
17 Constitution and subjected to declaratory relief for such a  
18 violation in a court of competent jurisdiction.

19 I. Sincerity of belief or emotional appeals may not constitute  
20 a valid defense for a violation under subsection A or B of this  
21 section.

22 SECTION 5. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 1-130 of Title 70, unless there  
24 is created a duplication in numbering, reads as follows:

1           A. Pursuant to the Free Exercise Clause of the First Amendment  
2 to the United States Constitution and Article II, Section 5 of the  
3 Oklahoma Constitution, a public school shall not discriminate  
4 against any person for believing in or for failing to believe in the  
5 plausibility of non-secular self-asserted sex-based identity  
6 narratives or sexual orientation orthodoxy.

7           B. A student or teacher who experiences discrimination by a  
8 public school as described in subsection A of this section shall  
9 have standing to file suit in a court of competent jurisdiction  
10 where they can seek:

- 11           1. Injunctive relief;
- 12           2. Declaratory relief;
- 13           3. Attorney fees and costs;
- 14           4. Actual damages; and
- 15           5. Other forms of relief.

16           C. It shall be an absolute and affirmative defense in a civil  
17 action brought pursuant to subsection A of this section that the  
18 public school was acting in compliance with the Establishment Clause  
19 of and the First Amendment to the United States Constitution or  
20 Article II, Section 5 of the Oklahoma Constitution, or other  
21 existing state and federal laws in undertaking the challenged  
22 action.

1           SECTION 6.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 1-131 of Title 70, unless there  
3 is created a duplication in numbering, reads as follows:

4           A. The School Establishment Clause Act (SECA) is constructed on  
5 the premise that:

6           1. The United States is a constitutional republic of which the  
7 State of Oklahoma is a part;

8           2. The United States Constitution is the supreme sovereign law  
9 of this country that preempts all state and federal law;

10           3. The First Amendment to the United States Constitution  
11 applies to the states through the Fourteenth Amendment to the United  
12 States Constitution;

13           4. The Establishment Clause of the First Amendment to the  
14 United States Constitution and Article II, Section 5 of the Oklahoma  
15 Constitution were not merely designed to prevent the state from  
16 respecting and promoting the doctrines of institutionalized  
17 religions but those of non-institutionalized religions;

18           5. All members of the Legislature and all executive and  
19 judicial officers are bound by oath or affirmation pursuant to  
20 Article VI, Clause 3 of the United States Constitution to not create  
21 or enforce policies that violate the Establishment Clause or the  
22 Free Exercise Clause of the First Amendment to the United States  
23 Constitution regardless of the member's or officer's party  
24 affiliation or personal religious beliefs;

1           6. The Establishment Clause balanced with the Free Exercise  
2 Clause of the First Amendment to the United States Constitution is  
3 the controlling constitutional authority in informing this state on  
4 how to respond and react to self-asserted sex-based identity  
5 narratives and sexual orientation orthodoxy and the Equal Protection  
6 and substantive Due Process clauses of the Fourteenth Amendment to  
7 the United States Constitution have no applicability;

8           7. Emotional appeals shall not be used to usurp the  
9 Establishment Clause of the First Amendment to the United States  
10 Constitution or Article II, Section 5 of the Oklahoma Constitution  
11 in an effort to justify the government's creation or enforcement of  
12 policies that respect non-secular self-asserted sex-based identity  
13 narratives or sexual orientation orthodoxy;

14           8. All policies put forth by public schools that respect or  
15 recognize non-secular self-asserted sex-based identity narratives  
16 and sexual orientation orthodoxy fail the lemon test first  
17 established by the United States Supreme Court and are thereby  
18 preempted by the Establishment Clause of the First Amendment to the  
19 United States Constitution and Article II, Section 5 of the Oklahoma  
20 Constitution in their making and enforcement and shall be enjoined  
21 from enforcement because the policies:

- 22           a. constitute non-secular shams that lack a primary  
23               secular purpose;

- b. cultivate indefensible legal weapons against non-observers of the religion of secular humanism; and
- c. have the effect of excessively entangling the government with the religion of secular humanism;

9. The Legislature recognizes that in the wake of the decisions by the United States Supreme Court that forced the state's entanglement with the religion of secular humanism, there has been no rush on non-secular marriage, but there has been a rush on:

- a. public schools and public libraries by devout secular humanists for the sole purpose of targeting and indoctrinating minors with the licentious religion of secular humanism with the government's stamp of approval at the taxpayers' expense, and
- b. the social marginalization and systematic persecution of non-observers of the religion of secular humanism;

10. The Legislature recognizes that it is not proven or disproven whether sexual orientation is predicated on immutability and genetics and is, therefore, a matter of religious faith that falls within the exclusive jurisdiction of the Establishment Clause balanced with the Free Exercise Clause of the First Amendment to the United States Constitution and Article II, Section 5 of the Oklahoma Constitution; and

11. This state shall be particularly vigilant in monitoring compliance with the Establishment Clause of the United States

1 Constitution in the public school context to protect minors from  
2 religious indoctrination with the government's stamp of approval,  
3 especially when that religious ideology promotes licentiousness.

4 B. SECA shall not be construed as prohibiting students or  
5 teachers from believing in or from refusing to believe in the  
6 plausibility of non-secular self-asserted sex-based identity  
7 narratives or sexual orientation orthodoxy or secular humanist  
8 practices because such beliefs and practices are protected under the  
9 Free Exercise Clause of the First Amendment to the United States  
10 Constitution and under Article II, Section 5 of the Oklahoma  
11 Constitution. SECA shall be constructed on the premise that  
12 protections of religious practices under the Free Exercise Clause of  
13 the First Amendment to the United States Constitution and Article  
14 II, Section 5 of the Oklahoma Constitution are not absolute, and  
15 this state is authorized to regulate or prohibit certain religious  
16 practices pursuant to its inherent police powers afforded under the  
17 Tenth Amendment to the United States Constitution if those practices  
18 promote licentiousness or are inconsistent with the peace and safety  
19 of the state. The Legislature recognizes that it is self-evident  
20 that non-secular self-asserted sex-based identity narratives and  
21 sexual orientation orthodoxy promote licentiousness and attempts to  
22 justify practices are inconsistent with the peace and safety of this  
23 state.



1 SECTION 7. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 1-132 of Title 70, unless there  
3 is created a duplication in numbering, reads as follows:

4 If any section, subsection, paragraph, subparagraph, sentence,  
5 clause, phrase, or word of the School Establishment Clause Act  
6 (SECA) is for any reason held to be unconstitutional or invalid, the  
7 holding shall not affect the constitutionality or validity of the  
8 remaining portions of SECA, the Legislature hereby declaring that it  
9 would have passed this and each and every section, subsection,  
10 paragraph, subparagraph, sentence, clause, phrase, and word thereof,  
11 irrespective of the fact that any one or more other sections,  
12 subsections, paragraphs, subparagraphs, sentences, clauses, phrases,  
13 or words hereof may be declared to be unconstitutional, invalid, or  
14 otherwise ineffective.

15 SECTION 8. NEW LAW A new section of law not to be  
16 codified in the Oklahoma Statutes reads as follows:

17 The Legislature hereby recognizes the following findings:

18 1. The United States Constitution is not silent as to how this  
19 state shall respond and react to lesbian, gay, bisexual,  
20 transgender, and questioning (LGBTQ) issues and sexual orientation  
21 orthodoxy for the matters are addressed exclusively by the  
22 Establishment Clause and Free Exercise Clause of the First Amendment  
23 to the United States Constitution, not the substantive Due Process  
24

1 Clause or Equal Protection Clause of the Fourteenth Amendment to the  
2 United States Constitution, which have no applicability;

3 2. The Establishment Clause of the First Amendment to the  
4 United States Constitution states that the government "shall make no  
5 law respecting an establishment of religion," and Article II,  
6 Section 5 of the Oklahoma Constitution states, "Public money or  
7 property - Use for sectarian purposes. No public money or property  
8 shall ever be appropriated, applied, donated, or used, directly or  
9 indirectly, for the use, benefit, or support of any sect, church,  
10 denomination, or system of religion, or for the use, benefit, or  
11 support of any priest, preacher, minister, or other religious  
12 teacher or dignitary, or sectarian institution as such";

13 3. The Free Exercise Clause of the First Amendment to the  
14 United States Constitution states that the government "shall make no  
15 law...prohibiting the free exercise [of religion]";

16 4. The Establishment Clause of the First Amendment to the  
17 United States Constitution applies to this state through the  
18 Fourteenth Amendment, and the United States Supreme Court held in  
19 *Hein v. Freedom From Religion Foundation Inc.*, 551 U.S. 587 (2007)  
20 that the Establishment Clause applies to the executive branch, which  
21 includes Oklahoma's public schools;

22 5. The Establishment Clause of the United States Constitution  
23 was never solely designed to prohibit the government from respecting  
24

1 and recognizing the doctrines of institutionalized religions but of  
2 non-institutionalized religions, such as secular humanism;

3 6. The United States Supreme Court found that secular humanism  
4 is a religion for the purposes of the First Amendment in:

- 5 a. *Torcaso v. Watkins*, 367 U.S. 488 (1961),
- 6 b. *School District of Abington Township, Pa. v. Schempp*,
- 7 374 U.S. 203 (1963),
- 8 c. *United States v. Seeger*, 380 US 163 (1965), and
- 9 d. *Welsh v. United States*, 398 U.S. 333 (1970);

10 7. Most of the United States courts of appeals have found that  
11 secular humanism is a religion for purposes of the First Amendment  
12 in cases such as:

- 13 a. *Malnak v. Yogi*, 592 F.2d 197 (3d Cir.1979),
- 14 b. *Theriault v. Silber*, 547 F.2d 1279 (5th Cir.1977),
- 15 c. *Thomas v. Review Bd.*, 450 U.S. 707 (1981),
- 16 d. *Lindell v. McCallum*, 352 F.3d 1107 (7th Cir.2003),
- 17 e. *Real Alternatives, Inc. v. Sec'y Dep't of Health &*  
18 *Human Servs.*, 150 F.Supp. 3d 419, 2017 WL3324690 (3d  
19 Cir. Aug.4, 2017), and
- 20 f. *Wells v. City and County of Denver*, 257 F.3d 1132  
21 (10th Cir. 2001);

22 8. Several former self-identified homosexual activists, medical  
23 experts, licensed ministers, and persecuted Christians have  
24 testified under oath that non-secular self-asserted sex-based

1 identity narratives, such as homosexuality and transgenderism, and  
2 sexual orientation orthodoxy are doctrines, ideologies, and dogmas  
3 that are part of a worldview consisting of a series of unproven  
4 faith-based assumptions and naked assertions that are implicitly  
5 religious and inseparably linked to the religion of secular  
6 humanism;

7 9. The LGBTQ community is centered on a "closed system" that is  
8 organized, full, and provides a comprehensive code by which  
9 individuals may guide their daily activities, making LGBTQ secular  
10 humanism a religion in view of the legal definition of what  
11 constitutes a religion provided by the courts in cases such as  
12 *United States v. Seeger*, 380 US 163 (1965); *Welsh v. United States*,  
13 398 U.S. 333 (1970); and *Real Alternatives, Inc. v. Sec'y Dep't of*  
14 *Health & Human Servs.*, 150 F. Supp. 3d 419 (3d Cir. Aug. 4, 2017);

15 10. Instead of having a cross, the Ten Commandments, or the  
16 star and crescent, the LGBTQ secular humanist religion has the  
17 rainbow-colored flag to symbolize its religious beliefs, practices,  
18 and values;

19 11. The beliefs that a person "was born with a gay gene" or  
20 "was born in the wrong body" and is thereby entitled to special  
21 treatment amounts to a series of unproven faith-based assumptions  
22 and naked assertions that are implicitly religious and cannot be  
23 used as the basis for law and policy because the Establishment  
24

1 Clause prohibits such beliefs from being legally promoted, endorsed,  
2 or respected by government;

3 12. Regardless of political affiliation, all members of the  
4 Legislature and all executive and judicial officers are bound by  
5 oath to put their own political and religious beliefs aside and to  
6 comply with their duty to honor their oath of office pursuant to  
7 Article VI, Clause 3 to uphold the United States Constitution and  
8 to, therefore, immediately stop creating, respecting, and enforcing  
9 policies that promote the plausibility of non-secular self-asserted  
10 sex-based identity narratives and sexual orientation orthodoxy  
11 because all of those policies fail all three prongs of the lemon  
12 test established by the United States Supreme Court in *Lemon v.*  
13 *Kurtzman*, 403 U.S. 602 (1971) for:

- 14 a. constituting non-secular shams that lack a primary  
15 secular purpose,
- 16 b. cultivating indefensible legal weapons against non-  
17 observers of the religion of secular humanism, and
- 18 c. serving to excessively entangle the government with  
19 the religion of secular humanism;

20 13. The United States Supreme Court in *Edwards v. Aguillard*,  
21 482 U.S. 578 (1987) and *Agostini v. Felton*, 521 U.S. 203 (1997)  
22 found that if government action fails one prong of the lemon test,  
23 it is unconstitutional, and the evidence shows that the enforcement  
24 and creation of policies that respect non-secular self-asserted sex-

1 based identity narratives or sexual orientation ideology fail all  
2 three prongs of the lemon test;

3 14. The United States Supreme Court in *Lee v. Weisman*, 505 U.S.  
4 577 (1992) found that there are "heightened concerns with protecting  
5 freedom of conscience from subtle coercive pressure in the  
6 elementary and secondary public schools," while also holding in  
7 *Edwards v. Aguillard*, 482 U.S. 578 (1987) that the government  
8 "should be particularly vigilant in monitoring compliance with the  
9 Establishment Clause in the public-school context," when minors are  
10 subjected to religious indoctrination with the perception of the  
11 government's stamp of approval;

12 15. The federal courts have held in cases like *Holloman v.*  
13 *Harland*, 370 F.3 1252 (11th Cir. 2004) that neither emotional  
14 appeals nor sincerity of belief can be used to usurp the  
15 Establishment Clause of the First Amendment and all policies that  
16 respect and promote non-secular self-asserted sex-based identity  
17 narratives and sexual orientation orthodoxy have been based on a  
18 series of emotional appeals at the expense of this principle;

19 16. The Supreme Court in *Obergefell v. Hodges*, 135 S.Ct. 2584  
20 (2015), *United States v. Windsor*, 133 S. Ct. 2675 (2013), and  
21 *Bostock v. Clayton Cnty. Bd. of Commissioners*, 139 S.Ct. 1599 (2019)  
22 misapplied the Fourteenth Amendment through an unprincipled ploy and  
23 issued decisions that were based solely on a series of emotional  
24

1 appeals as a way to get around the Establishment Clause of the First  
2 Amendment to the United States Constitution;

3 17. In the wake of Obergefell v. Hodges, 135 S.Ct. 2584 (2015),  
4 United States v. Windsor, 133 S. Ct. 2675 (2013), and Bostock v.  
5 Clayton Cnty. Bd. of Commissioners, 139 S.Ct. 1599 (2019), there has  
6 not been the promised equality, tolerance, and unity, but instead  
7 there has been division, domination by secular humanists, the  
8 proliferation of moral superiority complexes by moral relativists,  
9 cancel culture, the erosion of the integrity of the legal basis  
10 supporting the race-based civil rights movement which is objectively  
11 based on immutability, increased sexual exploitation and  
12 licentiousness, the proliferation of sexual confusion amongst  
13 minors, and the marginalization and even violent oppression of non-  
14 observers of the religion of secular humanism, demonstrating that  
15 those decisions amount to some of the greatest non-secular shams  
16 since the inception of American jurisprudence;

17 18. The United States Supreme Court's position in INS v. Chada,  
18 462 U.S. 919 (1983) and Nixon v. U.S., 506 U.S. 224 (1993)  
19 emphasized that the legislative branch shall serve as a check on the  
20 judicial and executive branch, and by enacting the School  
21 Establishment Clause Act (SECA), the legislature shall be fulfilling  
22 that duty;

23 19. The United States Supreme Court held in Seminole Tribe of  
24 Fla. v. South Carolina, 517 U.S. 44 (1996) and in St. Joseph Stock

1 Yards Co. v. United States, 298 U.S. 38 (1936) that “Stare Decisis  
2 is at its weakest when the Supreme Court interprets the Constitution  
3 because its decisions can be altered only by constitutional  
4 amendment or by overruling prior decisions”;

5 20. Obergefell v. Hodges, 135 S.Ct. 2584 (2015), United States  
6 v. Windsor, 133 S. Ct. 2675 (2013), and Bostock v. Clayton Cnty. Bd.  
7 of Commissioners, 139 S.Ct. 1599 (2019) merely involved  
8 constitutional interpretation which means that Stare Decisis is at  
9 its weakest involving those decisions;

10 21. The United States Supreme Court in Cooper Industries, Inc.  
11 v. Aviall Services, Inc. 543 U.S. 157 (2004) stated that  
12 “[constitutional] questions which merely lurk in the record, neither  
13 brought to [the] attention of the court nor ruled upon, are not to  
14 be considered as having been so decided as to constitute  
15 precedents;”

16 22. In Bostock v. Clayton Cnty. Bd. of Commissioners, 139 S.Ct.  
17 1599 (2019), Obergefell v. Hodges, 135 S.Ct. 2584 (2015), and United  
18 States v. Windsor, 133 S. Ct. 2675 (2013), the controlling  
19 applicability of the Establishment Clause of the First Amendment to  
20 the United States Constitution regarding sexual orientation  
21 orthodoxy was lurking in the shadows of those cases but not decided  
22 upon by the Supreme Court, which means that Stare Decisis does not  
23 apply, and those cases are subjected to being overruled for being  
24 framed on the wrong constitutional narrative;



1           23. The United States Supreme Court has repeatedly held that  
2 the states have a compelling interest to uphold community standards  
3 of decency, to discourage licentiousness, and to enact policies that  
4 stop attempts to justify practices that are inconsistent with the  
5 peace and safety of the state, as underscored by the state's  
6 inherent police powers in the Tenth Amendment to the United States  
7 Constitution;

8           24. The United States Supreme Court found in *Ginsberg v. New*  
9 *York*, 390 U.S. 629 (1968) and *Mishkin v. State of New York*, 383 U.S.  
10 502 (1966) that "to simply adjust the definition of obscenity to  
11 social realities has always failed to be persuasive before the  
12 Courts of the United States", and such adjustments fail to be  
13 persuasive to this state;

14           25. Courts, in cases like *Schlegel v. United States*, 416 F. 2d  
15 1372 (Ct. Cl. 1969), have held as a matter of self-evident  
16 observation that "any schoolboy knows that a homosexual act is  
17 immoral, indecent, lewd, and obscene. Adult persons are even more  
18 conscious that this is true";

19           26. A public school policy that permits self-identified  
20 transvestites who are biological males to participate in sports for  
21 biological females in an attempt to show respect to their non-  
22 secular self-asserted sex-based identity narrative fails the three  
23 prongs of the lemon test by a landslide, promotes licentiousness,  
24 erodes community standards of decency, and is an attempt to justify

1 practices that are inconsistent with the peace and safety of the  
2 state;

3 27. The United States Supreme Court decision in *Bostock v.*  
4 *Clayton Cnty. Bd. of Commissioners*, 139 S.Ct. 1599 (2019) was  
5 invalid because requiring that "sexual orientation" be read into the  
6 term "sex" in Title VIII, 42 U.S.C. §2000e-2(a)(1) causes the  
7 statute to lack a primary secular purpose and excessively entangles  
8 the government with the religion of secular humanism as advocated by  
9 the LGBTQ denomination;

10 28. Males and females are self-evidently different but equal as  
11 implicated by the following neutral and secular considerations:

- 12 a. according to the United States Supreme Court in *United*  
13 *States v. Virginia*, 518 U.S. 515, 533 (1996), there  
14 are "inherent differences between men and women," and  
15 these differences "remain cause for celebration, but  
16 not for denigration of the members of either sex or  
17 for artificial constraints on an individual's  
18 opportunity",
- 19 b. these "inherent differences" range from chromosomal  
20 and hormonal differences to physiological differences,
- 21 c. according to Neel Burton, "The Battle of the Sexes,"  
22 33 *Psychology Today* (July 2, 2012), men generally have  
23 "denser, stronger bones, tendons, and ligaments" and  
24

- 1 "larger hearts, greater lung volume per body mass, a  
2 higher red blood cell count, and higher hemoglobin",  
3 d. according to Doriane Lambelet Coleman, "Sex in Sport",  
4 Law and Contemporary Problems 63-126 (2017) (quoting  
5 Gina Kolata, "Men, Women 2 and Speed. Words: Got  
6 Testosterone?", N.Y. Times (Aug. 21, 2008)), men also  
7 have higher natural levels of testosterone, which  
8 affects traits such as hemoglobin levels, body fat  
9 content, the storage and use of carbohydrates, and the  
10 development of type 2 muscle fibers, all of which  
11 result in men being able to generate higher speed and  
12 power during physical activity,  
13 e. the biological differences between men and women,  
14 especially related to natural levels of testosterone,  
15 explains the male and female secondary sex  
16 characteristics which develop during puberty and have  
17 life-long effects, including those most important for  
18 success in sport: categorically different strength,  
19 speed, and endurance, according to Doriane Lambelet  
20 Coleman and Wickliffe Shreve, "Comparing Athletic  
21 Performances: The Best Elite Women to Boys and Men,"  
22 Duke Law Center for Sports Law and Policy,  
23 f. while classifications based on sex are generally  
24 disfavored, the United States Supreme Court in United

1 States v. Virginia, 518 U.S. 515, 533 (1996),  
2 recognized that "sex classifications may be used to  
3 compensate women for particular economic disabilities  
4 [they have] suffered, promote equal employment  
5 opportunity, [and] to advance full development of the  
6 talent and capacities of our Nation's people",

7 g. one place where sex classifications allow for the  
8 "full development of the talent and capacities of our  
9 Nation's people" is in the context of sports and  
10 athletics,

11 h. courts have recognized that the inherent,  
12 physiological differences between males and females  
13 result in different athletic capabilities. For  
14 example, Kleczek v. Rhode Island Interscholastic 26  
15 League, Inc., 612 A.2d 734, 738 (R.I. 1992) ("Because  
16 of innate physiological differences, boys and girls  
17 are not similarly situated as they enter athletic  
18 competition."); Petrie v. Ill. High Sch. Ass'n, 394  
19 N.E.2d 855, 861 (Ill. App. Ct. 1979) (noting that  
20 "high school boys [generally possess physiological  
21 advantages over] their girl counterparts" and that  
22 those advantages give them an unfair lead over girls  
23 in some sports like "high school track"),

- 1 i. a recent study of female and male Olympic performances  
2 since 1983 by Valerie Thibault, et al., "Women and Men  
3 in Sport Performance: The Gender Gap Has Not Evolved  
4 Since 1983," Journal of Sports Science & Medicine,  
5 Vol. 9, No.2 (2010), found that although athletes from  
6 both sexes improved over the time span, the "gender  
7 gap" between female and male performances remained  
8 stable, which suggests that "women's performances at  
9 the high level will never match those of men",
- 10 j. as Duke University School of Law professor and all-  
11 American track athlete Doriane Coleman, tennis  
12 champion Martina Navratilova, and Olympic track gold  
13 medalist Sanya Richards-Ross recently wrote, "[T]he  
14 evidence is unequivocal that starting in puberty, in  
15 every sport except sailing, shooting, and riding,  
16 there will always be significant numbers of boys and  
17 men who would beat the best girls and women in head-  
18 to-head competition. Claims to the contrary are  
19 simply a denial of science." (Doriane Coleman, Martina  
20 Navratilova, et al., "Pass the Equality Act, But Don't  
21 Abandon Title IX," Washington Post (Apr. 29, 2019)),
- 22 k. the benefits that natural testosterone provides to  
23 male athletes are not diminished through the use of  
24 puberty blockers and cross-sex hormones. A recent

1 study on the impact of treatments regarding puberty  
2 blockers and cross-sex hormones found that even "after  
3 12 months of hormonal therapy," a man who  
4 identifies as a woman and is taking cross-sex hormones  
5 "had an absolute advantage" over female athletes and  
6 "will still likely have performance benefits" over  
7 women. (Wilk, Anna, et al., "Muscle Strength, Size and  
8 Composition Following 12 Months of Gender-Affirming  
9 Treatment in Transgender Individuals," The Journal of  
10 Clinical Endocrinology & Metabolism, Vol. 105, No. 3  
11 (2019)), and

- 12 1. having separate sex-specific teams furthers efforts to  
13 promote sex equality and accomplishes this aim by  
14 providing opportunities for female athletes to  
15 demonstrate their skill, strength, and athletic  
16 abilities while also providing them with opportunities  
17 to obtain recognition and accolades, college  
18 scholarships, and the numerous other long-term  
19 benefits that flow from success in athletic endeavors.

20 SECTION 9. This act shall become effective July 1, 2023.

21 SECTION 10. It being immediately necessary for the preservation  
22 of the public peace, health, or safety, an emergency is hereby  
23  
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1 declared to exist, by reason whereof this act shall take effect and  
2 be in full force from and after its passage and approval.

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