

1 STATE OF OKLAHOMA

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

3 SENATE BILL NO. 778

By: Silk

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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
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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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