

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

HOUSE BILL NO. 1689

By: Coleman

AS INTRODUCED

An Act relating to public health and safety; creating the Abortion-Breast Cancer Act; providing legislative findings; defining terms; requiring certain persons to receive specified information; specifying time limitations; providing restrictions; requiring certification; requiring reporting; making certain acts unlawful; requiring publication; requiring warnings; providing for contents and form; providing for emergency abortions; requiring notices at certain facilities; providing for contents; making certain acts a misdemeanor; providing exception; providing for additional remedies; requiring the State Department of Health to make certain abortion reports; providing for contents; providing for certain tests; requiring certain reporting; specifying penalties; providing for publication; providing for construction of act; authorizing intervention; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-750.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Abortion-Breast Cancer Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-750.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Legislature of the State of Oklahoma finds that:

1. The United States Congress has called breast cancer a "growing epidemic". Breast cancer is the leading form of cancer among American women, accounting for more than thirty percent (30%) of all cancers in women. It is estimated that one hundred eighty-four thousand (184,000) new cases of invasive breast cancer will be diagnosed each year;

2. American women, in general, have at least ten percent (10%) lifetime risk of developing breast cancer;

3. Breast cancer is the single most frequent cause of death among middle-aged women, and it is estimated that forty-six thousand (46,000) women will die yearly from breast cancer;

4. Eighteen thousand (18,000) women contracted AIDS in the first ten (10) years of that epidemic but this is just one-tenth (1/10) the number of new cases of breast cancer diagnosed each year alone;

5. Breast cancer is a life-threatening illness that may be precipitated by an induced abortion even years after the abortion is performed;

6. The existence of the abortion-breast cancer link is supported by scientific publications in peer-reviewed medical journals from 1957 to the present;

7. There have been twenty-nine epidemiological studies on induced abortion and breast cancer, twenty-four of which have shown an increased risk of breast cancer. Significantly elevated risk has been demonstrated in black women, white women and Asian women;

8. A majority of the scientific studies show that aborting any pregnancy, regardless of a woman's age or whether she has any children, increases her risk of developing breast cancer later in life; therefore, all women considering an abortion should be informed of this medical risk;

9. If a pregnant woman is under age thirty (30) and has never had a full-term pregnancy, having an abortion also raises her breast cancer risk by precluding the natural lifetime reduction in breast cancer risk that the woman would have obtained if she carried the child to term;

10. For many minors, developing breast cancer later in life is too remote a risk to evaluate effectively when deciding whether to have an abortion. Thus, a doctor's duty to warn minors is crucial, especially considering the medical research that has found higher risk elevations among women who have had any abortions when they were teenagers;

11. Having any induced abortions raises a woman's risk of developing breast cancer by thirty percent (30%), independent of, and in addition to, the effect of abortion in delaying her first full-term pregnancy;

12. Even more alarming is recent evidence of even greater risk increases for women with a family history of breast cancer, defined as sister, mother, grandmother, or aunt. In one American study, for women who aborted their first child before age eighteen (18) and had a family history of breast cancer, the risk was immeasurably high. In addition, it was discovered that a women with a family history of breast cancer and two or more abortions had a seven-fold increase in breast cancer risk; and

13. Parents ordinarily possess information regarding a minor's family medical history that is essential to a physician's exercise of his or her best medical judgment concerning counseling a minor child, particularly regarding the abortion-breast cancer link.

B. Based on the findings in subsection A of this section, it is the purpose of the Abortion-Breast Cancer Act to:

1. Ensure that every woman, adult or minor considering an abortion receives complete information on the breast cancer risk associated with an abortion;

2. Reduce the instances of breast cancer and unnecessary elective abortion in this state;

3. Ensure that the woman is provided with information on the link between elective abortion and an elevated risk of breast cancer and, in the case of the unemancipated minor or incompetent person, encourage parental involvement in the minor's abortion decision, particularly regarding the minor's family history of breast cancer; and

4. Ensure that every woman submitting to an abortion does so only after giving her voluntary and informed consent to the abortion procedure.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-750.3 of Title 63, unless there is created a duplication in numbering, reads as follows:

For purposes of the Abortion-Breast Cancer Act:

1. "Abortion" means the use or prescription of any instrument, medicine, drug, or any other substance or device with the intent to terminate the pregnancy of a woman known by the defendant to be pregnant. Such use or prescription is not an abortion if done with the intent to:

- a. save the life or preserve the health of an unborn child,
- b. remove a dead unborn child, or

c. deliver an unborn child prematurely in order to preserve the health of both the pregnant woman and her unborn child;

2. "Coercion" means restraining or dominating the choice of a minor female by force, threat of force, or deprivation of food and shelter;

3. "Complication" means that condition which includes but it is not limited to hemorrhage, infection, uterine perforation, cervical laceration, pelvic inflammatory disease, endometriosis, and retained products. The State Department of Health may further define "complication";

4. "Conception" means the fusion of a human spermatozoan with a human ovum;

5. "Department" means the State Department of Health;

6. "Emancipated minor" means any person under eighteen (18) years of age who is or has been married or who has been emancipated;

7. "Facility" or "medical facility" means any public or private hospital, clinic, center, medical school, medical training institution, health care facility, physician's office, infirmary, dispensary, ambulatory surgical treatment center, or other institution or location wherein medical care is provided to any person;

8. "Family history" for the purposes of the Abortion-Breast Cancer Act shall include the pregnant woman's sister, mother, aunt, or grandmother who have been diagnosed with breast cancer;

9. "First trimester" means the first twelve (12) weeks of gestation;

10. "Gestational age" means the time that has elapsed since the first day of the woman's last menstrual period;

11. "Hospital" means an institution licensed by the State Department of Health pursuant to the provisions of the law of this state.

12. "Incapacitated person" means any person who has been adjudged to be an incapacitated person and has had a guardian appointed for her pursuant to the Oklahoma Guardianship and Conservatorship Act;

13. "Medical emergency" means that condition which, on the basis of the physician's good-faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of a major bodily function;

14. "Physician" means any person licensed to practice medicine in this state;

15. "Pregnant" or "pregnancy" means that female reproductive condition of having an unborn child in the mother's body;

16. "A qualified person" means an agent of the physician who is a psychologist, licensed social worker, licensed professional counselor, registered nurse, or other physician;

17. "Unborn child" means the offspring of human beings from conception until birth;

18. "Viability" means the state of fetal development when, in the judgment of the physician based on the particular facts of the case before him or her and in light of the most advanced medical technology and information available to him or her, there is a reasonable likelihood of sustained survival of the unborn child outside the body of his or her mother, with or without artificial support; and

19. "Woman" means any female person.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-750.4 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. At least twenty-four (24) hours before an abortion or, in the case of the minor or incapacitated person, forty-eight (48)

hours before an abortion, the physician who is to perform an abortion or the referring physician shall inform the woman, orally and in person of:

1. The name of the physician who will perform the abortion;
2. A description of the proposed abortion method and of medical risks of abortion including but not limited to:

- a. immediate medical risks: pelvic infection, incomplete abortion, blood clots in the uterus, heavy bleeding, cut or torn cervix, perforation of the uterine wall, anesthesia-related complications, RH Immune Globulin therapy,
- b. long-term medical risks: cancer of the breast, risk to future childbearing, and
- c. alternatives to the abortion that a reasonable patient would consider material to the decision of whether to undergo the abortion;

3. The probable gestational age of the unborn child at the time the abortion is to be performed; and

4. The medical risks associated with carrying her child to term.

B. At least twenty-four (24) hours before an abortion, or in the case of the unemancipated minor or incapacitated person, at least forty-eight (48) hours before an abortion, the physician who is to perform the abortion, the referring physician, or a qualified person shall inform the woman, orally and in person, that:

1. Medical assistance benefits may be available for prenatal care, childbirth, and neonatal care, and that more detailed information on the availability of such assistance is contained in the printed materials given to her and described in Section 6 of this act;

2. The printed materials in Section 6 of this act describe the unborn child and list agencies which offer alternatives to abortion;

3. The father of the unborn child is liable to assist in the support of this child, even in instances in which he has offered to pay for the abortion. In the case of rape or incest, this information may be omitted; and

4. She is free to withhold or withdraw her consent to the abortion at any time before or during the abortion without affecting her right to future care or treatment and without the loss of any state or federally funded benefits to which she might otherwise be entitled.

C. The information in Sections 4 and 6 of this act is provided to the woman individually and in a private room to protect her privacy and maintain the confidentiality of her decision, and to ensure that the information focuses on her individual circumstances and that she has an adequate opportunity to ask questions.

D. At least twenty-four (24) hours before an abortion, or, in the case of the minor, or incapacitated person, forty-eight (48) hours before an abortion, the woman shall be given a copy of the printed materials described in Section 6 of this act. If the woman is unable to read the materials, they shall be read to her. If the woman asks questions concerning any of the information or materials, answers shall be provided to her in her own language.

E. The woman certifies in writing on a duplicate checklist form provided by the department prior to the abortion that the information required to be provided pursuant to subsections A, B, and D of this section has been provided. All physicians who perform abortions shall report the total number of certifications received monthly to the Department. The Department shall make the number of certifications received available to the public on an annual basis.

F. Prior to the performance of the abortion, the physician who is to perform the abortion shall receive the duplicate copy of the written certification prescribed by subsection E of this section.

G. The woman is not required to pay any amount for the abortion procedure until the twenty-four-hour waiting period has expired.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-750.5 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. It shall be unlawful for any individual to coerce a woman to undergo an abortion.

B. In the case of a minor, a parent, guardian, or any other person shall not coerce a minor to have an abortion performed. If a minor is denied financial support by the minor's refusal to have an abortion performed, the minor shall be deemed emancipated for the purposes of eligibility for public-assistance benefits, except that such benefits may not be used to obtain an abortion.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-750.6 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The State Department of Health shall cause to be published in English and Spanish, within one hundred eighty (180) days after the effective date of this act, and shall update on an annual basis, the following easily comprehensible printed materials:

1. Objective materials that inform the pregnant woman of the most advanced medical technology and information available on the abortion-breast cancer link.

The materials shall display, on the inside of its front cover, printed in upper and lower case letters, in boldface type, and framed in a black border, the following information:

"WARNING TO PREGNANT WOMEN

Aborting any pregnancy, regardless of your age, increases your risk of developing breast cancer later in life.

If you are under age 30 and have never had a full-term pregnancy, having an abortion also raises your breast cancer risk by

preventing the natural lifetime reduction in breast cancer risk that you would obtain if you carry the child to term.

Women who have a family history of breast cancer or who have clinical findings of breast disease should seek medical advice from their physician before they consider having an induced abortion.

The State Department of Health strongly urges a minor to discuss her family medical history of breast cancer with a parent prior to having an induced abortion, because the parent may have medical information that would have a bearing on the minor's decision.";

2. A standardized written summary outlining methods for the early detection and diagnosis of breast cancer. The summary shall include recommended guidelines for screening and detection of breast cancer through the use of techniques that shall include but not be limited to self-examination and diagnostic radiology;

3. a. A section entitled "Family History of Breast Cancer".

The Family History of Breast Cancer section shall include a checklist form, printed in duplicate. The form shall not contain the name of the patient or of her relatives or otherwise lead to the disclosure of the identity of the woman. The checklist shall contain the following language in itemized form:
sister(s), mother, aunt(s), and grandmother(s). Space shall be provided for the woman to place a check beside those of her relatives who have been diagnosed with breast cancer.

b. The checklist shall itemize whether the abortion to be performed on the woman is her: first pregnancy, second pregnancy, third or subsequent pregnancy and whether the abortion is her: first abortion, second abortion, third or subsequent abortion. Space shall be provided for the woman to place a check beside those circumstances that are applicable.

c. The section shall include the following language:

"Women who have a strong family history of breast cancer or who have clinical findings of breast disease should seek medical advice from their physician before they consider having an induced abortion."

"A minor is strongly urged to discuss her family medical history of breast cancer with a parent prior to having a induced abortion.";

4. Prior to the performance of the abortion, the physician who is to perform the abortion shall receive the duplicate copy of the written checklist provided in paragraph 3 of this subsection. The duplicate checklist form shall be filed with the Department in compliance with Section 4 of this act;

5. The summary shall display, on the inside of its cover, printed in upper and lower case letters, in boldface type, and framed in a black border, the following paragraph:

"The information contained in this brochure regarding recommendations for early detection and diagnosis of breast disease and the abortion-breast cancer link is for the purpose of assisting you, the patient, in understanding the medical information and advice offered by your physician. This brochure cannot serve as a substitute for the sound professional advice of your regular family physician.";

6. Geographically indexed materials designed to inform the woman of public and private agencies and services available to assist a woman through pregnancy, upon childbirth and while her child is dependent, including but not limited to adoption agencies. The materials shall include a comprehensive list of the agencies, a description of the services they offer, and the telephone numbers and addresses of the agencies and shall inform the woman about available medical assistance benefits for prenatal care, childbirth, and neonatal care.

The department shall ensure that the materials described in this section are comprehensive and do not directly or indirectly promote, exclude, or discourage the use of any agency or service described in this section. The materials shall also contain a toll-free, twenty-four-hour-a-day telephone number which may be called to obtain orally such a list and description of agencies in the locality of the caller and of the services they offer. The materials shall include the following statement:

"There are many public and private agencies willing and able to help you to carry your child to term and to assist you and your child after your child is born, whether you choose to keep your child or to place her or him for adoption. The State of Oklahoma strongly urges you to contact one or more of these agencies before making a final decision about abortion. The law requires that your physician or his agent give you the opportunity to call agencies like these before you undergo an abortion.";

7. The materials shall contain a toll-free, twenty-four-hour-a-day telephone number which may be called to obtain orally a list or description of agencies in the locality of the caller that shall include, but not be limited to, State Department of Health, local county health departments, Department of Human Services, and American Cancer Society;

8. The materials shall state that it is unlawful for any individual to coerce a woman to undergo an abortion, that any physician who performs an abortion upon a woman without her informed consent may be liable to her for damages in a civil action at law, and that the law permits adoptive parents to pay costs of prenatal care, childbirth, and neonatal care;

9. Materials that include information on the support obligations of the father of a child who is born alive, including but not limited to the father's legal duty to support his child, which may include child support payments and health insurance, and

the fact that paternity may be established by the father's signature on a birth certificate, statement of paternity, or by court action.

More information concerning paternity establishment and child support services and enforcement may be obtained by calling the Department of Human Services;

10. Materials that inform the pregnant woman of the probable anatomical and physiological characteristics of the unborn child at two-week gestational increments from fertilization to full term, including pictures or drawings representing the development of unborn children at two-week gestational increments, and any relevant information on the possibility of the unborn child's survival outside the body of his or her mother. Any such pictures or drawings must contain the dimensions of the unborn child and must be realistic. The materials shall be objective, nonjudgmental, and designed to convey only accurate scientific information about the unborn child at the various gestational ages;

11. Materials which contain objective information describing the methods of abortion procedures commonly employed, the medical risks commonly associated with each such procedure, and the medical risks associated with carrying a child to term; and

12. A duplicate checklist certification form to be used by physicians or a qualified person under Section 4 of this act, which will list all the items of information which are to be given to women by physicians or their agents pursuant to Abortion-Breast Cancer Act.

B. The Department shall ensure that the materials described in this section are comprehensive and do not directly or indirectly promote, exclude, or discourage the use of any agency or service described in this section.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-750.7 of Title 63, unless there is created a duplication in numbering, reads as follows:

Where a medical emergency compels the performance of an abortion, the physician shall inform the woman, before the abortion if possible, of the medical indications supporting his or her judgment that an abortion is necessary to avert her death or to avert substantial and irreversible impairment of a major bodily function.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-750.8 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Every facility at which abortions are performed shall cause a sign to be printed in upper and lower case letters and boldface type, to be framed and hung in plain view of prospective clients, where the physician or referring physician performs the informed consent counseling required in Section 4 of this act. The warning sign shall read as follows:

"WARNING TO PREGNANT WOMEN

Aborting any pregnancy, regardless of your age, increases your risk of developing breast cancer later in life.

If your are under age 30 and have never had a full-term pregnancy, having an abortion also raises your breast cancer risk by preventing the natural lifetime reduction in breast cancer risk that you would obtain if you carry the child to term."

B. The sign shall not be less than eleven by seventeen inches, and shall be conspicuously displayed so as to be readable. The words "WARNING TO PREGNANT WOMEN" shall not be less than one inch in height and shall be on the top line with no other text. The message on the sign shall appear in English and Spanish.

C. The State Department of Health shall specify the design of, and supply to the facility, the signs required by this section. The facility shall have thirty (30) days from the receipt of the warning sign to post it on the premises. Thereafter, a facility that violates this section is subject to a fine of at least Five Hundred

Dollars (\$500.00), but not more than One Thousand Dollars (\$1,000.00). For the second and subsequent violations, a fine of One Thousand Dollars (\$1,000.00) shall be imposed, and each day the activity continues shall be a separate fine.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-750.9 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Any person who intentionally, knowingly, or recklessly violates the Abortion-Breast Cancer Act is guilty of a misdemeanor.

B. No physician shall be guilty of violating the provisions of the Abortion-Breast Cancer Act if such physician can demonstrate, by a preponderance of the evidence, that such physician reasonably believed that furnishing the information would have resulted in a severely adverse effect on the physical or mental health of the pregnant woman.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-750.10 of Title 63, unless there is created a duplication in numbering, reads as follows:

In addition to whenever remedies are available under the common or statutory law of this state, failure to comply with the requirements of the Abortion-Breast Cancer Act shall:

1. Provide a basis for a civil malpractice action. Any intentional violation of the Abortion-Breast Cancer Act shall be admissible in a civil suit as prima facie evidence of a failure to obtain an informed consent. When requested, the court shall allow a woman to proceed using solely her initials or a pseudonym and may close any proceedings in the case and enter other protective orders to preserve the privacy of the woman upon whom the abortion was performed;

2. Provide a basis for professional disciplinary action pursuant to the Oklahoma Allopathic Medical and Surgical Licensure and Suspension Act and the Oklahoma Osteopathic Medicine Act; and

3. Provide a basis for recovery for the woman for the death of her unborn child under Section 1053 of Title 12 of the Oklahoma Statutes, whether or not the unborn child was viable at the time the abortion was performed or was born alive.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-750.11 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. For the purpose of promotion of maternal health and life by adding to the sum of medical and public health knowledge through the compilation of relevant data and to promote the state's interest in protection of the unborn child, a report of each abortion performed shall be made to the State Department of Health on forms prescribed by it. The reports shall be completed by the hospital or other licensed facility in which the abortion occurred, signed by the physician who performed the abortion, and transmitted to the Department within fifteen (15) days after each reporting month. The report forms shall not identify the individual patient by name and shall include the following information:

1. Identification of the physician who performed the abortion, the facility where the abortion was performed and identification of the referring physician, agency or service, if any;

2. The county and state in which the woman resides;

3. The woman's age;

4. The number of prior pregnancies and prior abortions of the woman;

5. The probable gestational age of the unborn child;

6. The type of procedure performed or prescribed and the date of the abortion;

7. Pre-existing medical condition of the woman which would complicate pregnancy, if any, and, if known, medical complications which resulted from the abortion;

8. The length and weight of the aborted child for any abortion performed pursuant to a medical emergency as described in Section 7 of this act; and

9. Basis for any medical judgment that a medical emergency existed which excused the physician from compliance with any provision of this chapter.

B. When there is an abortion performed during the first trimester of pregnancy, the tissue that is removed shall be subjected to a gross or microscopic examination, as needed, by the physician or a qualified person designated by the physician to determine if a pregnancy existed and was terminated. If the examination indicates no fetal remains, that information shall immediately be made known to the physician and sent to the Department within fifteen (15) days of the analysis. When there is an abortion performed after the first trimester of pregnancy where the physician has certified the unborn child is not viable, the dead unborn child and all tissue removed at the time of the abortion shall be submitted for tissue analysis to a board-eligible or certified pathologist. If the report reveals evidence of viability or live birth, the pathologist shall report such findings to the Department within fifteen (15) days, and a copy of the report shall also be sent to the physician performing the abortion. The Department shall prescribe a form on which pathologists may report any evidence of live birth, viability, or absence of pregnancy.

C. Every facility in which an abortion is performed within this state during any quarter year shall file with the Department a report showing the total number of abortions performed within the hospital or other facility during that quarter year. This report shall also show the total abortions performed in each trimester of pregnancy. These reports shall be submitted on a form prescribed by the Department which will enable a facility to indicate whether or not it is receiving state-appropriated funds. Any reports shall be

available for public inspection and copying only if the facility receives state-appropriated funds within the twelve-calendar-month period immediately preceding the filing of the report. If the facility indicates on the form that it is not receiving state-appropriated funds, the Department shall regard its report as confidential unless it receives other evidence which causes it to conclude that the facility receives state-appropriated funds.

D. After thirty (30) days' public notice following the law's enactment, the Department shall require that all reports of maternal deaths occurring within the state arising from pregnancy, childbirth, or intentional abortion state the cause of death, the duration of the woman's pregnancy, when her death occurred and whether or not the woman was under the care of a physician during her pregnancy prior to her death. The Department shall issue any necessary regulations to assure that information is reported and conduct its own investigation, if necessary, to ascertain such data. Known incidents of maternal mortality of nonresident women arising from induced abortion performed in this state shall be included in the report as incidents of maternal mortality arising from induced abortions. Incidents of maternal mortality arising from continued pregnancy or childbirth and occurring after induced abortion has been attempted but not completed, including deaths occurring after induced abortion has been attempted but not completed as a result of ectopic pregnancy, shall be included as incidents of maternal mortality arising from induced abortion.

E. Every physician who is called upon to provide medical care or treatment to a woman who is in need of medical care because of a complication or complications resulting, in the good faith judgment of the physician, from having undergone an abortion or attempted abortion, shall prepare a report. The report must be filed with the Department within thirty (30) days of the date of the physician's first examination of the woman. The report shall be on forms

prescribed by the Department. The forms shall contain the following information, as received, and such other information, except the name of the patient, as the Department may from time to time require:

1. Age of patient;
2. Number of pregnancies patient may have had prior to the abortion;
3. Number and type of abortions patient may have had prior to this abortion;
4. Name and address of the facility where the abortion was performed;
5. Gestational age of the unborn child at the time of the abortion, if known;
6. Type of abortion performed, if known;
7. Nature of complication or complications;
8. Medical treatment given; and
9. The nature and extent, if known, of any permanent condition caused by the complication.

F. The Department shall prepare a comprehensive annual statistical report for the Legislature based upon the data gathered under subsections A and E of this section. Such report shall not lead to the disclosure of the identity of any person filing a report or about whom a report is filed and shall be available for public inspection and copying. The Department shall annually compile a statistical report for the Legislature based upon the data gathered under this subsection, and all such statistical reports shall be available for public inspection and copying. Reports filed pursuant to subsection A or E of this section shall not be deemed public records and shall remain confidential, except that disclosure may be made to law enforcement officials upon an order of a court after application showing good cause. The court may condition disclosure of the information upon any appropriate safeguards it may impose.

Original copies of all reports filed under subsections A, C and E of this section shall be available to the State Board of Medical Licensure and Supervision for use in the performance of its official duties.

G. The following penalties shall apply:

1. Any person required under this section to file a report, keep any records, or supply any information, who willfully fails to file such report, keep such records, or supply such information at the time or times required by law or regulation, is guilty of "unprofessional conduct", and the license of the person for the practice of medicine and surgery shall be subject to suspension or revocation in accordance with procedures provided under the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act;

2. Any person who willfully delivers or discloses to the Department any report, record or information known by such person to be false is guilty of a misdemeanor;

3. Any person who willfully discloses any information obtained from reports filed pursuant to subsection A or E of this section, other than that disclosure authorized under subsection F of this section, or as otherwise authorized by law, is guilty of a misdemeanor;

4. Intentional, knowing, reckless, or negligent failure of the physician to submit the unborn child or the tissue remains to the pathologist for such a purpose, or intentional, knowing, or reckless failure of the pathologist to report any evidence of live birth or viability to the Department in the manner and within the time prescribed in subsection B of this section is a misdemeanor; and

5. In addition to the above penalties, any person, organization, or facility who willfully violates any of the provisions of this section requiring reporting shall upon conviction:

- a. for the first time, have its license suspended for a period of six (6) months,
- b. for a second time, have its license suspended for a period of one (1) year,
- c. for the third time, have its license revoked.

H. The Department shall create the forms required by this act within thirty (30) days after the effective date of this act and shall cause to be published, within sixty (60) days after the effective date of this act, the printed materials described in this act. No provision of this act requiring the reporting of information on forms published by the Department, or requiring the distribution of printed materials published by the Department pursuant to this act, shall be applicable until ten (10) days after the requisite forms are first created and printed materials are first published by the Department or until the effective date of this act, whichever is later.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-750.12 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Nothing in this act shall be construed as creating or recognizing a right to abortion.

B. It is not the intention of this act to make lawful an abortion that is currently unlawful.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-750.13 of Title 63, unless there is created a duplication in numbering, reads as follows:

The Legislature of this state, by joint resolution, may appoint one or more of its members, who sponsored or cosponsored this act in his or her official capacity, to intervene as a matter of right in any case in which the constitutionality of this law is challenged.

SECTION 14. This act shall become effective November 1, 1997.

46-1-6206

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