

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

HOUSE BILL NO. 3260

By: Vaughn

AS INTRODUCED

An Act relating to public health and safety;

prohibiting certain abortion procedures; providing exception; specifying penalty; providing for standing for certain persons; requiring certain standards for performance of procedure; providing exception; specifying certain relief; prohibiting certain prosecution; defining term; 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 1-740 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. 1. Except as otherwise provided by this section, any person who knowingly performs a dilation and extraction procedure and thereby kills a viable fetus shall be subject to criminal penalties and civil liability as specified in this section.

2. a. The provisions of this section shall not apply to a dilation and extraction procedure that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury if no other medical procedure would suffice for that purpose.

b. A physician may perform a dilation and extraction procedure if the physician with the care, skill and diligence under the circumstances at the time, that another physician acting in like capacity and familiar with such matters would use in an assessment of like character and with like aims, reasonably believes that performing the dilation and extraction procedure is necessary to save the life of the pregnant woman whose life is endangered by a physical disorder, physical illness, or physical injury and that no other medical procedure will accomplish that purpose.

B. 1. Any person convicted of a violation of this section shall be guilty of a felony and shall be punished by a fine of not less than Twenty Thousand Dollars (\$20,000.00) or imprisonment in the State Penitentiary for not less than twenty (20) years or by both such fine and imprisonment.

2. A woman upon whom a dilation and extraction procedure is performed may not be prosecuted under this section for a conspiracy to violate this section.

C. 1. Except as otherwise provided by this subsection, the following persons may, in a civil action, obtain the relief specified in paragraph 2 of this subsection:

- a. the mother of the fetus,
- b. the father, if married to the mother at the time she receives a dilation and extraction procedure, and
- c. the maternal grandparents of the fetus if the mother has not attained the age of eighteen (18) years at the time of the abortion.

2. The relief authorized by this subsection may include:

- a. money damages for all injuries, psychological and physical, occasioned by the violation of this section, and

b. statutory damages equal to three times the cost of the dilation and extraction procedure.

3. A plaintiff who consented to the abortion shall not be entitled to obtain the civil relief authorized by this section.

D. As used in this section, the term "dilation and extraction procedure" means a partial-birth abortion in which the person performing the abortion partially vaginally delivers a living child before killing the child and completing the delivery. The term "dilation and extraction procedure" does not include the dilation and evacuation procedure involving dismemberment prior to removal, the suction curettage procedure, or the suction aspiration procedure for abortion.

SECTION 2. This act shall become effective November 1, 1998.

46-2-8998

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