

1 STATE OF OKLAHOMA

2 1st Session of the 47th Legislature (1999)

3 COMMITTEE SUBSTITUTE
4 FOR
5 HOUSE BILL NO. 1379

By: Roach

6
7 COMMITTEE SUBSTITUTE

8 An Act relating to public health and safety;
9 creating the Procedures for Abortion on Minors Act;
10 providing purpose; defining terms; providing for
11 application of act; providing exceptions; requiring
12 notification of certain persons prior to performance
13 of an abortion upon a minor; requiring certain
14 delivery and other notice; providing for in lieu of
15 delivery; specifying time limits; providing
16 exceptions; providing for judicial proceedings in
17 certain cases; prohibiting extensions or certain
18 further notice; providing procedures for proceedings
19 and time periods; providing for participation;
20 prohibiting certain fees; providing for
21 confidentiality; providing for application;
22 authorizing certain appeals; providing for rules;
23 making certain actions not subject to appeal;
24 providing for certain counseling and information;
25 specifying time periods; prohibiting physician from
26 providing counseling; authorizing telephone
27 counseling; providing for revised information;
28 specifying details of counseling and information;
29 providing for submission of certain information;
30 requiring records; providing procedures; requiring
31 the State Department of Health to prepare certain
32 information; providing contents of certain
information; providing procedures and transmissions;
requiring confidentiality; requiring preparation of
certain materials; specifying content and
descriptions; providing for costs; providing for
updates; making certain acts unlawful; prohibiting
coercion; providing exception; specifying that term
coercion does not include certain statements;
providing for certain proceedings and
responsibilities; providing for emancipation of
certain minors; specifying procedures; providing for
construction of section; providing for payment of
child support in certain cases; providing for
penalty; providing for liability of certain persons;
providing for codification; and providing an
effective date.

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 2625.1 of Title 63, unless there
3 is created a duplication in numbering, reads as follows:

4 A. Sections 1 through 8 of this act shall be known and may be
5 cited as the "Procedures for Abortion on Minors Act".

6 B. Recognizing that some minors lack the ability to make fully
7 informed choices that consider both immediate and long-range
8 consequences and that parents who are aware that their minor
9 daughter has had or is seeking an abortion may be able to provide
10 comfort to such daughter and support for her decisions and to ensure
11 that she receives adequate medical care if she chooses or has chosen
12 to have an abortion, it is the intent of the Legislature in enacting
13 the Procedures for Abortion on Minors Act to protect minors who may
14 be immature and to protect the interests of parents with regard to
15 children who are members of their household.

16 SECTION 2. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 2625.2 of Title 63, unless there
18 is created a duplication in numbering, reads as follows:

19 For purposes of the Procedures for Abortion on Minors Act:

20 1. "Abortion" means the use of any means to terminate the
21 pregnancy of a woman known to be pregnant with the knowledge that
22 the termination with those means will, with reasonable likelihood,
23 cause the death of the fetus;

24 2. "Fetus" means any individual human organism from
25 fertilization until birth;

26 3. "Minor" means a person who is seventeen (17) years of age or
27 less;

28 4. "Parent" means a biological parent, adoptive parent, or a
29 legal guardian or other person having legal custody of a minor. A
30 parent whose parental rights have been terminated regarding the
31 minor shall not be considered a parent pursuant to the provisions of
32 the Procedures for Abortion on Minors Act; and

1 5. "Positive proof of identification" means a government-issued
2 photo identification card including but not limited to a driver
3 license or similar state-issued or federal government-issued
4 identification card.

5 SECTION 3. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 2625.3 of Title 63, unless there
7 is created a duplication in numbering, reads as follows:

8 The Procedures for Abortion on Minors Act shall not apply:

9 1. To a minor who is married or a parent herself or who has
10 obtained rights of majority pursuant to judicial proceedings;

11 2. If the attending physician certifies in the medical record
12 of the minor, on the basis of the physician's good faith clinical
13 judgment, that the abortion is a medical emergency and if the
14 abortion is not performed it will endanger the life of the minor and
15 there was insufficient time to obtain the required notice;

16 3. If the minor is accompanied by her parent who presents
17 positive proof of identification to the physician or facility in
18 which the abortion is to take place;

19 4. If the court pursuant to Section 5 of this act has
20 determined that parental notification is not necessary;

21 5. If the pregnant minor declares that she is the victim of
22 sexual abuse, neglect, or physical abuse as defined in the Oklahoma
23 Child Abuse Reporting and Prevention Act and the attending physician
24 has notified local law enforcement or the Department of Human
25 Services about the alleged sexual abuse, neglect or physical abuse;
26 and

27 6. If the minor has not resided with her parents for at least
28 sixty (60) days prior to the performance of an abortion on the minor
29 and does not receive her major support from her parents.

30 SECTION 4. NEW LAW A new section of law to be codified
31 in the Oklahoma Statutes as Section 2625.4 of Title 63, unless there
32 is created a duplication in numbering, reads as follows:

1 A. Except as otherwise provided in the Procedures for Abortion
2 on Minors Act, no abortion shall be performed upon a minor until at
3 least:

4 1. Twenty-four (24) hours after written notice of the pending
5 abortion has been personally delivered by the physician or an agent
6 of the physician to one parent at the usual place of abode of that
7 parent who has provided positive proof of identification and who has
8 signed a form certifying receipt of such written notice which the
9 physician shall keep on file; or

10 2. Forty-eight (48) hours after written notice of the pending
11 abortion has been made by certified mail addressed to the parent at
12 the usual place of abode of the parent with return receipt requested
13 and restricted delivery to the addressee. Time of delivery of the
14 notice shall be deemed to occur at twelve o'clock noon on the next
15 day on which regular mail delivery takes place, subsequent to the
16 mailing of the notice.

17 B. In lieu of the delivery required by subsection A of this
18 section, the person who is entitled to notice may certify in person
19 that such person is the parent of the minor upon showing of positive
20 proof of identification and that such person has been notified.

21 SECTION 5. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 2625.5 of Title 63, unless there
23 is created a duplication in numbering, reads as follows:

24 A. If the minor elects not to allow the notification of her
25 parent, any district judge of the county of the residence of the
26 minor or of the county in which the minor desires to have an
27 abortion, upon petition and after a hearing, shall authorize a
28 physician to perform the abortion if the judge determines that the
29 minor is mature or that the performance of an abortion without
30 notification of a parent would be in the best interests of the
31 minor.

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1 B. Proceedings in the court pursuant to this section shall be
2 confidential and shall be given such precedence over other pending
3 matters so that the court may reach a decision promptly and without
4 delay and in no instance longer than three (3) business days after
5 the filing of the petition so as to serve the best interests of the
6 minor.

7 1. The minor may participate in proceedings in the court on her
8 own behalf and the court may appoint a guardian ad litem to assist
9 her. The court shall also advise her that she has a right to court-
10 appointed counsel and shall provide her with such counsel upon
11 request.

12 2. The judge of the court who conducts proceedings pursuant to
13 this section shall make in writing specific factual findings and
14 legal conclusions supporting the decision made by the judge and
15 shall order a record of the evidence to be maintained including the
16 judge's own findings and conclusions.

17 C. The application to the court shall be accompanied by a
18 written statement that the information contained therein is true and
19 correct to the best of the applicant's knowledge, and the
20 application shall set forth the following facts:

- 21 1. The initials of the minor;
- 22 2. The age of the minor; and
- 23 3. The signature of the minor.

24 D. 1. An expedited confidential appeal shall be available to
25 any minor for whom the court refuses to grant an order authorizing
26 an abortion within the time specified in this section. Any court to
27 which an appeal is taken under this section shall give prompt and
28 confidential attention thereto and shall rule thereon within five
29 (5) business days of the filing of the appeal. The Oklahoma Supreme
30 Court may issue such rules as may further assure that the process
31 provided in this section is conducted in such a manner as will
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1 ensure confidentiality and sufficient precedence over other pending
2 matters to ensure promptness of disposition.

3 2. An order authorizing an abortion without notification shall
4 not be subject to appeal.

5 E. The court shall act within the time periods specified by
6 this section. No extensions or further notice or waiting periods
7 shall be required by the court.

8 F. The name of the minor shall not be entered on any docket
9 which is subject to public inspection. All persons shall be
10 excluded from hearings under this section except the applicant and
11 such other persons whose presence is specifically requested by the
12 applicant or ordered by the judge.

13 G. No filing fees shall be required of any such minor at either
14 the trial or the appellate level.

15 SECTION 6. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 2625.6 of Title 63, unless there
17 is created a duplication in numbering, reads as follows:

18 A. 1. Not less than twenty-four (24) hours prior to the
19 performance of an abortion on a minor, the physician shall provide
20 for pregnancy information and counseling to the minor in person or
21 by telephone. The information required to be provided may be based
22 on facts supplied the physician by the minor and whatever other
23 relevant information is reasonably available to the physician;

24 2. The information or counseling shall not be provided by a
25 tape recording, but must be provided during consultation in which
26 the physician is able to ask questions of the minor and the minor is
27 able to ask questions of the physician. Such information or
28 counseling shall include information as to the risks of abortion;

29 3. If a physician examination, tests, or the availability of
30 other information available to the physician subsequently indicates
31 in the medical judgment of the physician, a revision of the
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1 information previously supplied the minor, the revised information
2 may be communicated to the minor at any time prior to the abortion;

3 4. Nothing in this section may be construed to preclude
4 provisions of required information in a language understood by the
5 minor through a translator;

6 5. Any counselor providing information and counseling to the
7 minor pursuant to this section shall not be the attending physician
8 of the minor; and

9 6. The counselor shall in person or by telephone:

10 a. explain that the information specified in this section
11 being given to the minor is not intended to coerce,
12 persuade or induce the minor to choose either to have
13 an abortion or to carry the pregnancy to full term,

14 b. explain that the minor may withdraw a decision to have
15 an abortion at any time before the abortion is
16 performed or may reconsider a decision not to have an
17 abortion at any time within the time period during
18 which an abortion may legally be performed,

19 c. Explore with the minor the alternative choices
20 available for managing the pregnancy, including:

21 (1) carrying the pregnancy to full term,

22 (2) carrying the pregnancy to full term and placing
23 the child for adoption, and

24 (3) having an abortion,

25 d. explain that public and private agencies are available
26 to provide adoption and birth control information and
27 adoption assistance and help and support to a minor
28 who might want to carry the pregnancy to full term and
29 that a list of such agencies and the services
30 available from each shall be provided;

31 e. discuss the desirability and benefit of involving the
32 minor's parents, guardian or other adult family

1 members in the minor's decision-making concerning the
2 pregnancy; and

3 f. provide information to the minor concerning the
4 pregnancy, abortion, financial assistance, child care
5 and adoption. The counselor shall inform the minor of
6 the availability of the printed material prepared by
7 the Oklahoma State Department of Health pursuant to
8 subsection C of this section and that such material
9 shall be provided by the counselor at the minor's
10 request.

11 B. 1. If the counselor provides the information and counseling
12 to a minor in person as specified by subsection A of this section,
13 the counselor shall have the minor sign and date a form stating that
14 the minor has received information required by this subsection. If
15 the information and counseling is given by telephone, the minor
16 shall sign the form prior to the performance of the abortion.

17 2. The counselor providing the information and counseling shall
18 also sign and date the form, and include the counselor's address and
19 telephone number. The counselor shall keep a file copy of the form
20 and shall transmit a copy of the form to the minor's attending
21 physician and to the Oklahoma State Department of Health. The
22 counselor shall give the original form to the minor. Any such
23 information obtained pursuant to this subsection identifying the
24 minor shall be kept confidential.

25 C. The Oklahoma State Department of Health shall provide, at
26 cost, to any person providing abortion counseling, information
27 concerning pregnancy, abortion, financial assistance, child care,
28 adoption and supportive services for minors who might want to carry
29 the pregnancy to full term. Specifically, the Department shall
30 cause to be published in English, Spanish and such other language
31 deemed necessary by the Oklahoma State Department of Health, within
32 sixty (60) days after the effective date of this act, and shall

1 update on an annual basis, the following easily comprehensible
2 printed materials:

3 1. Geographically indexed materials designed to inform the
4 minor of public and private agencies and services available to
5 assist a minor through pregnancy, upon and after childbirth,
6 including adoption agencies, which shall include a comprehensive
7 list of the agencies available, a description of the services they
8 offer and a description of the manner, including telephone numbers,
9 in which they might be contacted, or, at the option of the
10 Department, printed materials including a toll-free twenty-four-
11 hour-a-day telephone number, if available, which may be called to
12 obtain, orally, such a list and description of agencies in the
13 locality of the caller and the services they offer. The materials
14 shall provide information on the availability of medical assistance
15 benefits for prenatal care, childbirth and neonatal care, and state
16 that:

- 17 a. it is unlawful for any individual to coerce a minor to
18 undergo abortion, to coerce the minor to carry the
19 pregnancy to full term or to coerce the minor to place
20 the child for adoption,
- 21 b. the father of a child is liable to assist in the
22 support of that child, even in instances where the
23 father has offered to pay for an abortion,
- 24 c. the law permits adoptive parents to pay costs of
25 prenatal care, childbirth and neonatal care, and
- 26 d. this does not include verbal persuasion;

27 2. All materials designed to inform the minor of the pregnancy
28 shall be realistic, objective, nonjudgmental and designed to convey
29 only accurate scientific information about the various gestational
30 ages. The material shall also contain objective information
31 describing, with illustrations, the development of the fetus at
32 appropriate development intervals, the methods of abortion

1 procedures commonly employed, the medical risks commonly associated
2 with each such procedure, and the medical risks commonly associated
3 with carrying the pregnancy to full term.

4 The materials shall be printed in a typeface large enough to be
5 clearly legible.

6 SECTION 7. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 2625.7 of Title 63, unless there
8 is created a duplication in numbering, reads as follows:

9 A. 1. Except in a medical emergency as defined in paragraph 2
10 of Section 3 of this act, no person shall coerce a minor to undergo
11 an abortion, carry the pregnancy to full term or place the child for
12 adoption. The term "coercion" shall not include verbal persuasion
13 nor shall informing a minor that an abortion is immoral and is the
14 killing of a human being be considered coercion.

15 2. Any minor who is threatened with such coercion may apply to
16 the district court for relief.

17 3. The court shall provide the minor with counsel, give the
18 matter expedited consideration and grant such relief as may be
19 necessary to prevent such coercion.

20 B. Should a minor be denied the financial support of her
21 parents by reason of her refusal to undergo abortion, she shall be
22 considered emancipated for purposes of eligibility for assistance
23 benefits.

24 C. If a parent, once notified, coerces a minor in violation of
25 the provisions of this section to carry a child to full term, the
26 duty imposed by law of supporting the child extends to the minor,
27 and jointly and severally to the coercing parent, until the minor
28 reaches the age of eighteen (18) years or is emancipated. The
29 provisions of this subsection shall not be construed to modify or
30 limit the obligation of the natural father to support the child.

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1 SECTION 8. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2625.8 of Title 63, unless there
3 is created a duplication in numbering, reads as follows:

4 A. Performance of an abortion in violation of the Procedures
5 for Abortion on Minors Act shall be a misdemeanor.

6 B. A person shall not be held civilly liable pursuant to the
7 Procedures for Abortion on Minors Act if the person establishes by
8 evidence sufficient to convince a careful and prudent person that
9 the representations of the pregnant minor regarding information
10 necessary to comply with the Procedures for Abortion on Minors Act
11 are bona fide and true, or if the person has attempted with
12 reasonable diligence to deliver notice, but has been unable to do
13 so.

14 SECTION 9. This act shall become effective November 1, 1999.

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