

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO. _____

By: Easley

AS INTRODUCED

An Act relating to public health and safety; defining terms; requiring notification of certain persons prior to performance of an abortion upon certain females; specifying exceptions; providing for judicial proceedings in certain cases and specifying procedures thereto; specifying penalties providing for liability of certain persons and providing exemptions; providing for codification; and declaring an emergency.

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

SECTION 730. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-732.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Abortion" means the use of any means to terminate the pregnancy of a female known to be pregnant with knowledge that the termination with those means will, with reasonable likelihood, cause the death of the fetus;
2. "Fetus" means an individual human organism from fertilization until birth;
3. "Minor" means a child under the age of eighteen (18) years;
4. "Parent" means:
 - a. a parent of an unemancipated minor, or
 - b. the guardian or conservator of a female for whom such guardian or conservator has been appointed pursuant to

the provisions of the Oklahoma Guardianship and Conservatorship Act;

5. "Pregnant female" means an unemancipated minor or a female for whom a guardian or conservator has been appointed pursuant to the Oklahoma Guardianship and Conservatorship Act because of a finding of incapacity; and

6. "Unemancipated" means a minor who either:

- a. is not married,
- b. has not been married, or
- c. has not judicially obtained rights of majority.

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-732.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

No abortion shall be performed upon a pregnant female until at least forty-eight (48) hours after written notice of the pending abortion has been delivered in the manner specified in paragraphs 1 and 2 of this section.

1. The notice shall be addressed to the parent of the pregnant female at the usual place of abode of the parent, and delivered personally to such parent by the physician or an agent;

2. In lieu of the delivery required by paragraph 1 of this section, notice shall be made by registered, certified mail, return receipt requested, be addressed to such parent at the usual place of abode of the parent; and

3. Time of delivery shall be deemed to occur at 12 o'clock noon on the next day on which regular mail delivery takes place, subsequent to mailing.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-732.3 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. No notice shall be required under this act if:

1. The physician attending the pregnant female certifies in her medical record that the abortion is necessary to prevent such female's death, and there is insufficient time to provide the required notice;

2. The person who is entitled to notice certifies in writing that he or she has been notified; or

3. The pregnant female declares that she is a victim of abuse and neglect, as such term is defined in Section 845 of Title 21 of the Oklahoma Statutes, and the attending physician has notified the county office of the Department of Human Services in the county wherein the alleged abuse or neglect occurred.

B. 1. If a pregnant female elects not to allow the notification of her parent, any judge of a court of competent jurisdiction shall, upon petition or motion, and after an appropriate hearing, authorize a physician to perform the abortion if such judge determines that the pregnant female is mature and capable of giving informed consent to the proposed abortion.

2. If the judge determines that the pregnant female is not mature, or if the pregnant female does not claim to be mature, the judge shall determine whether the performance of an abortion upon her without notifying her parent would be in her best interests, and if the judge so concludes, the judge shall authorize a physician to perform the abortion without such notification.

3. Such pregnant female may participate in proceedings in the court on her own behalf, and the court may appoint a guardian ad litem for her. The court shall, however, advise her that she has a right to court-appointed counsel, and shall, upon such request, provide her with such counsel.

4. Proceedings in the court under this section shall be confidential and shall be given such precedence over other pending matters so that the court may reach a decision promptly and without delay so as to serve the best interests of the pregnant female. A

judge of the court who conducts proceedings under this section shall make specific factual findings and legal conclusions in writing supporting the decision and shall order a record of the evidence to be maintained, including the judge's own findings and conclusions.

5. An expedited confidential appeal shall be available to any such pregnant female for whom the court denies an order authorizing an abortion without notification. An order authorizing an abortion without notification shall not be subject to appeal. No filing fees shall be required of any such pregnant female at either the trial or the appellate level. Access to the trial court for the purpose of such a petition or motion, and access to the appellate courts for purposes of making an appeal from denial of the same, shall be afforded such a pregnant female twenty-four (24) hours a day, seven (7) days a week.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-732.4 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Performance of an abortion in knowing or reckless violation of this section shall be a misdemeanor and shall be grounds for a civil action by a person wrongfully denied notification.

B. A person shall not be held liable under this section if the person:

1. Establishes by written evidence that the person relied upon evidence sufficient to convince a careful and prudent person that the representations of the pregnant female regarding information necessary to comply with the provisions of this section were bona fide and true; or

2. Has attempted with reasonable diligence to deliver notice, but has been unable to do so.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby

declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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