STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

SENATE BILL 736 By: Pruitt

AS INTRODUCED

An Act relating to abortions; amending Section 1, Chapter 122, O.S.L. 1998 (21 O.S. Supp. 2000, Section 684), which relates to partial-birth abortions; providing that provisions of section of law not apply to a partial-birth abortion necessary for preservation of the health of a mother whose health is endangered; allowing defendant to seek hearing on whether physician's conduct was necessary for the preservation of the health of a mother whose health was endangered; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 1, Chapter 122, O.S.L. 1998 (21 O.S. Supp. 2000, Section 684), is amended to read as follows:

Section 684. A. Any physician who knowingly performs a partial-birth abortion and thereby kills a human fetus shall be fined Ten Thousand Dollars ($10,000.00), or imprisoned in the State Penitentiary for a period of not more than two (2) years, or by both such fine and imprisonment. ~~This subsection~~ Provided, however, the provisions of this section shall not apply to a partial-birth abortion that is necessary ~~to save~~, in appropriate medical judgment, for the preservation of the health or the life of a mother whose health or whose life is endangered by a physical disorder, illness or injury.

B. Definitions. As used in this section:

1. "Partial-birth abortion" means an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.

2. "Physician" means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the state, or any other individual legally authorized by the state to perform abortions; provided, however, that any individual who is not a physician or not otherwise legally authorized by the state to perform abortions, but who nevertheless directly performs a partial-birth abortion, shall be subject to the provisions of this section.

3. "Vaginally delivers a living fetus before killing the fetus" means deliberately and intentionally delivers into the vagina a living fetus or a substantial portion thereof, for the purpose of performing a procedure the physician knows will kill the fetus, and kills the fetus.

C. Civil Action:

1. The father, if married to the mother at the time she receives a partial-birth abortion procedure, and if the mother has not attained the age of eighteen (18) years at the time of the abortion, the maternal grandparents of the fetus, may in a civil action obtain appropriate relief, unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion.

2. Such relief shall include money damages for all injuries, psychological and physical, occasioned by the violation of this section, and statutory damages equal to three times the cost of the partial-birth abortion.

D. Review by State Board of Medical Licensure and Supervision:

1. A defendant accused of an offense under this section may seek a hearing before the State Board of Medical Licensure and Supervision on whether the physician's conduct was necessary ~~to save~~, in appropriate medical judgment, for the preservation of the health or the life of the mother whose health or whose life was endangered by a physical disorder, illness or injury.

2. The findings on that issue are admissible at the trial of the defendant. Upon a motion of the defendant, the court shall delay the beginning of the trial for not more than thirty (30) days to permit such a hearing to take place.

E. A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section or for a conspiracy to violate this section.

SECTION 2. 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.

48-1-300 BEP 6/12/2015 11:19:15 AM