

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

SENATE BILL 760

By: Haney

AS INTRODUCED

An Act relating to public health and safety; defining terms; making it unlawful to perform an abortion on a minor until specified notice is delivered; providing exceptions to requirement; authorizing performance of an abortion under certain conditions; allowing specified female to participate in certain proceedings; providing for confidentiality and precedence of proceedings; requiring specific findings; providing for certain appeal; making certain violation a misdemeanor; providing for nonliability of certain person; 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 1-751 of Title 63, unless there is created a duplication in numbering, reads as follows:

1. "Abortion" means the purposeful termination of a human pregnancy, by any person with an intention other than to produce a live birth or to remove a dead unborn child;

2. "Minor" means a person who is younger than eighteen (18) years of age; and

3. "Parent" means a natural parent, adoptive parent, or a legal guardian or other person having legal custody of a minor. A parent whose parental rights have been terminated regarding the minor shall not be considered a parent pursuant to the provisions of this act.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 864.1 of Title 21, unless there is created a duplication in numbering, reads as follows:

A. It shall be unlawful for any person to perform an abortion upon an unemancipated minor or upon a female for whom a guardian or

conservator has been appointed pursuant to the "Oklahoma Guardianship and Conservatorship Act" because of a finding of incompetency, until at least 48 hours after written notice of the pending abortion has been delivered in the manner specified below:

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

2. In lieu of the delivery required by paragraph 1, notice shall be made by certified mail addressed to the parent at the usual place of abode of the parent with return receipt requested and with restricted delivery to the addressee. Time of delivery shall be deemed to occur at 12 o'clock noon on the date delivery takes place if by mail.

B. No notice shall be required under this section if:

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

2. The person who is entitled to notice certifies in a notarized writing under penalties of perjury that he or she has been notified; or

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

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 864.2 of Title 21, unless there is created a duplication in numbering, reads as follows:

If a pregnant female elects not to allow the notification of one of her parents or guardian or conservator, 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 the judge determines that the pregnant female is mature and capable of giving informed consent to the proposed abortion. 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 notification of her parent, guardian, or conservator would be in her best interest and shall authorize a physician to perform the abortion without such notification if the judge concludes that the pregnant female's best interests would be served thereby.

The 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 her request, provide her with such counsel.

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 in writing specific factual findings and legal conclusions supporting the decision and shall order a record of the evidence to be maintained including the judge's findings of fact and conclusions of law.

An expedited confidential appeal shall be available to any such pregnant female from whom the court denies an order authorizing an abortion without notification. 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 purposes 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 the pregnant female twenty-four hours a day, seven days a week.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 864.3 of Title 21, unless there is created a duplication in numbering, reads as follows:

Performance of an abortion in violation of the provisions of Section 2 of this act shall be a misdemeanor and shall be grounds for a civil action by a person wrongfully denied notification. A person shall not be held liable under this section if the person 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 this section were bona fide and true.

SECTION 5. This act shall become effective November 1, 2001.

48-1-121

CJ

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