

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

HOUSE BILL HB1470

By: Newport

AS INTRODUCED

An Act relating to public health and safety; defining terms; prohibiting any physician to perform an execution (abortion) without obtaining a death warrant; providing procedures; requiring appointment of guardian ad litem; authorizing jury trial; requiring written and specific factual findings and legal conclusions; providing certain time periods; providing for appeals; prohibiting certain filing fees; making certain actions unlawful; providing penalty; authorizing revocation of license to practice; 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 2625.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Abortion" means the intentional termination of human pregnancy with an intention other than to produce a live birth or to remove a dead fetus;

2. "Death warrant" means an order of a district court providing that an execution may proceed pursuant to Chapter 17 of Title 22 of the Oklahoma Statutes; and

3. "Execution" means an abortion.

B. No physician shall perform an execution in this state without first obtaining a death warrant as provided in this section.

C. Any person seeking to have an execution performed shall first file a petition in the district court in the county of the petitioner's residence. Upon the filing of such petition, the court shall appoint a guardian ad litem to protect the rights of the fetus. The guardian ad litem shall be authorized to demand a jury trial to determine the rights of the fetus. Within thirty (30) days after the filing of such petition, the court shall hold a trial for the purpose of balancing the fetus' right to live against the rights of the person seeking to have the execution performed. If the finder of fact determines that the fetus' right to live is superior, the execution shall not be performed and the fetus shall be permitted to continue through the stage of birth. If the finder of fact determines that the rights of the person seeking to have the execution performed are superior to the right of the fetus to live, the court shall sign a death warrant.

D. If the matter is tried before the court as finder of fact, the court shall issue written and specific factual findings and legal conclusions supporting its decision and shall order that a record of the evidence be maintained. The court shall render its decision within twenty-four (24) hours of the conclusion of the hearing, and a certified copy of the same shall be furnished immediately to the parties.

E. An expedited appeal of the final order shall be available. The appellate courts are authorized and requested to issue promptly such rules as are necessary to ensure the expeditious disposition of procedures provided by this section.

F. No filing fees shall be required of any party who uses the procedures provided by this section.

G. 1. Any physician performing an execution without the issuance of a death warrant shall be deemed guilty of a felony and, upon conviction thereof, shall be sentenced to incarceration in the State Penitentiary not more than five (5) years. The license of any

physician indicted for an alleged violation of this section shall be suspended until resolution of the matter. The license of any physician convicted of a violation of this section shall be permanently revoked.

2. The provisions of this section shall be in addition to any other provisions relating to the killing of a fetus or of a person.

SECTION 2. This act shall become effective November 1, 2003.

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