

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 139

By: Gumm and Branam of the
Senate

3
4 and

5 Hamilton of the House
6
7

8 (public health and safety - University of Oklahoma
9 Health Sciences Center - public umbilical cord
10 blood bank - codification -

11 effective date)
12
13

14 AUTHORS: Add the following House Coauthors: Billy, Cooksey, Dank,
15 Enns, Faught, Kern, McDaniel (Randy), Peterson (Pam),
Reynolds, Terrill, Tibbs and Wesselhoft

16 AUTHORS: Remove Gumm as principal Senate author and substitute
17 Williamson as principal Senate author and show Gumm as
first coauthor

18 AMENDMENT NO. 1. Strike the stricken title, enacting clause and
19 entire bill and insert

20 "An Act relating to abortion; amending 63 O.S. 2001,
21 Section 1-730, which relates to abortion; expanding
22 certain definition; amending Section 6, Chapter 200,
23 O.S.L. 2005 (63 O.S. Supp. 2006, Section 1-738.1),
24 which relates to voluntary and informed consent to
abortion; modifying certain definition; providing
for the State Department of Health to prepare and
make available certain reporting forms; providing
for the content of the reporting forms; providing

1 for the time in which the reports are due; requiring
2 public reports containing certain information;
3 providing for enforcement of reporting requirements;
4 providing for penalties; providing for
5 confidentiality; authorizing promulgation of certain
6 rules; amending Section 7, Chapter 185, O.S.L. 2006
7 (63 O.S. Supp. 2006, Section 1-738.7), which relates
8 to the Unborn Child Pain Awareness/Prevention Act;
9 modifying certain definitions; amending Section 11,
10 Chapter 200, O.S.L. 2005 (63 O.S. Supp. 2006,
11 Section 1-740.1), which relates to abortion; adding
12 definition; amending Section 12, Chapter 200, O.S.L.
13 2005, as amended by Section 18, Chapter 185, O.S.L.
14 2006 (63 O.S. Supp. 2006, Section 1-740.2), which
15 relates to notification and consent of parent;
16 requiring proof of age, emancipation, or judicial
17 waiver before performing abortion; providing
18 exception; requiring proof of identification of
19 parent for consent; providing for certifications for
20 consent; establishing records requirements;
21 providing for parental notification after abortion;
22 providing exception; providing for forms developed
23 by the State Department of Health; amending Section
24 13, Chapter 200, O.S.L. 2005, as amended by Section
19, Chapter 185, O.S.L. 2006 (63 O.S. Supp. 2006,
Section 1-740.3), which relates to judicial
authorization; establishing clear and convincing
standard for waiver of notification before and after
abortion; providing for the State Department of
Health to prepare reporting forms; providing for the
content of the reporting forms; providing the time
in which the reports are due; requiring public
reports containing certain information; providing
for enforcement of reporting requirements; providing
for penalties; providing for confidentiality;
providing for conditions upon determination of
unconstitutionality; prohibiting certain persons
from performing or assisting an abortion; providing
exception; prohibiting certain fund from being used
for abortion; providing exception; defining term;
limiting coverage for elective abortions; specifying
applicable contracts; providing for codification;
and providing an effective date.

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

2 SECTION 1. AMENDATORY 63 O.S. 2001, Section 1-730, is
3 amended to read as follows:

4 Section 1-730. As used in this article:

5 1. "Abortion" means the ~~purposeful termination of a human~~
6 ~~pregnancy, by any person with an intention other than to produce a~~
7 ~~live birth or to remove a dead unborn child~~ use or prescription of
8 any instrument, medicine, drug, or any other substance or device
9 intentionally to terminate the pregnancy of a female known to be
10 pregnant with an intention other than to increase the probability of
11 a live birth, to preserve the life or health of the child after live
12 birth, to remove an ectopic pregnancy, or to remove a dead unborn
13 child who died as the result of a spontaneous miscarriage,
14 accidental trauma, or a criminal assault on the pregnant female or
15 her unborn child;

16 2. "Unborn child" means the unborn offspring of human beings
17 from the moment of conception, through pregnancy, and until live
18 birth including the human conceptus, zygote, morula, blastocyst,
19 embryo and fetus;

20 3. "Viable" means potentially able to live outside of the womb
21 of the mother upon premature birth, whether resulting from natural
22 causes or an abortion;

23 4. "Conception" means the fertilization of the ovum of a female
24 individual by the sperm of a male individual;

1 5. "Health" means physical or mental health;

2 6. "Department" means the State Department of Health;

3 7. "Inducing an abortion" means the administration by any
4 person, including the pregnant woman, of any substance designed or
5 intended to cause an expulsion of the unborn child, effecting an
6 abortion as defined above; and

7 8. Nothing contained herein shall be construed in any manner to
8 include any birth control device or medication or sterilization
9 procedure.

10 SECTION 2. AMENDATORY Section 6, Chapter 200, O.S.L.
11 2005 (63 O.S. Supp. 2006, Section 1-738.1), is amended to read as
12 follows:

13 Section 1-738.1 As used in Sections ~~6~~ 1-738.1 through ~~10~~ 1-
14 738.5 of this ~~act~~ title:

15 1. "Abortion" means the term as is defined in Section 1-730 of
16 ~~Title 63 of the Oklahoma Statutes~~ this title;

17 2. "Attempt to perform an abortion" means an act, or an
18 omission of a statutorily required act, that, under the
19 circumstances as the actor believes them to be, constitutes a
20 substantial step in a course of conduct planned to culminate in the
21 performance of an abortion in this state in violation of this act;

22 3. "Board" means the State Board of Medical Licensure and
23 Supervision;

1 4. "Medical emergency" means the existence of any physical
2 condition, not including any emotional, psychological, or mental
3 condition, which, ~~on the basis of the physician's good faith~~
4 clinical judgment, so complicates the medical condition of a
5 pregnant woman as to necessitate a reasonably prudent physician,
6 with knowledge of the case and treatment possibilities with respect
7 to the medical conditions involved, would determine necessitates the
8 immediate abortion of her the pregnancy of the female to avert her
9 death or ~~for which a delay will create serious risk of~~ to avert
10 substantial and irreversible impairment of a major bodily function
11 arising from continued pregnancy;

12 5. "Physician" means a person licensed to practice medicine in
13 this state pursuant to ~~Chapters 11 and 14~~ Sections 495 and 633 of
14 Title 59 of the Oklahoma Statutes;

15 6. "Probable gestational age of the unborn child" means what,
16 in the judgment of the physician, will with reasonable probability
17 be the gestational age of the unborn child at the time the abortion
18 is planned to be performed;

19 7. "Stable Internet web site" means a web site that, to the
20 extent reasonably practicable, is safeguarded from having its
21 content altered other than by the State Board of Medical Licensure
22 and Supervision; and

23 8. "Unborn child" means the term as is defined in Section 1-730
24 of ~~Title 63 of the Oklahoma Statutes~~ this title.

1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1-738.3a of Title 63, unless
3 there is created a duplication in numbering, reads as follows:

4 A. By February 1, 2008, the State Department of Health shall
5 prepare and make available on its stable Internet web site the form
6 described in subsection B of this section. A copy of this act shall
7 be posted on the web site. Physicians performing abortions shall
8 complete and electronically submit the required forms to the
9 Department no later than April 1 for the previous calendar year.
10 Nothing in the report shall contain the name, address, or any other
11 identifying information of any patient.

12 B. The form for physicians shall contain a listing for the
13 following information:

14 1. The number of females to whom the physician, or an agent of
15 the physician, provided the information described in Section 1-738.2
16 of Title 63 of the Oklahoma Statutes; of that number, the number
17 provided the information by telephone and the number provided the
18 information in person; and of each of those numbers, the number
19 provided the information in the capacity of a referring physician
20 and the number provided the information in the capacity of a
21 physician who is to perform the abortion; and of each of those
22 numbers, the number provided the information by the physician and
23 the number provided the information by an agent of the physician;

24

1 2. The number of females who availed themselves of the
2 opportunity to obtain a copy of the printed information described in
3 Section 1-738.3 of Title 63 of the Oklahoma Statutes other than on
4 the web site, and the number who did not; and of each of those
5 numbers, the number who, to the best of the information and belief
6 of the reporting physician, went on to obtain the abortion; and

7 3. The number of abortions performed by the physician in which
8 information otherwise required to be provided at least twenty-four
9 (24) hours before the abortion was not so provided because an
10 immediate abortion was necessary to avert the death of the female,
11 and the number of abortions in which the information was not so
12 provided because a delay would cause substantial and irreversible
13 impairment of a major bodily function.

14 C. The State Department of Health shall ensure that the
15 reporting forms described in subsection B of this section are
16 posted, on its stable Internet web site, within one hundred twenty
17 (120) days after the effective date of this act. The State
18 Department of Health shall notify the following of the requirements
19 of this act:

20 1. By March 1, 2008, all physicians licensed to practice in
21 this state;

22 2. Each physician who subsequently becomes newly licensed to
23 practice in this state, at the same time as official notification to
24 that physician that the physician is so licensed; and

1 3. By December 1 of each year, other than the calendar year in
2 which forms are first made available to all physicians licensed to
3 practice in this state.

4 D. By February 28 of each year following a calendar year in any
5 part of which this section was in effect, each physician who
6 provided, or whose agent provided, information to one or more
7 females in accordance with Section 1-738.2 of Title 63 of the
8 Oklahoma Statutes during the previous calendar year shall
9 electronically submit to the State Department of Health the form
10 described in subsection B of this section, with the requested data
11 entered accurately and completely.

12 E. Reports that are not electronically submitted by the end of
13 a grace period of thirty (30) days following the due date shall be
14 subject to a late fee of Five Hundred Dollars (\$500.00) for each
15 additional thirty-day period or portion of a thirty-day period the
16 reports are overdue. Any physician required to report in accordance
17 with this section who has not completed and electronically submitted
18 a report, or has electronically submitted only an incomplete report,
19 more than one (1) year following the due date, may, in an action
20 brought by the State Department of Health, be directed by a court of
21 competent jurisdiction to electronically submit a complete report
22 within a period stated by court order or be subject to sanctions for
23 civil contempt.

1 F. By June 30 of each year, the State Department of Health
2 shall prepare and make available on its stable Internet web site a
3 public report providing statistics for the previous calendar year
4 compiled from all items listed in subsection B of this section.
5 Each report shall also provide statistics for all previous calendar
6 years, adjusted to reflect any additional information from late or
7 corrected reports. The State Department of Health shall take care
8 to ensure that none of the information included in the public
9 reports could reasonably lead to the identification of any
10 individual providing or provided information in accordance with
11 subsection B of this section.

12 G. The State Department of Health may promulgate rules in
13 accordance with the Administrative Procedures Act to alter the dates
14 established by this section or consolidate the form or report
15 described in this section with other forms or reports to achieve
16 administrative convenience, fiscal savings or to reduce the burden
17 of reporting requirements, as long as reporting forms are made
18 available, on its stable Internet web site to all licensed
19 physicians in the state, and the report described in this section is
20 issued at least once every year.

21 SECTION 4. AMENDATORY Section 7, Chapter 185, O.S.L.
22 2006 (63 O.S. Supp. 2006, Section 1-738.7), is amended to read as
23 follows:
24

1 Section 1-738.7 As used in the Unborn Child Pain

2 Awareness/Prevention Act:

3 1. "Abortion" means the use or prescription of any instrument,
4 medicine, drug, or any other substance or device intentionally to
5 terminate the pregnancy of a female known to be pregnant with an
6 intention other than to increase the probability of a live birth, to
7 preserve the life or health of the child after live birth, to remove
8 an ectopic pregnancy, or to remove a dead fetus who dies as the
9 result of a spontaneous miscarriage, accidental trauma or a criminal
10 assault on the pregnant female or her unborn child;

11 2. "Attempt to perform an abortion" means an act, or an
12 omission of a statutorily required act that, under the circumstances
13 as the actor believes them to be, constitutes a substantial step in
14 a course of conduct planned to culminate in the performance of an
15 abortion in Oklahoma in violation of the Unborn Child Pain
16 Awareness/Prevention Act;

17 3. "Unborn child" means a member of the species homo sapiens
18 from fertilization until birth;

19 4. "Medical emergency" means the existence of any physical
20 condition, not including any emotional, psychological, or mental
21 condition, which, on the basis of the good faith clinical judgment
22 of a reasonably prudent physician, so complicates the medical
23 condition of a pregnant female as to necessitate with knowledge of
24 the case and treatment possibilities with respect to the medical

1 conditions involved, would determine necessitates the immediate
2 abortion of the pregnancy of the female to avert the her death of
3 ~~the pregnant female or for which a delay will create serious risk of~~
4 to avert substantial and irreversible impairment of a major bodily
5 function arising from continued pregnancy;

6 5. "Physician" means a person licensed to practice medicine in
7 this state pursuant to ~~Chapters 11 and 14~~ Sections 495 and 633 of
8 Title 59 of the Oklahoma Statutes; and

9 6. "Probable gestational age" means the gestational age of the
10 unborn child at the time the abortion is planned to be performed, as
11 determined by the physician using reasonable probability.

12 SECTION 5. AMENDATORY Section 11, Chapter 200, O.S.L.
13 2005 (63 O.S. Supp. 2006, Section 1-740.1), is amended to read as
14 follows:

15 Section 1-740.1 As used in Sections ~~11~~ 1-740.1 through ~~15~~ 1-
16 740.5 of this ~~act~~ title:

17 1. "Abortion" means the term as is defined in Section 1-730 of
18 ~~Title 63 of the Oklahoma Statutes~~ this title;

19 2. "Medical emergency" means the existence of any physical
20 condition, not including any emotional, psychological, or mental
21 condition, which a reasonably prudent physician, with knowledge of
22 the case and treatment possibilities with respect to the medical
23 conditions involved, would determine necessitates the immediate
24 abortion of the pregnancy of the minor in order to avert her death

1 or to avert substantial and irreversible impairment of a major
2 bodily function arising from continued pregnancy, and there is
3 insufficient time to provide the required notice and obtain the
4 written informed consent of one parent;

5 3. "Parent" means one parent of the pregnant unemancipated
6 minor or guardian if the pregnant unemancipated minor has one; and

7 ~~3.~~ 4. "Unemancipated minor" means any person ~~under~~ less than
8 eighteen (18) years of age who is not or has not been married or who
9 is under the care, custody and control of the person's parent or
10 parents, guardian or juvenile court of competent jurisdiction.

11 SECTION 6. AMENDATORY Section 12, Chapter 200, O.S.L.
12 2005, as amended by Section 18, Chapter 185, O.S.L. 2006 (63 O.S.
13 Supp. 2006, Section 1-740.2), is amended to read as follows:

14 Section 1-740.2 A. Except in the case of a medical emergency,
15 a physician may not perform an abortion on a pregnant female unless
16 the physician has:

17 1. Obtained proof of age demonstrating that the female is not a
18 minor;

19 2. Obtained proof that the female, although a minor, is
20 emancipated; or

21 3. Complied with Section 1-740.3 of this title.

22 B. No abortion shall be performed upon an unemancipated minor
23 or upon a female for whom a guardian has been appointed pursuant to
24 Section 1-113 of Title 30 of the Oklahoma Statutes because of a

1 finding of incompetency, except in a medical emergency or where a
2 judicial waiver was obtained pursuant to Section 1-740.3 of this
3 title, until at least forty-eight (48) hours after written notice of
4 the pending abortion has been delivered in the manner specified in
5 this subsection and the attending physician has secured proof of
6 identification and the written informed consent of one parent.

7 1. The notice and request for written informed consent of one
8 parent shall be addressed to the parent at the usual place of abode
9 of the parent and delivered personally to the parent by the
10 physician or an agent.

11 2. In lieu of the delivery required by paragraph 1 of this
12 subsection, the notice and request for written informed consent of
13 one parent shall be made by certified mail addressed to the parent
14 at the usual place of abode of the parent with return-receipt
15 requested and restricted delivery to the addressee, which means a
16 postal employee can only deliver the mail to the authorized
17 addressee. Time of delivery shall be deemed to occur at 12 noon on
18 the next day on which regular mail delivery takes place, subsequent
19 to mailing, ~~or~~. The information concerning the address of the
20 parent shall be that which a reasonable and prudent person, under
21 similar circumstances, would have relied upon as sufficient evidence
22 that the parent resides at that address.

23 3. a. The parent entitled to notice and consent ~~certifies~~
24 shall provide to the physician a copy of proof of

1 identification, and shall certify in a signed, dated,
2 and notarized statement that he or she has been
3 notified and consents to the abortion. The signed,
4 dated, and notarized statement shall include: "I
5 certify that I, (insert name of parent), am the parent
6 of (insert name of minor daughter) and give consent
7 for (insert name of physician) to perform an abortion
8 on my daughter. I understand that any person who
9 knowingly makes a fraudulent statement in this regard
10 commits a felony."

11 b. The physician shall keep a copy of the proof of
12 identification of the parent and the certified
13 statement in the medical file of the minor for five
14 (5) years past the majority of the minor, but in no
15 event less than seven (7) years.

16 c. A physician receiving parental consent under this
17 section shall execute for inclusion in the medical
18 record of the minor an affidavit stating: "I, (insert
19 name of physician), certify that according to my best
20 information and belief, a reasonable person under
21 similar circumstances would rely on the information
22 presented by both the minor and her parent as
23 sufficient evidence of identity."

1 ~~B.~~ C. No notice or request for written informed consent of one
2 parent shall be required under this section if one of the following
3 conditions is met:

4 1. The attending physician certifies in the medical records of
5 the pregnant unemancipated minor that ~~the abortion is necessary to~~
6 ~~prevent the death of the minor and there is insufficient time to~~
7 ~~provide the required notice and obtain the written informed consent~~
8 ~~of one parent; or~~

9 ~~2.~~ ~~The attending physician certifies that~~ a medical emergency
10 exists and ~~that a delay will create serious risk of substantial and~~
11 ~~irreversible impairment of a major bodily function; provided,~~
12 however, that the attending physician or an agent shall, within
13 twenty-four (24) hours after completion of the abortion, notify one
14 of the parents of the minor in the manner provided in Section 1-
15 740.2 of this title that an emergency abortion was performed on the
16 minor and of the circumstances that warranted invocation of this
17 paragraph; or

18 ~~3.~~ 2. The unemancipated minor declares that she is the victim
19 of sexual abuse, as defined in Section 7102 of Title 10 of the
20 Oklahoma Statutes and the attending physician has notified local law
21 enforcement or the Department of Human Services about the alleged
22 sexual abuse.

23 ~~C.~~ D. 1. Unless the unemancipated minor gives notice of her
24 intent to seek a judicial waiver pursuant to Section 1-740.3 of this

1 title, the attending physician, or the agent of the physician, shall
2 verbally inform the parent of the minor within twenty-four (24)
3 hours after the performance of a medical emergency abortion or an
4 abortion that was performed to prevent her death that an abortion
5 was performed on the unemancipated minor. The attending physician,
6 or the agent of the attending physician, shall also inform the
7 parent of the basis for the certification of the physician required
8 under paragraph 1 or 2 of subsection C of this section. The
9 attending physician, or the agent of the attending physician, shall
10 also send a written notice of the performed abortion via the United
11 States Post Office to the last-known address of the parent,
12 restricted delivery, return receipt requested. The information
13 concerning the address of the parent shall be that which a
14 reasonable and prudent person, under similar circumstances, would
15 have relied upon as sufficient evidence that the parent resides at
16 that address.

17 2. If the unemancipated minor gives notice to the attending
18 physician, or an agent of the physician, of her intent to seek a
19 judicial waiver pursuant to Section 1-740.3 of this title, the
20 physician, or an agent of the physician, shall file a notice with
21 any judge of a court of competent jurisdiction that the minor has
22 given such notice and shall provide the information the physician,
23 or the agent of the physician, would have been required to provide
24 the parent under paragraph 1 of this subsection if the unemancipated

1 minor had not given notice of her intent to seek a judicial waiver.
2 The court shall expeditiously schedule a conference with notice to
3 the minor and the physician. If the minor is able to participate in
4 the proceedings, the court shall advise the minor that she has the
5 right to court-appointed counsel and shall, upon her request,
6 provide the minor with such counsel. If the minor is unable to
7 participate, the court shall appoint counsel on behalf of the minor.
8 After an appropriate hearing, the court, taking into account the
9 medical condition of the minor, shall set a deadline by which the
10 minor must file a petition or motion pursuant to Section 1-740.3 of
11 this title. The court may subsequently extend the deadline in light
12 of the medical condition of the minor or other equitable
13 considerations. If the minor does not file a petition or motion by
14 the deadline, either in that court or in another court of competent
15 jurisdiction with a copy filed in that court, the court shall direct
16 that the court clerk provide the notice to a parent.

17 E. The State Board of Health shall adopt the forms necessary
18 for physicians to obtain the ~~consent of one parent required for an~~
19 ~~abortion to be performed on an unemancipated minor pursuant to~~
20 ~~subsection A of this section. The form executed to obtain consent~~
21 ~~must be retained by the physician for a period of not less than five~~
22 ~~(5) years~~ certifications required by this section.

23
24

1 SECTION 7. AMENDATORY Section 13, Chapter 200, O.S.L.
2 2005, as amended by Section 19, Chapter 185, O.S.L. 2006 (63 O.S.
3 Supp. 2006, Section 1-740.3), is amended to read as follows:

4 Section 1-740.3 A. If a pregnant unemancipated minor elects
5 not to allow the notification and request for written informed
6 consent of her parent, any judge of a court of competent
7 jurisdiction shall, upon petition or motion, and after an
8 appropriate hearing, authorize a physician to perform the abortion
9 if the judge determines, by clear and convincing evidence, that the
10 pregnant unemancipated minor is mature and capable of giving
11 informed consent to the proposed abortion. If the judge determines
12 that the pregnant unemancipated minor is not mature, or if the
13 pregnant unemancipated minor does not claim to be mature, the judge
14 shall determine, by clear and convincing evidence, whether the
15 performance of an abortion upon her without notification and written
16 informed consent of her parent would be in her best interest and
17 shall authorize a physician to perform the abortion without
18 notification and written informed consent if the judge concludes
19 that the best interests of the pregnant unemancipated minor would be
20 served thereby.

21 B. If the unemancipated minor, upon whom a medical emergency
22 abortion or an abortion to prevent her death was performed, elects
23 not to allow the notification of her parent, any judge of a court of
24 competent jurisdiction shall, upon petition or motion and after an

1 appropriate hearing, authorize the waiving of the required notice of
2 the performed abortion if the judge determines, by clear and
3 convincing evidence, that the unemancipated minor is mature and
4 capable of determining whether notification should be given, or that
5 the waiver would be in the best interest of the unemancipated minor.

6 C. A pregnant unemancipated minor may participate in
7 proceedings in the court on her own behalf, and the court may
8 appoint a guardian ad litem for her. The court shall advise the
9 pregnant unemancipated minor that she has a right to court-appointed
10 counsel and, upon her request, shall provide her with counsel.

11 ~~C.~~ D. Proceedings in the court under this section shall be
12 confidential and shall be given precedence over other pending
13 matters so that the court may reach a decision promptly and without
14 delay so as to serve the best interests of the pregnant
15 unemancipated minor. A judge of the court who conducts proceedings
16 under this section shall make, in writing, specific factual findings
17 and legal conclusions supporting the decision and shall order a
18 record of the evidence to be maintained, including the findings and
19 conclusions of the court.

20 ~~D.~~ E. An expedited confidential appeal shall be available to
21 any pregnant unemancipated minor for whom the court denies an order
22 authorizing an abortion without notification and written informed
23 consent of one parent. An order authorizing an abortion without
24 notification and written informed consent of one parent shall not be

1 subject to appeal. No filing fees shall be required of any pregnant
2 unemancipated minor at either the trial or the appellate level.
3 Access to the trial court for the purpose of a petition or motion,
4 and access to the appellate courts for the purpose of making an
5 appeal from the denial of same, shall be afforded a pregnant
6 unemancipated minor twenty-four (24) hours a day, seven (7) days a
7 week.

8 SECTION 8. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 1-740.4a of Title 63, unless
10 there is created a duplication in numbering, reads as follows:

11 A. Any physician performing an abortion upon an unemancipated
12 minor shall complete and electronically transmit to the State
13 Department of Health a report of the procedure within thirty (30)
14 days after having performed the abortion. Within ninety (90) days
15 after this act becomes law, the State Department of Health shall
16 prepare and make available on its stable Internet web site the
17 reporting forms for this purpose to all physicians required to be
18 licensed in this state and health facilities licensed in accordance
19 with Section 1-702 of Title 63 of the Oklahoma Statutes. The
20 reporting form regarding the minor receiving the abortion shall
21 include, but not be limited to:

- 22 1. Age;
- 23 2. Educational level;
- 24 3. Number of previous pregnancies;

- 1 4. Number of previous live births;
- 2 5. Number of previous abortions;
- 3 6. Complications, if any, of the abortion being reported;
- 4 7. The city and county in which the abortion was performed;
- 5 8. Whether a parent gave consent to the physician, or an agent
6 of the physician, pursuant to Section 1-740.2 of Title 63 of the
7 Oklahoma Statutes; or
- 8 9. Whether the physician performed the abortion without first
9 obtaining the consent of the parent of the minor as described in
10 Section 1-740.2 of Title 63 of the Oklahoma Statutes; if so:
- 11 a. whether the minor was emancipated,
- 12 b. whether the abortion was performed because of a
13 medical emergency,
- 14 c. whether the abortion was performed to prevent the
15 death of the minor,
- 16 d. whether the parent was notified after the performance
17 of a medical emergency abortion, and
- 18 e. whether the parent was notified after the performance
19 of an abortion to prevent the death of the minor;
- 20 10. Whether a judicial waiver was obtained after the
21 performance of a medical emergency abortion; and
- 22 11. Whether a judicial waiver was obtained after the
23 performance of an abortion to prevent the death of the minor.
- 24

1 B. The State Department of Health shall ensure that the
2 reporting forms described in this section, together with a reprint
3 of this act, are posted on its stable Internet web site, within one
4 hundred twenty (120) days after the effective date of this act. The
5 State Department of Health shall notify:

6 1. Each physician who subsequently becomes newly licensed to
7 practice in this state, simultaneously with the receipt of official
8 notification to that physician that the physician is so licensed, of
9 the requirements of this act; and

10 2. By December 1 of every year, other than the calendar year in
11 which forms are made available in accordance with subsection A of
12 this section, all physicians licensed to practice in this state.

13 C. By February 28 of each year following a calendar year in any
14 part of which this act was in effect, each physician, or agent of a
15 physician, who obtained the consent described in Section 1-740.2 of
16 Title 63 of the Oklahoma Statutes, and any physician who knowingly
17 performed an abortion upon a pregnant minor or upon a female for
18 whom a guardian or conservator had been appointed pursuant to
19 applicable federal law or as provided by Section 1-113 of Title 30
20 of the Oklahoma Statutes because of incompetency during the previous
21 calendar year shall complete and electronically submit to the State
22 Department of Health the form described in subsection A of this
23 section, with the requested data entered accurately and completely.
24 Any such report shall not contain the name, address, or other

1 information by which the minor receiving the abortion may be
2 identified.

3 D. Reports that are not submitted by the end of a grace period
4 of thirty (30) days following the due date shall be subject to a
5 late fee of Five Hundred Dollars (\$500.00) for each additional
6 thirty-day period or portion of a thirty-day period the reports are
7 overdue. Any physician required to report in accordance with this
8 section who has not electronically submitted a report, or has
9 electronically submitted only an incomplete report, more than one
10 (1) year following the due date, may, in an action brought by the
11 State Department of Health, be directed by a court of competent
12 jurisdiction to submit a complete report within a period stated by
13 court order or be subject to sanctions for civil contempt.

14 E. By June 30 of each year, the State Department of Health
15 shall post, on its stable Internet web site, a public report
16 providing statistics for the previous calendar year compiled from
17 all of the reports covering that year submitted in accordance with
18 this section for each of the items listed in subsection A of this
19 section. The report shall also include statistics giving the total
20 number of petitions or motions filed under Section 1-740.3 of Title
21 63 of the Oklahoma Statutes and of that number:

- 22 1. The number in which the court appointed a guardian ad litem;
- 23 2. The number in which the court appointed counsel;

24

1 3. The number in which the judge issued an order authorizing an
2 abortion without notification; and

3 4. The number in which the judge denied such an order, and of
4 this:

- 5 a. the number of denials from which an appeal was filed,
- 6 b. the number of the appeals that resulted in the denial
7 being affirmed, and
- 8 c. the number of appeals that resulted in reversals of
9 the denials.

10 Each report shall also provide the statistics for all previous
11 calendar years for which the public statistical report was required
12 to be issued, adjusted to reflect any additional information from
13 late or corrected reports. The State Department of Health shall
14 take care to ensure that none of the information included in the
15 public reports could reasonably lead to the identification of any
16 individual female.

17 F. The State Department of Health may promulgate rules in
18 accordance with the Administrative Procedures Act to alter the dates
19 established by this section or consolidate the forms or reports to
20 achieve administrative convenience, fiscal savings, or to reduce the
21 burden of reporting requirements, as long as reporting forms are
22 made available on its web site, to all licensed physicians in the
23 state at least once every year and the report described in
24 subsection E of this section is posted at least once every year.

1 G. If the State Department of Health fails to post the public
2 report required by subsection E of this section, an action may be
3 initiated pursuant to Title 12 of the Oklahoma Statutes.

4 H. If judgment is rendered in favor of the plaintiff in any
5 action described in this section, the court shall also render
6 judgment for a reasonable attorney fee in favor of the plaintiff
7 against the defendant. If judgment is rendered in favor of the
8 defendant and the court finds that the plaintiff's suit was
9 frivolous and brought in bad faith, the court shall also render
10 judgment for a reasonable attorney fee in favor of the defendant
11 against the plaintiff.

12 SECTION 9. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 1-740.4b of Title 63, unless
14 there is created a duplication in numbering, reads as follows:

15 A. A person who knowingly or recklessly uses a false
16 governmental record or makes a fraudulent representation or
17 statement in order to obtain an abortion for a minor in violation of
18 this act commits a felony.

19 B. A physician who intentionally or knowingly performs an
20 abortion on a pregnant unemancipated minor in violation of this act
21 commits a felony.

22 C. 1. It is a defense to prosecution under subsection B of
23 this section if the person falsely representing himself or herself
24 as the parent or guardian of the minor displayed an apparently valid

1 governmental record of identification such that a reasonable person,
2 under similar circumstances, would have relied on the
3 representation.

4 2. The defense does not apply if the physician, or agent of the
5 physician, failed to use due diligence in determining the age of the
6 minor or the identity of the person represented as the parent or
7 guardian of the minor.

8 D. An unemancipated minor, or the parent of the minor, upon
9 whom an abortion has been performed, or attempted to be performed,
10 without complying with this act may maintain a cause of action
11 against the person who performed, or attempted to perform, the
12 abortion.

13 E. It is not a defense to a claim brought pursuant to this
14 section that the minor gave informed and voluntary consent.

15 F. An unemancipated minor does not have the capacity to consent
16 to any action that violates this act.

17 SECTION 10. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 1-740.6 of Title 63, unless
19 there is created a duplication in numbering, reads as follows:

20 If any court of law enjoins, suspends, or delays the
21 implementation of the provisions of this act, the provisions of
22 Sections 1-730, 1-738.1, 1-738.7, 1-740.1, 1-740.2 and 1-740.3 of
23 Title 63 of the Oklahoma Statutes, as of December 31, 2006, are
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1 effective during the injunction, suspension, or delayed
2 implementation.

3 SECTION 11. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1-741.1 of Title 63, unless
5 there is created a duplication in numbering, reads as follows:

6 A. It shall be unlawful for any person employed by this state
7 or any agency or political subdivision thereof, within the scope of
8 the person's employment, to perform or assist an abortion not
9 necessary to save the life of the mother except when the pregnancy
10 resulted from an act of forcible rape which was reported to the
11 proper law enforcement authorities or when the pregnancy resulted
12 from an act of incest committed against a minor and the perpetrator
13 has been reported to the proper law enforcement authorities. It
14 shall be unlawful for any public institution, public facility,
15 public equipment, or other physical asset owned, leased or
16 controlled by this state or any agency or political subdivisions
17 thereof to be used for the purpose of performing or assisting an
18 abortion not necessary to save the life of the mother except when
19 the pregnancy resulted from an act of forcible rape which was
20 reported to the proper law enforcement authorities or when the
21 pregnancy resulted from an act of incest committed against a minor
22 and the perpetrator has been reported to the proper law enforcement
23 authorities. This subsection shall not be construed to prohibit use

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1 by private entities of public utilities or the services of
2 firefighters or police.

3 B. It shall be unlawful for any funds received or controlled by
4 this state or any agency or political subdivision thereof,
5 including, but not limited to, funds derived from federal, state or
6 local taxes, gifts or grants, federal grants or payments, or
7 intergovernmental transfers, to be used to encourage a woman to have
8 an abortion not necessary to save her life, except to the extent
9 required for continued participation in a federal program. Nothing
10 in this subsection shall be construed to prohibit a physician from
11 discussing options with a patient through nondirective counseling.

12 SECTION 12. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 1-741.2 of Title 63, unless
14 there is created a duplication in numbering, reads as follows:

15 A. For purposes of this section, an "elective abortion" means
16 an abortion for any reason other than a spontaneous miscarriage or
17 to prevent the death of the female upon whom the abortion is
18 performed or when the pregnancy resulted from an act of forcible
19 rape which was reported to the proper law enforcement authorities or
20 when the pregnancy resulted from an act of incest committed against
21 a minor and the perpetrator has been reported to the proper law
22 enforcement authorities. No health insurance contracts, plans, or
23 policies delivered or issued for delivery in this state shall

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1 provide coverage for elective abortions except by an optional rider
2 for which there shall be paid an additional premium.

3 B. This section shall be applicable to all contracts, plans, or
4 policies of:

5 1. All nonprofit hospital, medical, surgical, dental, and
6 health service corporations;

7 2. All health insurers subject to the laws of this state; and

8 3. All health maintenance organizations.

9 C. This section shall be applicable only to contracts, plans,
10 or policies written, issued, renewed, or revised after November 1,
11 2007. For the purposes of this subsection, if new premiums are
12 charged for a contract, plan, or policy, it shall be determined to
13 be a new contract, plan, or policy.

14 SECTION 13. This act shall become effective November 1, 2007."

15 Passed the House of Representatives the 14th day of May, 2007.

16

17

18 _____
19 Presiding Officer of the House of
Representatives

20 Passed the Senate the ____ day of _____, 2007.

21

22

23 _____
24 Presiding Officer of the Senate