

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 1878

By: Lamb of the Senate

3 and

4 Peterson (Pam) of the
5 House

6
7
8 An Act relating to public health and safety; creating
9 the Freedom of Conscience Act; providing short title;
10 defining terms; prohibiting employers from
11 discriminating against certain persons for refusing
12 to perform specified acts based on certain beliefs;
13 making certain provisions inapplicable under certain
14 circumstances; providing defense; prohibiting forced
15 participation in specified acts by certain persons
16 under certain circumstances; providing immunity from
17 liability; providing for equitable relief and
18 damages; providing statute of limitations; providing
19 for codification; and providing an effective date.

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22 AUTHORS: Add the following House Coauthors: McCullough, Banz,
23 Billy, Cooksey, Denney, Duncan, Hamilton, McNiell,
24 Reynolds, Steele, Sullivan, Terrill, Thompson, Thomsen,
Tibbs, Trebilcock, Worthen and Wright

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

21 "An Act relating to public health and safety;
22 creating the Freedom of Conscience Act; providing
23 short title; defining terms; prohibiting employers
24 from discriminating against certain persons for
refusing to perform specified acts based on certain
beliefs; making certain provisions inapplicable
under certain circumstances; providing defense;

1 prohibiting forced participation in specified acts
2 by certain persons under certain circumstances;
3 providing immunity from liability; providing for
4 equitable relief and damages; providing statute of
5 limitations; defining terms; prohibiting the sale or
6 distribution of mifepristone except by a physician
7 in certain circumstances; requiring compliance with
8 certain federal laws; requiring the preparation of
9 written report in certain circumstances; providing
10 for inspection of certain reports; providing for
11 confidentiality of certain persons; specifying
12 exceptions; providing for civil action; authorizing
13 attorney fees; providing for certain punishment;
14 authorizing sanctions by certain licensing boards;
15 mandating certain sign posting for facilities that
16 perform, induce, or prescribe for abortions or where
17 the means for an abortion are provided; specifying
18 wording of sign; specifying typeface of sign;
19 specifying areas of sign posting; establishing
20 penalty for noncompliance; providing for certain
21 disclosure to minors; providing for certain
22 certification by minors; authorizing certain civil
23 actions; amending Section 6, Chapter 200, O.S.L.
24 2005, as amended by Section 2, Chapter 161, O.S.L.
2007 (63 O.S. Supp. 2007, Section 1-738.1), which
relates to definitions; defining term; requiring
performance of an ultrasound and explanation of the
ultrasound prior to a pregnant woman having an
abortion; providing for aversion of eyes from
ultrasound; excepting compliance with requirement in
a medical emergency; providing for certification;
requiring retention of records; providing penalty
for false certification; providing for damages;
authorizing injunctive relief; specifying persons
who may bring action for noncompliance with act;
providing penalty; providing penalties for
noncompliance with injunction; authorizing private
right of action; providing for revocation of license
or certificate; stating legislative intent; defining
terms; prohibiting recovery of damages in certain
circumstances for wrongful birth and wrongful life
actions; excepting specific circumstances; providing
for codification; and providing an effective date.

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

2 SECTION 1. NEW LAW A new section of law to be codified
3 in the Oklahoma Statutes as Section 1-728 of Title 63, unless there
4 is created a duplication in numbering, reads as follows:

5 This act shall be known and may be cited as the "Freedom of
6 Conscience Act".

7 SECTION 2. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 1-728.1 of Title 63, unless
9 there is created a duplication in numbering, reads as follows:

10 As used in the Freedom of Conscience Act:

11 1. "Health care facility" means any public or private
12 organization, corporation, authority, partnership, sole
13 proprietorship, association, agency, network, joint venture, or
14 other entity that is involved in providing health care services,
15 including a hospital, clinic, medical center, ambulatory surgical
16 center, private physician's office, pharmacy, nursing home,
17 university hospital, medical school, nursing school, medical
18 training facility, inpatient health care facility, or other place
19 where health care services are provided;

20 2. "Human embryo" means a human organism that is derived by
21 fertilization, parthenogenesis, cloning, or any other means from one
22 or more human gametes or human diploid cells;

23 3. "In vitro human embryo" means a human embryo, whether
24 cryopreserved or not, living outside of a woman's body;

1 4. "Participate in" means to perform, practice, engage in,
2 assist in, recommend, counsel in favor of, make referrals for,
3 prescribe, dispense, or administer drugs or devices or otherwise
4 promote or encourage; and

5 5. "Person" means any individual, corporation, industry, firm,
6 partnership, association, venture, trust, institution, federal,
7 state or local governmental instrumentality, agency or body or any
8 other legal entity however organized.

9 SECTION 3. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 1-728.2 of Title 63, unless
11 there is created a duplication in numbering, reads as follows:

12 An employer shall not discriminate against an employee or
13 prospective employee by refusing to reasonably accommodate the
14 religious observance or practice of the employee or prospective
15 employee, unless the employer can demonstrate that the accommodation
16 would pose an undue hardship on the program, enterprise, or business
17 of the employer, in the following circumstances:

18 1. An abortion as defined in Section 1-730 of Title 63 of the
19 Oklahoma Statutes. The provisions of this section shall not apply
20 if the pregnant woman suffers from a physical disorder, physical
21 injury, or physical illness which, as certified by a physician,
22 causes the woman to be in imminent danger of death unless an
23 abortion is immediately performed or induced and there are no other
24 competent personnel available to attend to the woman. As used in

1 this act, the term "abortion" shall not include the prescription of
2 contraceptives;

3 2. An experiment or medical procedure that destroys an in vitro
4 human embryo or uses cells or tissue derived from the destruction of
5 an in vitro human embryo;

6 3. An experiment or medical procedure on an in vitro human
7 embryo that is not related to the beneficial treatment of the in
8 vitro human embryo;

9 4. An experiment or medical procedure on a developing child in
10 an artificial womb, at any stage of development, that is not related
11 to the beneficial treatment of the developing child;

12 5. A procedure, including a transplant procedure, that uses
13 fetal tissue or organs that come from a source other than a
14 stillbirth or miscarriage; or

15 6. An act that intentionally causes or assists in causing the
16 death of an individual by assisted suicide, euthanasia, or mercy
17 killing.

18 SECTION 4. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 1-728.3 of Title 63, unless
20 there is created a duplication in numbering, reads as follows:

21 A. No health care facility is required to admit any patient or
22 to allow the use of the health care facility for the purpose of
23 performing any of the acts specified in Section 3 of this act.

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1 B. A physician, physician's assistant, registered nurse,
2 practical nurse, pharmacist, or any employee thereof, or any other
3 person who is an employee of, member of, or associated with the
4 staff of a health care facility in which the performance of an
5 activity specified in Section 3 of this act has been authorized, who
6 in writing, refuses or states an intention to refuse to participate
7 in the activity on moral or religious grounds shall not be required
8 to participate in the activity and shall not be disciplined by the
9 respective licensing board or authorized regulatory department for
10 refusing or stating an intention to refuse to participate in the
11 practice with respect to the activity.

12 C. A physician, physician's assistant, registered nurse,
13 practical nurse, pharmacist, or any employee thereof, or any other
14 person who is an employee of, member of, or associated with the
15 staff of a health care facility is immune from liability for any
16 damage caused by the refusal of the person to participate in an
17 activity specified in Section 3 of this act on moral or religious
18 grounds.

19 SECTION 5. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 1-728.4 of Title 63, unless
21 there is created a duplication in numbering, reads as follows:

22 A. No health care facility, school, or employer shall
23 discriminate against any person with regard to admission, hiring or
24 firing, tenure, term, condition, or privilege of employment, student

1 status, or staff status on the ground that the person refuses or
2 states an intention to refuse, whether or not in writing, to
3 participate in an activity specified in Section 3 of this act, if
4 the refusal is based on religious or moral precepts.

5 B. No person shall be required to:

6 1. Participate in an activity specified in Section 3 of this
7 act if the individual's participation in the activity is contrary to
8 the person's religious beliefs or moral convictions;

9 2. Make facilities available for an individual to participate
10 in an activity specified in Section 3 of this act if the person
11 prohibits the activity from taking place in the facilities on the
12 basis of religious beliefs or moral convictions; or

13 3. Provide any personnel to participate in an activity
14 specified in Section 3 of this act if the activity is contrary to
15 the religious beliefs or moral convictions of the personnel.

16 SECTION 6. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 1-728.5 of Title 63, unless
18 there is created a duplication in numbering, reads as follows:

19 A. For the purposes of this section, "damages" do not include
20 noneconomic damages, as defined in Section 1-1708.1C of Title 63 of
21 the Oklahoma Statutes.

22 B. A person who is adversely affected by conduct that is in
23 violation of the Freedom of Conscience Act may bring a civil action
24 for equitable relief, including reinstatement or damages, or both

1 reinstatement and damages. An action under this subsection may be
2 commenced against the state and any office, department, independent
3 agency, authority, institution, association, or other body in state
4 government created or authorized to be created by the state
5 constitution or any law. In an action under this subsection, the
6 court shall award reasonable attorney fees to a person who obtains
7 equitable relief, damages, or both. An action under this subsection
8 shall be commenced within one (1) year after the cause of action
9 accrues or be barred.

10 SECTION 7. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 1-729 of Title 63, unless there
12 is created a duplication in numbering, reads as follows:

13 A. As used in this section:

14 1. "Federal law" means any law, rule, or regulation of the
15 United States or any drug approval letter of the United States Food
16 and Drug Administration that governs or regulates the use of RU-486,
17 mifepristone, for the purpose of inducing abortions;

18 2. "Personal identifying information" means any information
19 designed, commonly used or capable of being used, alone or in
20 conjunction with any other information, to identify a person; and

21 3. "Physician" means a doctor of medicine or osteopathy legally
22 authorized to practice medicine in this state.

23 B. No person shall knowingly give, sell, dispense, administer,
24 prescribe or otherwise provide RU-486, also known as mifepristone,

1 for the purpose of inducing an abortion in a pregnant female, unless
2 the person who gives, sells, dispenses, administers, prescribes or
3 otherwise provides the RU-486, mifepristone, is a physician who
4 satisfies all the criteria established by federal law that a
5 physician must satisfy in order to provide RU-486, mifepristone, for
6 inducing abortions.

7 C. No physician who provides RU-486, mifepristone, for the
8 purpose of inducing an abortion shall knowingly fail to comply with
9 the applicable requirements of any federal law that pertain to
10 follow-up examinations or care for any female for whom RU-486,
11 mifepristone, is provided for the purpose of inducing an abortion.

12 D. 1. If a physician provides RU-486, mifepristone, for the
13 purpose of inducing an abortion and if the physician knows that the
14 female who uses the RU-486, mifepristone, for the purpose of
15 inducing an abortion experiences during or after the use of RU-486,
16 mifepristone, an incomplete abortion, severe bleeding, or an adverse
17 reaction to the RU-486, mifepristone, or is hospitalized, receives a
18 transfusion, or experiences any other serious event, the physician
19 shall promptly provide a written report of the incomplete abortion,
20 severe bleeding, adverse reaction, hospitalization, transfusion, or
21 serious event to the State Board of Medical Licensure and
22 Supervision or State Board of Osteopathic Examiners. The Board
23 shall compile and retain all reports it receives pursuant to this
24 subsection. Except as otherwise provided in this subsection, all

1 reports the Board receives under this subsection are public records
2 open to inspection pursuant to the Oklahoma Open Records Act;
3 however, the Board shall not release the name or any other personal
4 identifying information regarding a person who uses or provides RU-
5 486, mifepristone, for the purpose of inducing an abortion and who
6 is the subject of a report the Board receives under this subsection.

7 2. No physician who provides RU-486, mifepristone, to a
8 pregnant female for the purpose of inducing an abortion as
9 authorized under subsection B of this section shall knowingly fail
10 to file a report required under paragraph 1 of this subsection.

11 E. Subsection B of this section shall not apply to any of the
12 following:

13 1. A pregnant female who obtains or possesses RU-486,
14 mifepristone, for the purpose of inducing an abortion to terminate
15 her own pregnancy;

16 2. The legal transport of RU-486, mifepristone, by any person
17 or entity and the legal delivery of the RU-486, mifepristone, by any
18 person to the recipient. This paragraph shall not apply to any
19 conduct related to the RU-486, mifepristone, other than its
20 transport and delivery to the recipient; or

21 3. The distribution, provision, or sale of RU-486,
22 mifepristone, by any legal manufacturer or distributor of RU-486,
23 mifepristone, provided the manufacturer or distributor made a good-

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1 faith effort to comply with any applicable requirements of federal
2 law regarding the distribution, provision, or sale.

3 F. Any female upon whom an abortion has been performed without
4 this section having been complied with, the father of the unborn
5 child who was the subject of the abortion, if the father was married
6 to the woman who received the abortion at the time the abortion was
7 performed, or the maternal grandparent of the unborn child, may
8 maintain an action against the person who performed the abortion in
9 knowing or reckless violation of this section for actual and
10 punitive damages. Any female upon whom an abortion has been
11 attempted in knowing or reckless violation of this section may
12 maintain an action against the person who attempted to perform the
13 abortion for actual and punitive damages.

14 G. If judgment is rendered in favor of the plaintiff in any
15 action described in this section, the court shall also render
16 judgment for a reasonable attorney fee in favor of the plaintiff
17 against the defendant. If judgment is rendered in favor of the
18 defendant and the court finds that the plaintiff's suit was
19 frivolous and brought in bad faith, the court shall also render
20 judgment for a reasonable attorney fee in favor of the defendant
21 against the plaintiff.

22 H. Any person who violates this section, upon conviction, shall
23 be guilty of a felony. If the offender is a professionally licensed
24 health care provider, in addition to any other sanction imposed by

1 law for the offense, the offender is subject to sanctioning as
2 provided by law by the licensing board having administrative
3 authority over that professionally licensed person.

4 SECTION 8. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 1-737.1 of Title 63, unless
6 there is created a duplication in numbering, reads as follows:

7 A. Any private office, freestanding outpatient clinic, or other
8 facility or clinic in which abortions, other than abortions
9 necessary to prevent the death of the pregnant female, are
10 performed, induced, prescribed for, or where the means for an
11 abortion are provided shall conspicuously post a sign in a location
12 defined in subsection C of this section so as to be clearly visible
13 to patients, which reads:

14 Notice: It is against the law for anyone, regardless of his or
15 her relationship to you, to force you to have an abortion. By
16 law, we cannot perform, induce, prescribe for, or provide you
17 with the means for an abortion unless we have your freely given
18 and voluntary consent. It is against the law to perform,
19 induce, prescribe for, or provide you with the means for an
20 abortion against your will. You have the right to contact any
21 local or state law enforcement agency to receive protection from
22 any actual or threatened physical abuse or violence.

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1 B. The sign required pursuant to subsection A of this section
2 shall be printed with lettering that is legible and shall be at
3 least three-quarters-of-an-inch boldfaced type.

4 C. A facility in which abortions are performed, induced,
5 prescribed for, or where the means for an abortion are provided that
6 is a private office or a freestanding outpatient clinic shall post
7 the required sign in each patient waiting room and patient
8 consultation room used by patients on whom abortions are performed,
9 induced, prescribed for, or who are provided with the means for an
10 abortion. A hospital or any other facility in which abortions are
11 performed, induced, prescribed for, or where the means for an
12 abortion are provided that is not a private office or freestanding
13 outpatient clinic shall post the required sign in each patient
14 admission area used by patients on whom abortions are performed,
15 induced, prescribed for, or by patients who are provided with the
16 means for an abortion.

17 SECTION 9. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 1-737.2 of Title 63, unless
19 there is created a duplication in numbering, reads as follows:

20 A. Any private office, freestanding outpatient clinic or other
21 facility or clinic that fails to post a required sign in knowing,
22 reckless, or negligent violation of this act shall be assessed an
23 administrative fine of Ten Thousand Dollars (\$10,000.00). Each day
24 on which an abortion, other than an abortion necessary to prevent

1 the death of the pregnant female, is performed, induced, prescribed
2 for, or where the means for an abortion are provided in a private
3 office, freestanding outpatient clinic or other facility or clinic
4 in which the required sign is not posted during any portion of
5 business hours when patients or prospective patients are present is
6 a separate violation.

7 B. An action may be brought by or on behalf of an individual
8 injured by the failure to post the required sign. A plaintiff in an
9 action under this subsection may recover damages for emotional
10 distress and any other damages allowed by law.

11 C. The sanctions and actions provided in this section shall not
12 displace any sanction applicable under other law.

13 SECTION 10. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 1-737.3 of Title 63, unless
15 there is created a duplication in numbering, reads as follows:

16 A. If the pregnant female is a minor, the attending physician
17 shall orally inform the female that no one can force her to have an
18 abortion and that an abortion cannot be performed, induced,
19 prescribed for, or that the means for an abortion cannot be provided
20 unless she provides her freely given, voluntary, and informed
21 consent.

22 B. The minor female shall certify in writing, prior to the
23 performance of, induction of, receiving the prescription for, or
24 provision of the means for the abortion, that she was informed by

1 the attending physician of the required information in subsection A
2 of this section. A copy of the written certification shall be
3 placed in the minor's file and kept for at least seven (7) years or
4 for five (5) years after the minor reaches the age of majority,
5 whichever is greater.

6 SECTION 11. AMENDATORY Section 6, Chapter 200, O.S.L.
7 2005, as amended by Section 2, Chapter 161, O.S.L. 2007 (63 O.S.
8 Supp. 2007, Section 1-738.1), is amended to read as follows:

9 Section 1-738.1 As used in Sections 1-738.1 through 1-738.5 of
10 this title:

11 1. "Abortion" means the term as is defined in Section 1-730 of
12 this title;

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

18 3. "Board" means the State Board of Medical Licensure and
19 Supervision;

20 4. "Medical emergency" means the existence of any physical
21 condition, not including any emotional, psychological, or mental
22 condition, which a reasonably prudent physician, with knowledge of
23 the case and treatment possibilities with respect to the medical
24 conditions involved, would determine necessitates the immediate

1 abortion of the pregnancy of the female to avert her death or to
2 avert substantial and irreversible impairment of a major bodily
3 function arising from continued pregnancy;

4 5. "Physician" means a person licensed to practice medicine in
5 this state pursuant to Sections 495 and 633 of Title 59 of the
6 Oklahoma Statutes;

7 6. "Probable gestational age of the unborn child" means what,
8 in the judgment of the physician, will with reasonable probability
9 be the gestational age of the unborn child at the time the abortion
10 is planned to be performed;

11 7. "Stable Internet web site" means a web site that, to the
12 extent reasonably practicable, is safeguarded from having its
13 content altered other than by the State Board of Medical Licensure
14 and Supervision; ~~and~~

15 8. "Unborn child" means the term as is defined in Section 1-730
16 of this title; and

17 9. "Woman" means a female human being whether or not she has
18 reached the age of majority.

19 SECTION 12. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 1-738.3b of Title 63, unless
21 there is created a duplication in numbering, reads as follows:

22 A. Any abortion provider who knowingly performs any abortion
23 shall comply with the requirements of this section.

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1 B. In order for the woman to make an informed decision, at
2 least one (1) hour prior to a woman having any part of an abortion
3 performed or induced, and prior to the administration of any
4 anesthesia or medication in preparation for the abortion on the
5 woman, the physician who is to perform or induce the abortion, or
6 the certified technician working in conjunction with the physician,
7 shall:

8 1. Perform an obstetric ultrasound on the pregnant woman, using
9 either a vaginal transducer or an abdominal transducer, whichever
10 would display the embryo or fetus more clearly;

11 2. Provide a simultaneous explanation of what the ultrasound is
12 depicting;

13 3. Display the ultrasound images so that the pregnant woman may
14 view them;

15 4. Provide a medical description of the ultrasound images,
16 which shall include the dimensions of the embryo or fetus, the
17 presence of cardiac activity, if present and viewable, and the
18 presence of external members and internal organs, if present and
19 viewable; and

20 5. Obtain a written certification from the woman, prior to the
21 abortion, that the requirements of subsection B have been complied
22 with; and

23 6. Retain a copy of the written certification prescribed by
24 paragraph 5 of this subsection. The certification shall be placed

1 in the medical file of the woman and shall be kept by the abortion
2 provider for a period of not less than seven (7) years. If the
3 woman is a minor, then the certification shall be placed in the
4 medical file of the minor and kept for at least seven (7) years or
5 for five (5) years after the minor reaches the age of majority,
6 whichever is greater.

7 C. Nothing in this section shall be construed to prevent a
8 pregnant woman from averting her eyes from the ultrasound images
9 required to be provided to and reviewed with her. Neither the
10 physician nor the pregnant woman shall be subject to any penalty if
11 she refuses to look at the presented ultrasound images.

12 D. Upon a determination by an abortion provider that a medical
13 emergency, as defined in Section 1-738.1 of Title 63 of the Oklahoma
14 Statutes, exists with respect to a pregnant woman, the provider
15 shall certify in writing the specific medical conditions that
16 constitute the emergency. The certification shall be placed in the
17 medical file of the woman and shall be kept by the abortion provider
18 for a period of not less than seven (7) years. If the woman is a
19 minor, then the certification shall be placed in the medical file of
20 the minor and kept for at least seven (7) years or for five (5)
21 years after the minor reaches the age of majority, whichever is
22 greater.

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1 E. An abortion provider who willfully falsifies a certification
2 under subsection D of this section shall be subject to all penalties
3 provided for under Section 13 of this act.

4 SECTION 13. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 1-738.3c of Title 63, unless
6 there is created a duplication in numbering, reads as follows:

7 A. An abortion provider who knowingly violates a provision of
8 Section 12 of this act shall be liable for damages as provided in
9 this section and may be enjoined from such acts in accordance with
10 this section in an appropriate court.

11 B. A cause of action for injunctive relief against any person
12 who has knowingly violated a provision of Section 12 of this act may
13 be maintained by the woman upon whom an abortion was performed or
14 attempted to be performed in violation of this act; any person who
15 is the spouse, parent, sibling or guardian of, or a current or
16 former licensed health care provider of, the female upon whom an
17 abortion has been performed or attempted to be performed in
18 violation of this act; by a district attorney with appropriate
19 jurisdiction; or by the Attorney General. The injunction shall
20 prevent the abortion provider from performing further abortions in
21 violation of this act in the State of Oklahoma.

22 C. Any person who knowingly violates the terms of an
23 injunction issued in accordance with this section shall be subject
24 to civil contempt, and shall be fined Ten Thousand Dollars

1 (\$10,000.00) for the first violation, Fifty Thousand Dollars
2 (\$50,000.00) for the second violation, One Hundred Thousand Dollars
3 (\$100,000.00) for the third violation, and for each succeeding
4 violation an amount in excess of One Hundred Thousand Dollars
5 (\$100,000.00) that is sufficient to deter future violations. The
6 fines shall be the exclusive penalties for such contempt. Each
7 performance or attempted performance of an abortion in violation of
8 the terms of an injunction is a separate violation. These fines
9 shall be cumulative. No fine shall be assessed against the woman on
10 whom an abortion is performed or attempted.

11 D. A pregnant woman upon whom an abortion has been performed in
12 violation of Section 12 of this act, or the parent or legal guardian
13 of the woman if she is an unemancipated minor, as defined in Section
14 1-740.1 of Title 63 of the Oklahoma Statutes, may commence a civil
15 action against the abortion provider for any knowing or reckless
16 violation of this act for actual and punitive damages.

17 E. An abortion provider who performed an abortion in violation
18 of Section 12 of this act shall be considered to have engaged in
19 unprofessional conduct for which the provider's certificate or
20 license to provide health care services in this state may be
21 suspended or revoked by the State Board of Medical Licensure and
22 Supervision or the State Board of Osteopathic Examiners.

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1 SECTION 14. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1-741.11 of Title 63, unless
3 there is created a duplication in numbering, reads as follows:

4 A. It is the intent of the Legislature that the birth of a
5 child does not constitute a legally recognizable injury and that it
6 is contrary to public policy to award damages because of the birth
7 of a child or for the rearing of that child.

8 B. For the purposes of this section:

9 1. "Abortion" means the term as is defined in Section 1-730 of
10 Title 63 of the Oklahoma Statutes;

11 2. "Wrongful life action" means a cause of action that is
12 brought by or on behalf of a child, which seeks economic or
13 noneconomic damages for the child because of a condition of the
14 child that existed at the time of the child's birth, and which is
15 based on a claim that a person's act or omission contributed to the
16 mother's not having obtained an abortion; and

17 3. "Wrongful birth action" means a cause of action that is
18 brought by a parent or other person who is legally required to
19 provide for the support of a child, which seeks economic or
20 noneconomic damages because of a condition of the child that existed
21 at the time of the child's birth, and which is based on a claim that
22 a person's act or omission contributed to the mother's not having
23 obtained an abortion.

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1 C. In a wrongful life action or a wrongful birth action, no
2 damages may be recovered for any condition that existed at the time
3 of a child's birth if the claim is that the defendant's act or
4 omission contributed to the mother's not having obtained an
5 abortion.

6 D. This section shall not preclude causes of action based on
7 claims that, but for a wrongful act or omission, maternal death or
8 injury would not have occurred, or handicap, disease, or disability
9 of an individual prior to birth would have been prevented, cured, or
10 ameliorated in a manner that preserved the health and life of the
11 affected individual.

12 SECTION 15. This act shall become effective November 1, 2008."

13 Passed the House of Representatives the 2nd day of April, 2008.

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16 _____
17 Presiding Officer of the House of
Representatives

18 Passed the Senate the ____ day of _____, 2008.

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22 Presiding Officer of the Senate

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