

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 714

By: Williamson, Jolley,  
Mazzei, Johnson (Mike),  
3 Reynolds, Bingman,  
4 Barrington, Myers, Branan,  
5 Schulz, Sykes, Aldridge,  
Brown, Laughlin, Coffee,  
Wilcoxson, Brogdon and  
Lamb of the Senate

6  
7 and

8 Wright of the House  
9  
10

11 ( public health and safety - modifying definition -  
12 requiring provisions to remain effective -  
13 prohibiting certain persons from performing or  
14 assisting an abortion - prohibiting certain funds  
15 from being used - codification -

16 effective date )  
17  
18  
19

20 AUTHORS: Add the following House Coauthors: Blackwell, Duncan,  
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22 Peterson (Pam), Reynolds, Sullivan and Terrill

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

1 "An Act relating to abortion; amending 63 O.S. 2001,  
2 Section 1-730, which relates to abortion; expanding  
3 certain definition; amending Section 6, Chapter 200,  
4 O.S.L. 2005 (63 O.S. Supp. 2006, Section 1-738.1),  
5 which relates to voluntary and informed consent to  
6 abortion; modifying certain definition; providing  
7 for the State Department of Health to prepare and  
8 make available certain reporting forms; providing  
9 for the content of the reporting forms; providing  
10 for the time in which the reports are due; requiring  
11 public reports containing certain information;  
12 providing for enforcement of reporting requirements;  
13 providing for penalties; providing for  
14 confidentiality; authorizing promulgation of certain  
15 rules; amending Section 7, Chapter 185, O.S.L. 2006  
16 (63 O.S. Supp. 2006, Section 1-738.7), which relates  
17 to the Unborn Child Pain Awareness/Prevention Act;  
18 modifying certain definitions; amending Section 11,  
19 Chapter 200, O.S.L. 2005 (63 O.S. Supp. 2006,  
20 Section 1-740.1), which relates to abortion; adding  
21 definition; amending Section 12, Chapter 200, O.S.L.  
22 2005, as amended by Section 18, Chapter 185, O.S.L.  
23 2006 (63 O.S. Supp. 2006, Section 1-740.2), which  
24 relates to notification and consent of parent;  
requiring proof of age, emancipation, or judicial  
waiver before performing abortion; providing  
exception; requiring proof of identification of  
parent for consent; providing for certifications for  
consent; establishing records requirements;  
providing for parental notification after abortion;  
providing exception; providing for forms developed  
by the State Department of Health; amending Section  
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;

1 prohibiting certain fund from being used for  
2 abortion; defining term; limiting coverage for  
3 elective abortions; specifying applicable contracts;  
4 providing for codification; and providing an  
5 effective date.

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

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

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

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

21 2. "Unborn child" means the unborn offspring of human beings  
22 from the moment of conception, through pregnancy, and until live  
23 birth including the human conceptus, zygote, morula, blastocyst,  
24 embryo and fetus;

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

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

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

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

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

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

15           SECTION 2.           AMENDATORY           Section 6, Chapter 200, O.S.L.  
16 2005 (63 O.S. Supp. 2006, Section 1-738.1), is amended to read as  
17 follows:

18           Section 1-738.1 As used in Sections ~~6~~ 1-738.1 through ~~to~~ 1-  
19 738.5 of this ~~act~~ title:

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

22           2. "Attempt to perform an abortion" means an act, or an  
23 omission of a statutorily required act, that, under the  
24 circumstances as the actor believes them to be, constitutes a

1 substantial step in a course of conduct planned to culminate in the  
2 performance of an abortion in this state in violation of this act;

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

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

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

19 6. "Probable gestational age of the unborn child" means what,  
20 in the judgment of the physician, will with reasonable probability  
21 be the gestational age of the unborn child at the time the abortion  
22 is planned to be performed;

23 7. "Stable Internet web site" means a web site that, to the  
24 extent reasonably practicable, is safeguarded from having its

1 content altered other than by the State Board of Medical Licensure  
2 and Supervision; and

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

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

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

16 B. The form for physicians shall contain a listing for the  
17 following information:

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

1 physician who is to perform the abortion; and of each of those  
2 numbers, the number provided the information by the physician and  
3 the number provided the information by an agent of the physician;

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

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

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

23 1. By March 1, 2008, all physicians licensed to practice in  
24 this state;

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

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

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

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

1 within a period stated by court order or be subject to sanctions for  
2 civil contempt.

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

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

23

24

1 SECTION 4. AMENDATORY Section 7, Chapter 185, O.S.L.  
2 2006 (63 O.S. Supp. 2006, Section 1-738.7), is amended to read as  
3 follows:

4 Section 1-738.7 As used in the Unborn Child Pain  
5 Awareness/Prevention Act:

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

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

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

22 4. "Medical emergency" means the existence of any physical  
23 condition, not including any emotional, psychological, or mental  
24 condition, ~~which, on the basis of the good faith clinical judgment~~

1 ~~of a reasonably prudent physician, so complicates the medical~~  
2 ~~condition of a pregnant female as to necessitate~~ with knowledge of  
3 the case and treatment possibilities with respect to the medical  
4 conditions involved, would determine necessitates the immediate  
5 abortion of the pregnancy of the female to avert ~~the~~ her death ~~of~~  
6 ~~the pregnant female or for which a delay will create serious risk of~~  
7 to avert substantial and irreversible impairment of a major bodily  
8 function arising from continued pregnancy;

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

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

15 SECTION 5. AMENDATORY Section 11, Chapter 200, O.S.L.  
16 2005 (63 O.S. Supp. 2006, Section 1-740.1), is amended to read as  
17 follows:

18 Section 1-740.1 As used in Sections ~~11~~ 1-740.1 through ~~15~~ 1-  
19 740.5 of this ~~act~~ title:

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

22 2. "Medical emergency" means the existence of any physical  
23 condition, not including any emotional, psychological, or mental  
24 condition, which a reasonably prudent physician, with knowledge of

1 the case and treatment possibilities with respect to the medical  
2 conditions involved, would determine necessitates the immediate  
3 abortion of the pregnancy of the minor in order to avert her death  
4 or to avert substantial and irreversible impairment of a major  
5 bodily function arising from continued pregnancy, and there is  
6 insufficient time to provide the required notice and obtain the  
7 written informed consent of one parent;

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

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

14 SECTION 6. AMENDATORY Section 12, Chapter 200, O.S.L.  
15 2005, as amended by Section 18, Chapter 185, O.S.L. 2006 (63 O.S.  
16 Supp. 2006, Section 1-740.2), is amended to read as follows:

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

20 1. Obtained proof of age demonstrating that the female is not a  
21 minor;

22 2. Obtained proof that the female, although a minor, is  
23 emancipated; or

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

1        B. No abortion shall be performed upon an unemancipated minor  
2 or upon a female for whom a guardian has been appointed pursuant to  
3 Section 1-113 of Title 30 of the Oklahoma Statutes because of a  
4 finding of incompetency, except in a medical emergency or where a  
5 judicial waiver was obtained pursuant to Section 1-740.3 of this  
6 title, until at least forty-eight (48) hours after written notice of  
7 the pending abortion has been delivered in the manner specified in  
8 this subsection and the attending physician has secured proof of  
9 identification and the written informed consent of one parent.

10        1. The notice and request for written informed consent of one  
11 parent shall be addressed to the parent at the usual place of abode  
12 of the parent and delivered personally to the parent by the  
13 physician or an agent~~+~~.

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

24

1 similar circumstances, would have relied upon as sufficient evidence  
2 that the parent resides at that address.

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

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

20 c. A physician receiving parental consent under this  
21 section shall execute for inclusion in the medical  
22 record of the minor an affidavit stating: "I, (insert  
23 name of physician), certify that according to my best  
24 information and belief, a reasonable person under

1           similar circumstances would rely on the information  
2           presented by both the minor and her parent as  
3           sufficient evidence of identity."

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

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

12           ~~2.~~ The attending physician certifies that a medical emergency  
13 exists and that a delay will create serious risk of substantial and  
14 irreversible impairment of a major bodily function; provided,  
15 however, that the attending physician or an agent shall, within  
16 twenty-four (24) hours after completion of the abortion, notify one  
17 of the parents of the minor in the manner provided in Section 1-  
18 740.2 of this title that an emergency abortion was performed on the  
19 minor and of the circumstances that warranted invocation of this  
20 paragraph; or

21           ~~3.~~ 2. The unemancipated minor declares that she is the victim  
22 of sexual abuse, as defined in Section 7102 of Title 10 of the  
23 Oklahoma Statutes and the attending physician has notified local law  
24

1 enforcement or the Department of Human Services about the alleged  
2 sexual abuse.

3 ~~C.~~ D. 1. Unless the unemancipated minor gives notice of her  
4 intent to seek a judicial waiver pursuant to Section 1-740.3 of this  
5 title, the attending physician, or the agent of the physician, shall  
6 verbally inform the parent of the minor within twenty-four (24)  
7 hours after the performance of a medical emergency abortion or an  
8 abortion that was performed to prevent her death that an abortion  
9 was performed on the unemancipated minor. The attending physician,  
10 or the agent of the attending physician, shall also inform the  
11 parent of the basis for the certification of the physician required  
12 under paragraph 1 or 2 of subsection C of this section. The  
13 attending physician, or the agent of the attending physician, shall  
14 also send a written notice of the performed abortion via the United  
15 States Post Office to the last-known address of the parent,  
16 restricted delivery, return receipt requested. The information  
17 concerning the address of the parent shall be that which a  
18 reasonable and prudent person, under similar circumstances, would  
19 have relied upon as sufficient evidence that the parent resides at  
20 that address.

21 2. If the unemancipated minor gives notice to the attending  
22 physician, or an agent of the physician, of her intent to seek a  
23 judicial waiver pursuant to Section 1-740.3 of this title, the  
24 physician, or an agent of the physician, shall file a notice with

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

21 E. The State Board of Health shall adopt the forms necessary  
22 for physicians to obtain the consent of one parent required for an  
23 abortion to be performed on an unemancipated minor pursuant to  
24 subsection A of this section. The form executed to obtain consent

1 ~~must be retained by the physician for a period of not less than five~~  
2 ~~(5) years~~ certifications required by this section.

3 SECTION 7. AMENDATORY Section 13, Chapter 200, O.S.L.  
4 2005, as amended by Section 19, Chapter 185, O.S.L. 2006 (63 O.S.  
5 Supp. 2006, Section 1-740.3), is amended to read as follows:

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

23 B. If the unemancipated minor, upon whom a medical emergency  
24 abortion or an abortion to prevent her death was performed, elects

1 not to allow the notification of her parent, any judge of a court of  
2 competent jurisdiction shall, upon petition or motion and after an  
3 appropriate hearing, authorize the waiving of the required notice of  
4 the performed abortion if the judge determines, by clear and  
5 convincing evidence, that the unemancipated minor is mature and  
6 capable of determining whether notification should be given, or that  
7 the waiver would be in the best interest of the unemancipated minor.

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

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

22 ~~D.~~ E. An expedited confidential appeal shall be available to  
23 any pregnant unemancipated minor for whom the court denies an order  
24 authorizing an abortion without notification and written informed

1 consent of one parent. An order authorizing an abortion without  
2 notification and written informed consent of one parent shall not be  
3 subject to appeal. No filing fees shall be required of any pregnant  
4 unemancipated minor at either the trial or the appellate level.  
5 Access to the trial court for the purpose of a petition or motion,  
6 and access to the appellate courts for the purpose of making an  
7 appeal from the denial of same, shall be afforded a pregnant  
8 unemancipated minor twenty-four (24) hours a day, seven (7) days a  
9 week.

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

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

24 1. Age;

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

1 11. Whether a judicial waiver was obtained after the  
2 performance of an abortion to prevent the death of the minor.

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

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

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

15 C. By February 28 of each year following a calendar year in any  
16 part of which this act was in effect, each physician, or agent of a  
17 physician, who obtained the consent described in Section 1-740.2 of  
18 Title 63 of the Oklahoma Statutes, and any physician who knowingly  
19 performed an abortion upon a pregnant minor or upon a female for  
20 whom a guardian or conservator had been appointed pursuant to  
21 applicable federal law or as provided by Section 1-113 of Title 30  
22 of the Oklahoma Statutes because of incompetency during the previous  
23 calendar year shall complete and electronically submit to the State  
24 Department of Health the form described in subsection A of this

1 section, with the requested data entered accurately and completely.  
2 Any such report shall not contain the name, address, or other  
3 information by which the minor receiving the abortion may be  
4 identified.

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

16 E. By June 30 of each year, the State Department of Health  
17 shall post, on its stable Internet web site, a public report  
18 providing statistics for the previous calendar year compiled from  
19 all of the reports covering that year submitted in accordance with  
20 this section for each of the items listed in subsection A of this  
21 section. The report shall also include statistics giving the total  
22 number of petitions or motions filed under Section 1-740.3 of Title  
23 63 of the Oklahoma Statutes and of that number:

24 1. The number in which the court appointed a guardian ad litem;

1           2. The number in which the court appointed counsel;

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

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

6           a. the number of denials from which an appeal was filed,

7           b. the number of the appeals that resulted in the denial  
8 being affirmed, and

9           c. the number of appeals that resulted in reversals of  
10 the denials.

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

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

1 state at least once every year and the report described in  
2 subsection E of this section is posted at least once every year.

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

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

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

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

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

24

1 C. 1. It is a defense to prosecution under subsection B of  
2 this section if the person falsely representing himself or herself  
3 as the parent or guardian of the minor displayed an apparently valid  
4 governmental record of identification such that a reasonable person,  
5 under similar circumstances, would have relied on the  
6 representation.

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

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

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

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

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

23 If any court of law enjoins, suspends, or delays the  
24 implementation of the provisions of this act, the provisions of

1 Sections 1-730, 1-738.1, 1-738.7, 1-740.1, 1-740.2 and 1-740.3 of  
2 Title 63 of the Oklahoma Statutes, as of December 31, 2006, are  
3 effective during the injunction, suspension, or delayed  
4 implementation.

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

8 A. It shall be unlawful for any person employed by this state  
9 or any agency or political subdivision thereof, within the scope of  
10 the person's employment, to perform or assist an abortion not  
11 necessary to save the life of the mother. It shall be unlawful for  
12 any public institution, public facility, public equipment, or other  
13 physical asset owned, leased or controlled by this state or any  
14 agency or political subdivisions thereof to be used for the purpose  
15 of performing or assisting an abortion not necessary to save the  
16 life of the mother. This subsection shall not be construed to  
17 prohibit use by private entities of public utilities or the services  
18 of firefighters or police.

19 B. It shall be unlawful for any funds received or controlled by  
20 this state or any agency or political subdivision thereof,  
21 including, but not limited to, funds derived from federal, state or  
22 local taxes, gifts or grants, from any source, public or private,  
23 federal grants or payments, or intergovernmental transfers, to be  
24 used to encourage a woman to have an abortion not necessary to save

1 her life, except to the extent required for continued participation  
2 in a federal program.

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

6 A. For purposes of this section, an "elective abortion" means  
7 an abortion for any reason other than a spontaneous miscarriage or  
8 to prevent the death of the female upon whom the abortion is  
9 performed. No health insurance contracts, plans, or policies  
10 delivered or issued for delivery in this state shall provide  
11 coverage for elective abortions except by an optional rider for  
12 which there shall be paid an additional premium.

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

- 15 1. All nonprofit hospital, medical, surgical, dental, and  
16 health service corporations;
- 17 2. All health insurers subject to the laws of this state; and
- 18 3. All health maintenance organizations.

19 C. This section shall be applicable only to contracts, plans,  
20 or policies written, issued, renewed, or revised after November 1,  
21 2007. For the purposes of this subsection, if new premiums are  
22 charged for a contract, plan, or policy, it shall be determined to  
23 be a new contract, plan, or policy.

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

1 Passed the House of Representatives the 3rd day of April, 2007.

2  
3  
4 Presiding Officer of the House of  
Representatives  
5

6 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2007.

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9 Presiding Officer of the Senate  
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