

1 ENGROSSED HOUSE  
2 BILL NO. 3144

By: Billy, Cooksey, McCullough,  
Shannon, Sullivan, Tibbs,  
Blackwell, Denney, Enns,  
Jett, Kern, Reynolds,  
Terrill, Thomsen,  
Winchester and Worthen of  
the House

5  
6 and

Lamb of the Senate

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9  
10 An Act relating to abortion; amending Section 6,  
11 Chapter 200, O.S.L. 2005, as amended by Section 2,  
12 Chapter 161, O.S.L. 2007 (63 O.S. Supp. 2007, Section  
13 1-738.1), which relates to definitions; defining  
14 term; requiring performance of an ultrasound and  
15 explanation of the ultrasound prior to a pregnant  
16 woman having an abortion; providing for aversion of  
17 eyes from ultrasound; excepting compliance with  
18 requirement in a medical emergency; providing for  
19 certification; requiring retention of records;  
20 providing penalty for false certification; providing  
21 for damages; authorizing injunctive relief;  
22 specifying persons who may bring action for  
23 noncompliance with act; providing penalty; providing  
24 penalties for noncompliance with injunction;  
authorizing private right of action; providing for  
revocation of license or certificate; providing for  
codification; and providing an effective date.

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

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

4 Section 1-738.1 As used in Sections 1-738.1 through 1-738.5 of  
5 this title:

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

8 2. "Attempt to perform an abortion" means an act, or an  
9 omission of a statutorily required act, that, under the  
10 circumstances as the actor believes them to be, constitutes a  
11 substantial step in a course of conduct planned to culminate in the  
12 performance of an abortion in this state in violation of this act;

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

15 4. "Medical emergency" means the existence of any physical  
16 condition, not including any emotional, psychological, or mental  
17 condition, which a reasonably prudent physician, with knowledge of  
18 the case and treatment possibilities with respect to the medical  
19 conditions involved, would determine necessitates the immediate  
20 abortion of the pregnancy of the female to avert her death or to  
21 avert substantial and irreversible impairment of a major bodily  
22 function arising from continued pregnancy;

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

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

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

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

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

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

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

21           B. At least one (1) hour prior to a woman having any part of an  
22 abortion performed or induced, and prior to the administration of  
23 any anesthesia or medication in preparation for the abortion on the  
24 woman, the physician who is to perform or induce the abortion, or

1 the certified technician working in conjunction with the physician,  
2 shall:

3 1. Perform an obstetric ultrasound on the pregnant woman;

4 2. Provide a simultaneous explanation of what the ultrasound is  
5 depicting;

6 3. Display the ultrasound images so that the pregnant woman may  
7 view them; and

8 4. Provide a medical description of the ultrasound images,  
9 which shall include the dimensions of the embryo or fetus and the  
10 presence of external members and internal organs, if present and  
11 viewable.

12 C. Nothing in this section shall be construed to prevent a  
13 pregnant woman from averting her eyes from the ultrasound images  
14 required to be provided to and reviewed with her. Neither the  
15 physician nor the pregnant woman shall be subject to any penalty if  
16 she refuses to look at the presented ultrasound images.

17 D. Upon a determination by an abortion provider that a medical  
18 emergency, as defined in Section 1-738.1 of Title 63 of the Oklahoma  
19 Statutes, exists with respect to a pregnant woman, the provider  
20 shall certify in writing the specific medical conditions that  
21 constitute the emergency. The certification shall be placed in the  
22 medical file of the woman and shall be kept by the abortion provider  
23 for a period of not less than seven (7) years. If the woman is a  
24 minor, then the certification shall be placed in the medical file of

1 the minor and kept for at least seven (7) years or for five (5)  
2 years after the minor reaches the age of majority, whichever is  
3 greater.

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

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

10 A. An abortion provider who knowingly violates a provision of  
11 Section 2 of this act shall be liable for damages as provided in  
12 this section and may be enjoined from such acts in accordance with  
13 this section in an appropriate court.

14 B. A cause of action for injunctive relief against any person  
15 who has knowingly violated a provision of Section 2 of this act may  
16 be maintained by the woman upon whom an abortion was performed or  
17 attempted to be performed in violation of this act; any person who  
18 is the spouse, parent, sibling or guardian of, or a current or  
19 former licensed health care provider of, the female upon whom an  
20 abortion has been performed or attempted to be performed in  
21 violation of this act; by a district attorney with appropriate  
22 jurisdiction; or by the Attorney General. The injunction shall  
23 prevent the abortion provider from performing further abortions in  
24 violation of this act in the State of Oklahoma.

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

14 D. A pregnant woman upon whom an abortion has been performed in  
15 violation of Section 2 of this act, or the parent or legal guardian  
16 of the woman if she is an unemancipated minor, as defined in Section  
17 1-740.1 of Title 63 of the Oklahoma Statutes, may commence a civil  
18 action against the abortion provider for any knowing or reckless  
19 violation of this act for actual and punitive damages.

20 E. An abortion provider who performed an abortion in violation  
21 of Section 2 of this act shall be considered to have engaged in  
22 unprofessional conduct for which the provider's certificate or  
23 license to provide health care services in this state shall be  
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