

THE HOUSE OF REPRESENTATIVES
Thursday, March 8, 2007

Committee Substitute for
House Bill No. 1652

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1652 - By: PETERSON (PAM), MCCULLOUGH, TIBBS, KERN AND SHANNON of the House and WILLIAMSON of the Senate.

(public health and safety - State Department of Health - reporting forms - notification and consent of parent – codification - effective date)

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

1 SECTION 1. AMENDATORY Section 6, Chapter 200, O.S.L. 2005 (63 O.S.

2 Supp. 2006, Section 1-738.1), is amended to read as follows:

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

4 1. “Abortion” means the term as is defined in Section 1-730 of ~~Title 63 of the~~

5 ~~Oklahoma Statutes~~ this title;

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

10 3. “Board” means the State Board of Medical Licensure and Supervision;

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

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

11 6. “Probable gestational age of the unborn child” means what, in the judgment of
12 the physician, will with reasonable probability be the gestational age of the unborn child
13 at the time the abortion is planned to be performed;

14 7. “Stable Internet web site” means a web site that, to the extent reasonably
15 practicable, is safeguarded from having its content altered other than by the State Board
16 of Medical Licensure and Supervision; and

17 8. “Unborn child” means the term as is defined in Section 1-730 of Title 63 of the
18 Oklahoma Statutes.

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

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

1 1. “Abortion” means the use or prescription of any instrument, medicine, drug, or
2 any other substance or device intentionally to terminate the pregnancy of a female
3 known to be pregnant with an intention other than to increase the probability of a live
4 birth to preserve the life or health of the child after live birth, or to remove a dead fetus
5 who dies as the result of a spontaneous miscarriage;

6 2. “Attempt to perform an abortion” means an act, or an omission of a statutorily
7 required act that, under the circumstances as the actor believes them to be, constitutes a
8 substantial step in a course of conduct planned to culminate in the performance of an
9 abortion in Oklahoma in violation of the Unborn Child Pain Awareness/Prevention Act;

10 3. “Unborn child” means a member of the species homo sapiens from fertilization
11 until birth;

12 4. “Medical emergency” means any physical condition, not including any emotional,
13 psychological, or mental condition, because of which,~~on the basis of the good faith~~
14 ~~clinical judgment of a reasonably prudent physician, with knowledge of the case and~~
15 treatment possibilities with respect to the medical conditions involved, would determine
16 exists that would ~~so complicates~~ complicate the medical condition of a pregnant female as
17 to necessitate the immediate abortion of ~~the~~ her pregnancy to avert ~~the~~ her death ~~of the~~
18 ~~pregnant female~~ or for which a delay ~~will create serious risk~~ would cause of substantial
19 and irreversible impairment of a major bodily function arising from continued pregnancy;

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

1 6. “Probable gestational age” means the gestational age of the unborn child at the
2 time the abortion is planned to be performed, as determined by the physician using
3 reasonable probability.

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

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

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

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

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

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

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

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

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

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

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

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

16 F. By June 30 of each year, the State Department of Health shall prepare and
17 make available on its stable Internet web site a public report providing statistics for the
18 previous calendar year compiled from all items listed in subsection B of this section.
19 Each report shall also provide statistics for all previous calendar years, adjusted to
20 reflect any additional information from late or corrected reports. The State Department
21 of Health shall take care to ensure that none of the information included in the public

1 reports could reasonably lead to the identification of any individual providing or provided
2 information in accordance with subsection B of this section.

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

10 SECTION 4. AMENDATORY Section 11, Chapter 200, O.S.L. 2005 (63 O.S.
11 Supp. 2006, Section 1-740.1), is amended to read as follows:

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

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

15 2. "Medical emergency" means any physical condition, not including any emotional,
16 psychological, or mental condition, because of which a reasonably prudent physician,
17 with knowledge of the case and treatment possibilities with respect to the medical
18 conditions involved, would determine exists that would so complicate the medical
19 condition of a pregnant female as to necessitate the immediate abortion of her pregnancy
20 to avert her death or for which would cause substantial and irreversible impairment of a
21 major bodily function of the minor arising from continued pregnancy; provided, however,
22 that the attending physician or an agent shall, within twenty-four (24) hours after

1 completion of the abortion, notify one of the parents of the minor in the manner provided
2 in Section 1-740.2 of this title that an emergency abortion was performed on the minor
3 and of the circumstances that warranted invocation of this paragraph;

4 3. “Parent” means one parent of the pregnant unemancipated minor or guardian if
5 the pregnant unemancipated minor has one; and

6 ~~3.~~ 4. “Unemancipated minor” means any person ~~under~~ less than eighteen (18) years
7 of age who is not or has not been married or who is under the care, custody and control of
8 the person’s parent or parents, guardian or juvenile court of competent jurisdiction.

9 SECTION 5. AMENDATORY Section 12, Chapter 200, O.S.L. 2005, as
10 amended by Section 18, Chapter 185, O.S.L. 2006 (63 O.S. Supp. 2006, Section 1-740.2),
11 is amended to read as follows:

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

- 14 1. Obtained proof of age demonstrating that the female is not a minor;
- 15 2. Obtained proof that the female, although a minor, is emancipated; or
- 16 3. Complied with Section 1-740.3 of this title.

17 B. No abortion shall be performed upon an unemancipated minor or upon a female
18 for whom a guardian has been appointed pursuant to Section 1-113 of Title 30 of the
19 Oklahoma Statutes because of a finding of incompetency, except in a medical emergency
20 or where a judicial waiver was obtained pursuant to Section 1-740.3 of this title, until at
21 least forty-eight (48) hours after written notice of the pending abortion has been

1 delivered in the manner specified in this subsection and the attending physician has
2 secured proof of identification and the written informed consent of one parent.

3 1. The notice and request for written informed consent of one parent shall be
4 addressed to the parent at the usual place of abode of the parent and delivered
5 personally to the parent by the physician or an agent;

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

15 3. a. The parent entitled to notice and consent ~~certifies~~ shall provide to the
16 physician a copy of proof of identification, and shall certify in a signed,
17 dated, and notarized statement that he or she has been notified and
18 consents to the abortion. The signed, dated, and notarized statement
19 shall include: "I certify that I, (insert name of parent), am the parent
20 of (insert name of minor daughter) and give consent that (insert name
21 of physician) performs an abortion on my daughter. I understand that

1 any person who knowingly makes a fraudulent statement in this
2 regard commits a felony”.

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

7 c. A physician receiving parental consent under this section shall execute
8 for inclusion in the medical record of the minor an affidavit stating: “I,
9 (insert name of physician), certify that according to my best
10 information and belief, a reasonable person under similar
11 circumstances would rely on the information presented by both the
12 minor and her parent as sufficient evidence of identity.”

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

15 1. The attending physician certifies in the medical records of the pregnant
16 unemancipated minor that the abortion is necessary to prevent the death of the minor
17 and there is insufficient time to provide the required notice and obtain the written
18 informed consent of one parent; or

19 2. The attending physician certifies that a medical emergency exists and that a
20 delay ~~will create serious risk of~~ would cause substantial and irreversible impairment of a
21 major bodily function arising from continued pregnancy; or

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

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

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

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

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

19 SECTION 6. AMENDATORY Section 13, Chapter 200, O.S.L. 2005, as
20 amended by Section 19, Chapter 185, O.S.L. 2006 (63 O.S. Supp. 2006, Section 1-740.3),
21 is amended to read as follows:

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

14 B. If the unemancipated minor, upon whom a medical emergency abortion or an
15 abortion to prevent her death was performed, elects not to allow the notification of her
16 parent, any judge of a court of competent jurisdiction shall, upon petition or motion and
17 after an appropriate hearing, authorize the waiving of the required notice of the
18 performed abortion if the judge determines by clear and convincing evidence that the
19 unemancipated minor is mature and capable of determining whether notification should
20 be given, or that the waiver would be in the best interest of the unemancipated minor.

21 C. A pregnant unemancipated minor may participate in proceedings in the court on
22 her own behalf, and the court may appoint a guardian ad litem for her. The court shall

1 advise the pregnant unemancipated minor that she has a right to court-appointed
2 counsel and, upon her request, shall provide her with counsel.

3 ~~C. D.~~ Proceedings in the court under this section shall be confidential and shall be
4 given precedence over other pending matters so that the court may reach a decision
5 promptly and without delay so as to serve the best interests of the pregnant
6 unemancipated minor. A judge of the court who conducts proceedings under this section
7 shall make, in writing, specific factual findings and legal conclusions supporting the
8 decision and shall order a record of the evidence to be maintained, including the findings
9 and conclusions of the court.

10 ~~D. E.~~ An expedited confidential appeal shall be available to any pregnant
11 unemancipated minor for whom the court denies an order authorizing an abortion
12 without notification and written informed consent of one parent. An order authorizing
13 an abortion without notification and written informed consent of one parent shall not be
14 subject to appeal. No filing fees shall be required of any pregnant unemancipated minor
15 at either the trial or the appellate level. Access to the trial court for the purpose of a
16 petition or motion, and access to the appellate courts for the purpose of making an appeal
17 from the denial of same, shall be afforded a pregnant unemancipated minor twenty-four
18 (24) hours a day, seven (7) days a week.

19 SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma
20 Statutes as Section 1-740.4a of Title 63, unless there is created a duplication in
21 numbering, reads as follows:

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

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

- 1 c. whether the abortion was performed to prevent the death of the minor,
- 2 d. whether the parent was notified after the performance of a medical
- 3 emergency abortion, and
- 4 e. whether the parent was notified after the performance of an abortion
- 5 to prevent the death of the minor;

6 10. Whether a judicial waiver was obtained after the performance of a medical
7 emergency abortion; and

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

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

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

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

20 C. By February 28 of each year following a calendar year in any part of which this
21 act was in effect, each physician or agent of a physician who obtained the consent
22 described in Section 1-740.2 of Title 63 of the Oklahoma Statutes and any physician who

1 knowingly performed an abortion upon a pregnant minor or upon a female for whom a
2 guardian or conservator had been appointed pursuant to applicable federal law or as
3 provided by Section 1-113 of Title 30 of the Oklahoma Statutes because of incompetency
4 during the previous calendar year shall complete and electronically submit to the State
5 Department of Health the form described in subsection A of this section, with the
6 requested data entered accurately and completely. Any such report shall not contain the
7 name, address, or other information by which the minor receiving the abortion may be
8 identified.

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

18 E. By June 30 of each year, the State Department of Health shall post, on its stable
19 Internet web site, a public report providing statistics for the previous calendar year
20 compiled from all of the reports covering that year submitted in accordance with this
21 section for each of the items listed in subsection A of this section. The report shall also

1 include statistics giving the total number of petitions or motions filed under Section 1-
2 740.3 of Title 63 of the Oklahoma Statutes and of that number:

- 3 1. The number in which the court appointed a guardian ad litem;
- 4 2. The number in which the court appointed counsel;
- 5 3. The number in which the judge issued an order authorizing an abortion without
6 notification; and
- 7 4. The number in which the judge denied such an order, and of this:
 - 8 a. the number of denials from which an appeal was filed,
 - 9 b. the number of the appeals that resulted in the denial being affirmed,
10 and
 - 11 c. the number of appeals that resulted in reversals of the denials.

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

17 F. The State Department of Health may promulgate rules in accordance with the
18 Administrative Procedures Act to alter the dates established by this section or
19 consolidate the forms or reports to achieve administrative convenience, fiscal savings, or
20 to reduce the burden of reporting requirements, as long as reporting forms are made
21 available on its web site, to all licensed physicians in the state at least once every year
22 and the report described in 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 report required by
2 subsection E of this section, an action may be initiated pursuant to Title 12 of the
3 Oklahoma Statutes.

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

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

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

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

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

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

4 D. An unemancipated minor, or the parent of the minor, upon whom an abortion
5 has been performed or attempted to be performed without complying with this act may
6 maintain a cause of action against the person who performed or attempted to perform the
7 abortion.

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

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

12 SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma
13 Statutes as Section 1-740.6 of Title 63, unless there is created a duplication in
14 numbering, reads as follows:

15 If any court of law enjoins, suspends, or delays the implementation of the provisions
16 of this act, the provisions of Sections 1-738.1, 1-738.7, 1-740.2 and 1-740.3 of Title 63 of
17 the Oklahoma Statutes as of December 31, 2006, are effective without these amendments
18 during the injunction, suspension, or delayed implementation.

19 SECTION 10. This act shall become effective November 1, 2007.

20 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND PUBLIC SAFETY,
21 dated 03-07-07 - DO PASS, As Amended and Coauthored.