

THE HOUSE OF REPRESENTATIVES
Monday, March 31, 2008

**Committee Substitute for
ENGROSSED
Senate Bill No. 1878**

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 1878 - By: LAMB of the Senate and PETERSON (PAM) AND MCCULLOUGH of the House.

An Act relating to public health and safety; creating the Freedom of Conscience Act; providing short title; defining terms; prohibiting employers from discriminating against certain persons for refusing to perform specified acts based on certain beliefs; making certain provisions inapplicable under certain circumstances; providing defense; prohibiting forced participation in specified acts by certain persons under certain circumstances; providing immunity from liability; providing for equitable relief and damages; providing statute of limitations; defining terms; prohibiting the sale or distribution of mifepristone except by a physician in certain circumstances; requiring compliance with certain federal laws; requiring the preparation of written report in certain circumstances; providing for inspection of certain reports; providing for confidentiality of certain persons; specifying exceptions; providing for civil action; authorizing attorney fees; providing for certain punishment; authorizing sanctions by certain licensing boards; mandating certain sign posting for facilities that perform, induce, or prescribe for abortions or where the means for an abortion are provided; specifying wording of sign; specifying typeface of sign; specifying areas of sign posting; establishing penalty for noncompliance; providing for certain disclosure to minors; providing for certain certification by minors; authorizing certain civil actions; amending Section 6, Chapter 200, O.S.L. 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.

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

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

4 This act shall be known and may be cited as the “Freedom of Conscience Act”.

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

8 As used in the Freedom of Conscience Act:

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

1 2. “Human embryo” means a human organism that is derived by fertilization,
2 parthenogenesis, cloning, or any other means from one or more human gametes or
3 human diploid cells;

4 3. “In vitro human embryo” means a human embryo, whether cryopreserved or not,
5 living outside of a woman’s body;

6 4. “Participate in” means to perform, practice, engage in, assist in, recommend,
7 counsel in favor of, make referrals for, prescribe, dispense, or administer drugs or devices
8 or otherwise promote or encourage; and

9 5. “Person” means any individual, corporation, industry, firm, partnership,
10 association, venture, trust, institution, federal, state or local governmental
11 instrumentality, agency or body or any other legal entity however organized.

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

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

20 1. An abortion as defined in Section 1-730 of Title 63 of the Oklahoma Statutes.
21 The provisions of this section shall not apply if the pregnant woman suffers from a
22 physical disorder, physical injury, or physical illness which, as certified by a physician,

1 causes the woman to be in imminent danger of death unless an abortion is immediately
2 performed or induced and there are no other competent personnel available to attend to
3 the woman. As used in this act, the term “abortion” shall not include the prescription of
4 contraceptives;

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

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

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

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

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

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

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

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

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

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

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

17 A. No health care facility, school, or employer shall discriminate against any person
18 with regard to admission, hiring or firing, tenure, term, condition, or privilege of
19 employment, student status, or staff status on the ground that the person refuses or
20 states an intention to refuse, whether or not in writing, to participate in an activity
21 specified in Section 3 of this act, if the refusal is based on religious or moral precepts.

22 B. No person shall be required to:

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

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

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

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

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

14 B. A person who is adversely affected by conduct that is in violation of the Freedom
15 of Conscience Act may bring a civil action for equitable relief, including reinstatement or
16 damages, or both reinstatement and damages. An action under this subsection may be
17 commenced against the state and any office, department, independent agency, authority,
18 institution, association, or other body in state government created or authorized to be
19 created by the state constitution or any law. In an action under this subsection, the court
20 shall award reasonable attorney fees to a person who obtains equitable relief, damages,
21 or both. An action under this subsection shall be commenced within one (1) year after
22 the cause of action accrues or be barred.

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

4 A. As used in this section:

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

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

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

13 B. No person shall knowingly give, sell, dispense, administer, prescribe or
14 otherwise provide RU-486, also known as mifepristone, for the purpose of inducing an
15 abortion in a pregnant female, unless the person who gives, sells, dispenses, administers,
16 prescribes or otherwise provides the RU-486, mifepristone, is a physician who satisfies
17 all the criteria established by federal law that a physician must satisfy in order to
18 provide RU-486, mifepristone, for inducing abortions.

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

1 D. 1. If a physician provides RU-486, mifepristone, for the purpose of inducing an
2 abortion and if the physician knows that the female who uses the RU-486, mifepristone,
3 for the purpose of inducing an abortion experiences during or after the use of RU-486,
4 mifepristone, an incomplete abortion, severe bleeding, or an adverse reaction to the RU-
5 486, mifepristone, or is hospitalized, receives a transfusion, or experiences any other
6 serious event, the physician shall promptly provide a written report of the incomplete
7 abortion, severe bleeding, adverse reaction, hospitalization, transfusion, or serious event
8 to the State Board of Medical Licensure and Supervision or State Board of Osteopathic
9 Examiners. The Board shall compile and retain all reports it receives pursuant to this
10 subsection. Except as otherwise provided in this subsection, all reports the Board
11 receives under this subsection are public records open to inspection pursuant to the
12 Oklahoma Open Records Act; however, the Board shall not release the name or any other
13 personal identifying information regarding a person who uses or provides RU-486,
14 mifepristone, for the purpose of inducing an abortion and who is the subject of a report
15 the Board receives under this subsection.

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

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

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

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

5 3. The distribution, provision, or sale of RU-486, mifepristone, by any legal
6 manufacturer or distributor of RU-486, mifepristone, provided the manufacturer or
7 distributor made a good-faith effort to comply with any applicable requirements of
8 federal law regarding the distribution, provision, or sale.

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

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

1 also render judgment for a reasonable attorney fee in favor of the defendant against the
2 plaintiff.

3 H. Any person who violates this section, upon conviction, shall be guilty of a felony.
4 If the offender is a professionally licensed health care provider, in addition to any other
5 sanction imposed by law for the offense, the offender is subject to sanctioning as provided
6 by law by the licensing board having administrative authority over that professionally
7 licensed person.

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

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

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

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

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

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

16 A. Any private office, freestanding outpatient clinic or other facility or clinic that
17 fails to post a required sign in knowing, reckless, or negligent violation of this act shall
18 be assessed an administrative fine of Ten Thousand Dollars (\$10,000.00). Each day on
19 which an abortion, other than an abortion necessary to prevent the death of the pregnant
20 female, is performed, induced, prescribed for, or where the means for an abortion are
21 provided in a private office, freestanding outpatient clinic or other facility or clinic in

1 which the required sign is not posted during any portion of business hours when patients
2 or prospective patients are present is a separate violation.

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

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

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

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

15 B. The minor female shall certify in writing, prior to the performance of, induction
16 of, receiving the prescription for, or provision of the means for the abortion, that she was
17 informed by the attending physician of the required information in subsection A of this
18 section. A copy of the written certification shall be placed in the minor's file and kept for
19 at least seven (7) years or for five (5) years after the minor reaches the age of majority,
20 whichever is greater.

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

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

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

5 1. "Abortion" means the term as is defined in Section 1-730 of 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;

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

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

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

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

4 8. “Unborn child” means the term as is defined in Section 1-730 of this title; and

5 9. “Woman” means a female human being whether or not she has reached the age
6 of majority.

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

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

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

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

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

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

1 4. Provide a medical description of the ultrasound images, which shall include the
2 dimensions of the embryo or fetus, the presence of cardiac activity, if present and
3 viewable, and the presence of external members and internal organs, if present and
4 viewable; and

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

7 6. Retain a copy of the written certification prescribed by paragraph 5 of this
8 subsection. The certification shall be placed in the medical file of the woman and shall be
9 kept by the abortion provider for a period of not less than seven (7) years. If the woman
10 is a minor, then the certification shall be placed in the medical file of the minor and kept
11 for at least seven (7) years or for five (5) years after the minor reaches the age of
12 majority, whichever is greater.

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

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

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

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

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

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

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

20 C. Any person who knowingly violates the terms of an injunction issued in
21 accordance with this section shall be subject to civil contempt, and shall be fined Ten
22 Thousand Dollars (\$10,000.00) for the first violation, Fifty Thousand Dollars (\$50,000.00)

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

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

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

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

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

4 B. For the purposes of this section:

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

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

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

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

21 D. This section shall not preclude causes of action based on claims that, but for a
22 wrongful act or omission, maternal death or injury would not have occurred, or handicap,

1 disease, or disability of an individual prior to birth would have been prevented, cured, or
2 ameliorated in a manner that preserved the health and life of the affected individual.

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

4 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND PUBLIC SAFETY,
5 dated 03-27-08 - DO PASS, As Amended and Coauthored.