

THE HOUSE OF REPRESENTATIVES
April 2, 2007

Committee Substitute for
ENGROSSED
Senate Bill No. 714

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 714 - By: WILLIAMSON, JOLLEY MAZZEI, JOHNSON (MIKE), REYNOLDS, BINGMAN, BARRINGTON, MYERS, BRANAN, SCHULZ, SYKES, ALDRIDGE, BROWN, LAUGHLIN, COFFEE, WILCOXSON, BROGDON AND LAMB of the Senate and WRIGHT, BLACKWELL, DUNCAN, JOYNER, DERBY, COOKSEY, SHANNON, MCCULLOUGH, BRADDOCK, PETERSON (RON) AND TIBBS of the House.

An Act relating to abortion; amending 63 O.S. 2001, Section 1-730, which relates to abortion; expanding certain definition; amending Section 6, Chapter 200, O.S.L. 2005 (63 O.S. Supp. 2006, Section 1-738.1), which relates to voluntary and informed consent to abortion; modifying certain definition; providing for the State Department of Health to prepare and make available certain reporting forms; providing for the content of the reporting forms; providing for 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; authorizing promulgation of certain rules; amending Section 7, Chapter 185, O.S.L. 2006 (63 O.S. Supp. 2006, Section 1-738.7), which relates to the Unborn Child Pain Awareness/Prevention Act; modifying certain definitions; amending Section 11, Chapter 200, O.S.L. 2005 (63 O.S. Supp. 2006, Section 1-740.1), which relates to abortion; adding definition; amending Section 12, Chapter 200, O.S.L. 2005, as amended by Section 18, Chapter 185, O.S.L. 2006 (63 O.S. Supp. 2006, Section 1-740.2), which 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; prohibiting certain fund from being used for abortion; defining term; limiting coverage for elective abortions; specifying applicable contracts; providing for codification; and providing an effective date.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 8. “Unborn child” means the term as is defined in Section 1-730 of ~~Title 63 of the~~
21 ~~Oklahoma Statutes~~ this title.

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

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

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

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

19 2. The number of females who availed themselves of the opportunity to obtain a
20 copy of the printed information described in Section 1-738.3 of Title 63 of the Oklahoma
21 Statutes other than on the web site, and the number who did not; and of each of those

1 numbers, the number who, to the best of the information and belief of the reporting
2 physician, went on to obtain the abortion; and

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

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

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

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

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

19 D. By February 28 of each year following a calendar year in any part of which this
20 section was in effect, each physician who provided, or whose agent provided, information
21 to one or more females in accordance with Section 1-738.2 of Title 63 of the Oklahoma
22 Statutes during the previous calendar year shall electronically submit to the State

1 Department of Health the form described in subsection B of this section, with the
2 requested data entered accurately and completely.

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

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

20 G. The State Department of Health may promulgate rules in accordance with the
21 Administrative Procedures Act to alter the dates established by this section or
22 consolidate the form or report described in this section with other forms or reports to

1 achieve administrative convenience, fiscal savings or to reduce the burden of reporting
2 requirements, as long as reporting forms are made available, on its stable Internet web
3 site to all licensed physicians in the state, and the report described in this section is
4 issued at least once every year.

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

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

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

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

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

21 4. "Medical emergency" means the existence of any physical condition, not
22 including any emotional, psychological, or mental condition, which, ~~on the basis of the~~

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

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

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

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

14 Section 1-740.1 As used in Sections ~~11~~ 1-740.1 through ~~15~~ 1-740.5 of this ~~aet~~ title:

15 1. “Abortion” means the term as is defined in Section 1-730 of ~~Title 63 of the~~
16 ~~Oklahoma Statutes~~ this title;

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

1 there is insufficient time to provide the required notice and obtain the written informed
2 consent of one parent;

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

5 ~~3.~~ 4. “Unemancipated minor” means any person ~~under~~ less than eighteen (18) years
6 of age who is not or has not been married or who is under the care, custody and control of
7 the person’s parent or parents, guardian or juvenile court of competent jurisdiction.

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

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

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

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

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

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

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

1 was performed on the minor and of the circumstances that warranted invocation of this
2 paragraph; or

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

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

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

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

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

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

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

17 B. If the unemancipated minor, upon whom a medical emergency abortion or an
18 abortion to prevent her death was performed, elects not to allow the notification of her
19 parent, any judge of a court of competent jurisdiction shall, upon petition or motion and
20 after an appropriate hearing, authorize the waiving of the required notice of the
21 performed abortion if the judge determines, by clear and convincing evidence, that the

1 unemancipated minor is mature and capable of determining whether notification should
2 be given, or that the waiver would be in the best interest of the unemancipated minor.

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

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

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

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

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

- 12 1. Age;
- 13 2. Educational level;
- 14 3. Number of previous pregnancies;
- 15 4. Number of previous live births;
- 16 5. Number of previous abortions;
- 17 6. Complications, if any, of the abortion being reported;
- 18 7. The city and county in which the abortion was performed;
- 19 8. Whether a parent gave consent to the physician, or an agent of the physician,
20 pursuant to Section 1-740.2 of Title 63 of the Oklahoma Statutes; or

1 9. Whether the physician performed the abortion without first obtaining the
2 consent of the parent of the minor as described in Section 1-740.2 of Title 63 of the
3 Oklahoma Statutes; if so:

- 4 a. whether the minor was emancipated,
- 5 b. whether the abortion was performed because of a medical emergency,
- 6 c. whether the abortion was performed to prevent the death of the minor,
- 7 d. whether the parent was notified after the performance of a medical
8 emergency abortion, and
- 9 e. whether the parent was notified after the performance of an abortion
10 to prevent the death of the minor;

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

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

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

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

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

4 C. By February 28 of each year following a calendar year in any part of which this
5 act was in effect, each physician, or agent of a physician, who obtained the consent
6 described in Section 1-740.2 of Title 63 of the Oklahoma Statutes, and any physician who
7 knowingly performed an abortion upon a pregnant minor or upon a female for whom a
8 guardian or conservator had been appointed pursuant to applicable federal law or as
9 provided by Section 1-113 of Title 30 of the Oklahoma Statutes because of incompetency
10 during the previous calendar year shall complete and electronically submit to the State
11 Department of Health the form described in subsection A of this section, with the
12 requested data entered accurately and completely. Any such report shall not contain the
13 name, address, or other information by which the minor receiving the abortion may be
14 identified.

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

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

3 E. By June 30 of each year, the State Department of Health shall post, on its stable
4 Internet web site, a public report providing statistics for the previous calendar year
5 compiled from all of the reports covering that year submitted in accordance with this
6 section for each of the items listed in subsection A of this section. The report shall also
7 include statistics giving the total number of petitions or motions filed under Section 1-
8 740.3 of Title 63 of the Oklahoma Statutes and of that number:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 If any court of law enjoins, suspends, or delays the implementation of the provisions
22 of this act, the provisions of Sections 1-730, 1-738.1, 1-738.7, 1-740.1, 1-740.2 and 1-740.3

1 of Title 63 of the Oklahoma Statutes, as of December 31, 2006, are effective during the
2 injunction, suspension, or delayed implementation.

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

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

14 B. It shall be unlawful for any funds received or controlled by this state or any
15 agency or political subdivision thereof, including, but not limited to, funds derived from
16 federal, state or local taxes, gifts or grants, from any source, public or private, federal
17 grants or payments, or intergovernmental transfers, to be used to encourage a woman to
18 have an abortion not necessary to save her life, except to the extent required for
19 continued participation in a federal program.

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

1 A. For purposes of this section, an “elective abortion” means an abortion for any
2 reason other than a spontaneous miscarriage or to prevent the death of the female upon
3 whom the abortion is performed. No health insurance contracts, plans, or policies
4 delivered or issued for delivery in this state shall provide coverage for elective abortions
5 except by an optional rider for which there shall be paid an additional premium.

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

- 7 1. All nonprofit hospital, medical, surgical, dental, and health service corporations;
- 8 2. All health insurers subject to the laws of this state; and
- 9 3. All health maintenance organizations.

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

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

15 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND PUBLIC SAFETY,
16 dated 03/29/07 - DO PASS, As Amended and Coauthored.