

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SENATE BILL 1971

By: Lamb

4
5
6 AS INTRODUCED

7 An Act relating to public health and safety; defining
8 terms; requiring certain providers to perform an
9 obstetric ultrasound in specified circumstances;
10 providing for exceptions; requiring certain
11 certification; requiring certain record; providing
12 for civil penalties and fines for certain providers
13 in specified circumstances; permitting certain
14 persons to commence civil action in specified
15 circumstances; providing for severability; providing
16 for codification; and providing an effective date.

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

18 SECTION 1. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 1-738.18 of Title 63, unless
20 there is created a duplication in numbering, reads as follows:

21 As used in this act:

22 1. "Abortion" has the same meaning as is defined in Section 1-
23 730 of this title;

24 2. "Unborn child" means a member of the species homo sapiens at
any stage of development before birth; and

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

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1-738.19 of Title 63, unless
3 there is created a duplication in numbering, reads as follows:

4 A. Any abortion provider who knowingly performs any abortion
5 shall comply with the requirements of this act.

6 B. At least one (1) hour prior to a woman having any part of an
7 abortion performed or induced and prior to the administration of any
8 anesthesia or medication in preparation for the abortion on the
9 woman, the physician who is to perform or induce the abortion, or
10 the certified technician working in conjunction with the physician,
11 shall:

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

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

15 3. Display the ultrasound images so that the pregnant woman may
16 view them; and

17 4. Provide a medical description of the ultrasound images,
18 which shall include the dimensions of the embryo or fetus and the
19 presence of external members and internal organs, if present and
20 viewable.

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

3 SECTION 3. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1-738.20 of Title 63, unless
5 there is created a duplication in numbering, reads as follows:

6 A. The provisions of this act shall not apply to an abortion
7 provider or facility in the case of a medical emergency. For
8 purposes of this subsection, "medical emergency" has the same
9 meaning as is defined in Section 1-738.7 of this title.

10 B. 1. Upon a determination by an abortion provider under
11 subsection A of this section that a medical emergency exists with
12 respect to a pregnant woman, such provider shall certify in writing
13 the specific medical conditions that constitute the emergency. The
14 certification shall be placed in the woman's medical file and shall
15 be kept by the abortion provider for a period of not less than seven
16 (7) years. If the female is a minor, then the certification shall
17 be placed in the minor's file and kept for at least seven (7) years
18 or for five (5) years after the minor reaches the age of majority,
19 whichever is greater.

20 2. An abortion provider who willfully falsifies a certification
21 under paragraph 1 of this subsection shall be subject to all the
22 penalties provided for under Section 4 of this act for failure to
23 comply with this act.

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1 SECTION 4. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1-738.21 of Title 63, unless
3 there is created a duplication in numbering, reads as follows:

4 A. An abortion provider who knowingly violates a provision of
5 this act shall be liable for damages as provided in this section and
6 may be enjoined from such acts in accordance with this section in an
7 appropriate court.

8 B. A cause of action for injunctive relief against any person
9 who has knowingly violated a provision of this act may be maintained
10 by:

11 1. The female upon whom an abortion was performed or attempted
12 to be performed in violation of this act;

13 2. Any person who is the spouse, parent, sibling or guardian
14 of, or a current or former licensed health care provider of, the
15 female upon whom an abortion has been performed or attempted to be
16 performed in violation of this act;

17 3. A district attorney with appropriate jurisdiction; or

18 4. By the Attorney General.

19 The injunction shall prevent the abortion provider from performing
20 further abortions in violation of this act in the state.

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

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

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

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

22 SECTION 5. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 1-738.22 of Title 63, unless
24 there is created a duplication in numbering, reads as follows:

1 The provisions of this act shall be severable. If any provision
2 of this act, or any application thereof, is found unconstitutional,
3 that finding shall not affect any provisions or application of the
4 act not so adjudicated.

5 SECTION 6. This act shall become effective November 1, 2008.

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