

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 SENATE BILL 617

By: Laughlin

4  
5  
6 AS INTRODUCED

7 An Act relating to public health and safety;  
8 providing short title; providing definitions;  
9 providing for the State Board of Medical Licensure  
10 and Supervision to prepare reporting forms; providing  
11 for the Board to distribute reporting forms;  
12 providing content of reporting forms; providing for  
13 the Board to prepare and distribute an Induced  
14 Abortion Complications Report; providing the time in  
15 which reports are due; providing content  
16 complications reporting form; requiring public  
17 reports containing certain information; providing  
18 time in which certain reports must be filed;  
19 providing for enforcement of reporting requirements;  
20 providing for penalties; providing for  
21 confidentiality; providing for severability; amending  
22 Section 15, Chapter 185, O.S.L. 2006 (63 O.S. Supp.  
23 2006, Section 1-738.15), which relates to the Unborn  
24 Child Pain Awareness/Prevention Act; modifying  
language; repealing 63 O.S. 2001, Section 1-738,  
which relates to abortion reporting forms; providing  
for codification; and providing an effective date.

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

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

1 This act shall be known and may be cited as the "Statistical  
2 Reporting of Abortion Act of Oklahoma".

3 SECTION 2. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 1-737.2 of Title 63, unless  
5 there is created a duplication in numbering, reads as follows:

6 As used in the Statistical Reporting of Abortion Act of  
7 Oklahoma:

8 1. "Induced abortion" means the use of any means to  
9 intentionally terminate the pregnancy of a female known to be  
10 pregnant with knowledge that the termination with those means will,  
11 with reasonable likelihood, cause the death of the unborn child;

12 2. "Spontaneous abortion" means any termination of a pregnancy  
13 of a female known to be pregnant that is not an induced abortion and  
14 does not result in a live birth; and

15 3. "Abortion" includes both induced abortion and spontaneous  
16 abortion.

17 SECTION 3. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 1-737.3 of Title 63, unless  
19 there is created a duplication in numbering, reads as follows:

20 A. Within ninety (90) days of the effective date of this act,  
21 the State Board of Medical Licensure and Supervision shall prepare  
22 an abortion reporting form for any physician performing or treating  
23 abortions. A copy of this act shall be attached to the reporting  
24 form.

1 B. Any physician performing or treating abortions shall obtain  
2 the Abortion Reporting Form from the Board.

3 C. The Abortion Reporting Form shall require the following  
4 information:

5 1. Whether the physician performing the induced abortion has  
6 been subject to license revocation or suspension or other  
7 professional sanction in this or any other jurisdiction;

8 2. The number of induced abortions performed and the number of  
9 spontaneous abortions treated in the previous calendar year, broken  
10 down by month;

11 3. The date the induced abortion was performed;

12 4. The age of the female at the time of the abortion;

13 5. The approximate gestational age, in weeks as measured from  
14 the female's last menstrual period, of the unborn child subject to  
15 the abortion;

16 6. The method of abortion used for each induced abortion;

17 7. The specific reason or reasons for the induced abortion,  
18 including, but not limited to, the following:

19 a. it was necessary to avert the mother's death,

20 b. the pregnancy was a result of rape,

21 c. the pregnancy was a result of incest,

22 d. the female cannot afford the child,

23 e. the female does not want the child,

24 f. the female's emotional health is at risk,

- 1           g.    the female would have suffered substantial and
- 2                irreversible impairment of a major bodily function if
- 3                the pregnancy had continued,
- 4           h.    the female wanted a child of a different sex, or
- 5           i.    other;

6       8.   Whether the induced abortion was paid for by:

- 7           a.   private insurance,
- 8           b.   public health plan, or
- 9           c.   other;

10      9.   Whether coverage was under:

- 11          a.   a fee-for-service insurance company,
- 12          b.   a managed care company, or
- 13          c.   other;

14      10.  Complications, if any, for each abortion and for the  
15    aftermath of each abortion.  Space for complication description  
16    shall be available on the form;

17      11.  The fee collected for performing or treating the abortion;

18      12.  The type of anesthetic, if any, used for each induced  
19    abortion;

20      13.  The method used to dispose of fetal tissue and remains;

21      14.  Specialty area of medicine of the physician;

22      15.  The number of previous abortions the female has had; and

23      16.  Whether ultrasound equipment was used in the performance of  
24    the abortion.

1 ABORTION REPORTING FORM

2 PART I

3 1. Name of physician performing abortions and filing this  
4 Abortion Reporting Form and his/her special field of medical  
5 practice: \_\_\_\_\_  
6 \_\_\_\_\_  
7 \_\_\_\_\_

8 2. Calendar year and month for which this Abortion Reporting  
9 Form is being filed: \_\_\_\_\_  
10 \_\_\_\_\_

11 3. Address and telephone number of abortion facility or  
12 (facilities) where physician performs abortions: \_\_\_\_\_  
13 \_\_\_\_\_  
14 \_\_\_\_\_  
15 \_\_\_\_\_

16 4. List of professional sanctions, if any, in this or other  
17 jurisdiction on physician performing abortion and filing this report  
18 (license revocation, suspension or other): \_\_\_\_\_  
19 \_\_\_\_\_  
20 \_\_\_\_\_

21 PART II

22 1. Total number of abortions performed for calendar year for  
23 which this Abortion Reporting Form is being filed: \_\_\_\_\_  
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2. Breakdown of the total number of abortions performed by month:

- January \_\_\_\_\_
- February \_\_\_\_\_
- March \_\_\_\_\_
- April \_\_\_\_\_
- May \_\_\_\_\_
- June \_\_\_\_\_
- July \_\_\_\_\_
- August \_\_\_\_\_
- September \_\_\_\_\_
- October \_\_\_\_\_
- November \_\_\_\_\_
- December \_\_\_\_\_

PART III

Please attach to this Abortion Reporting Form copies of the Abortion Report Sheets completed for each abortion. Such sheets require information to be reported by the physician in accordance with the Statistical Reporting of Abortion Act of Oklahoma and shall be fully completed and submitted with this Abortion Reporting Form by the physician named above.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by:  
(date) (month) (year)

1 \_\_\_\_\_

2 (Signature of physician)

3 ABORTION REPORT SHEET: PART III OF THE ABORTION REPORTING FORM

4 (TO BE COMPLETED FOR EACH ABORTION PERFORMED)

5 1. Date of abortion: \_\_\_\_\_

6 2. Age of female: \_\_\_\_\_

7 3. Approximate gestational age, in weeks as measured from the  
8 female's last menstrual period, of the unborn child subject to  
9 abortion: \_\_\_\_\_

10 4. Method of abortion used: \_\_\_\_\_

11 5. Reason for abortion (check all applicable):

12 \_\_\_ avert the death of the female

13 \_\_\_ the pregnancy was a result of rape

14 \_\_\_ the pregnancy was a result of incest

15 \_\_\_ the female cannot afford the child

16 \_\_\_ the female doesn't want the child

17 \_\_\_ the female's emotional health is at risk

18 \_\_\_ the female will suffer substantial and irreversible

19 impairment of a major bodily function if the pregnancy

20 continues

21 \_\_\_ the female wanted a child of a different sex

22 \_\_\_ other

23 6. Method of payment (check one):

24 \_\_\_ private insurance

1        \_\_\_ public health plan

2        \_\_\_ other

3        7. Type of medical health coverage (check one):

4        \_\_\_ a fee-for-service insurance company

5        \_\_\_ a managed care company

6        \_\_\_ other

7        8. Complications: \_\_\_\_\_

8        \_\_\_\_\_

9        \_\_\_\_\_

10       \_\_\_\_\_

11       \_\_\_\_\_

12       \_\_\_\_\_

13       9. Fee collected: \_\_\_\_\_

14       \_\_\_\_\_

15       10. Type of anesthetic used: \_\_\_\_\_

16       \_\_\_\_\_

17       11. Method of fetal tissue disposal: \_\_\_\_\_

18       \_\_\_\_\_

19       12. State the specialty area of medicine of the physician:

20       \_\_\_\_\_

21       13. State the number of previous abortions this female has had:

22       \_\_\_\_\_

23       14. Indicate whether ultrasound equipment was used in the

24       performance of this abortion: \_\_\_\_\_ If so, was the female given an

1 opportunity to view the ultrasound picture of her unborn child prior  
2 to the performance of the abortion? \_\_\_\_\_

3 Signed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by:  
4 (date) (month) (year)

5 \_\_\_\_\_

6 (Signature of physician)

7 SECTION 4. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 1-737.4 of Title 63, unless  
9 there is created a duplication in numbering, reads as follows:

10 A. Within ninety (90) days of the effective date of this act,  
11 the State Board of Medical Licensure and Supervision shall prepare  
12 an Induced Abortion Complications Report form for all physicians  
13 licensed and practicing in the State of Oklahoma. A copy of this  
14 act shall be attached to the Induced Abortion Complications Report.

15 B. The Board shall ensure that Induced Abortion Complications  
16 Report forms required by this act, together with a reprint of this  
17 act, are provided:

18 1. Within one hundred twenty (120) days after the effective  
19 date of this act to all physicians licensed to practice in this  
20 state;

21 2. To each physician who subsequently becomes newly licensed to  
22 practice in this state at the same time as official notification to  
23 that physician that the physician is so licensed; and

24

1 3. By December 1 of each year, other than the calendar year in  
2 which the Induced Abortion Complications Report forms are  
3 distributed in accordance with subsection A of this section, to all  
4 physicians licensed to practice in this state.

5 C. Any physician practicing in Oklahoma who encounters an  
6 illness or injury that is related to an induced abortion shall  
7 complete and submit an Induced Abortion Complications Report to the  
8 Board.

9 D. Any physician required to submit an Induced Abortion  
10 Complications Report to the Board shall do so as soon as is  
11 practicable after the encounter with the induced abortion-related  
12 illness or injury, but in no case more than sixty (60) days after  
13 such an encounter. Unacceptable delay or failure to submit an  
14 Induced Abortion Complications Report shall be sanctioned according  
15 to the provisions this act.

16 INDUCED ABORTION COMPLICATIONS REPORT

17 1. Name of physician filing this report and special field of  
18 medical practice: \_\_\_\_\_  
19 \_\_\_\_\_  
20 \_\_\_\_\_

21 2. Name, address, and telephone number of health care facility  
22 where induced abortion complication was discovered and treated:  
23 \_\_\_\_\_  
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3. Date on which complication was discovered and treated:

4. Age of patient experiencing complication: \_\_\_\_\_

5. Description of complication: \_\_\_\_\_

6. Type of follow-up care recommended and whether physician filing this Induced Abortion Complications Report will be providing such follow-up care (if not, provide name of medical professional who will, if known): \_\_\_\_\_

Signed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by:  
(date) (month) (year)

\_\_\_\_\_  
(Signature of physician)

1 SECTION 5. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 1-737.5 of Title 63, unless  
3 there is created a duplication in numbering, reads as follows:

4 A. Within ninety (90) days of the effective date of this act,  
5 the State Board of Medical Licensure and Supervision shall prepare a  
6 reporting form for physicians containing a reprint of this act  
7 requesting the following information:

8 1. The number of females to whom the physician provided the  
9 information in subparagraph a of paragraph 1 of subsection B of  
10 Section 1-738.2 of Title 63 of Oklahoma Statutes; of that number,  
11 the number provided by telephone and the number provided in person;  
12 and of each of those numbers, the number provided in the capacity of  
13 a referring physician and the number provided in the capacity of a  
14 physician who is to perform the abortion;

15 2. The number of females to whom the physician or an agent of  
16 the physician provided the information in paragraph 2 of subsection  
17 B of Section 1-738.2 of Title 63 of Oklahoma Statutes; of that  
18 number, the number provided by telephone and the number provided in  
19 person; of each of those numbers, the number provided in the  
20 capacity of a referring physician and the number provided in the  
21 capacity of a physician who is to perform the abortion; and of each  
22 of those numbers, the number provided by the physician and the  
23 number provided by an agent of the physician;

24

1           3. The number of females who availed themselves of the  
2 opportunity to obtain a copy of the printed information described in  
3 subparagraph a of paragraph 1 of subsection A of Section 1-738.3 of  
4 Title 63 of Oklahoma Statutes and the number who did not; and of  
5 each of those numbers, the number who, to the best of the reporting  
6 physician's information and belief, went on to obtain the abortion;  
7 and

8           4. The number of abortions performed by the physician in which  
9 information otherwise required to be provided at least twenty-four  
10 (24) hours before the abortion was not so provided because an  
11 immediate abortion was necessary to avert the female's death and the  
12 number of abortions in which such information was not so provided  
13 because a delay would create serious risk of substantial and  
14 irreversible impairment of a major bodily function.

15           B. The Board shall ensure that copies of the reporting forms  
16 described in subsection A of this section are provided:

17           1. Within one hundred twenty (120) days after the effective  
18 date of this act to all physicians licensed to practice in this  
19 state;

20           2. To each physician who subsequently becomes newly licensed to  
21 practice in this state at the same time as an official notification  
22 to that physician that the physician is so licensed; and  
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1           3. By December 1 of each year, other than the calendar year in  
2 which forms are distributed in accordance with subsection A of this  
3 subsection, to all physicians licensed to practice in this state.

4           C. By February 28 of each year following a calendar year in any  
5 part of which this act was in effect, each physician who provided,  
6 or whose agent provided, information to one or more females in  
7 accordance with Section 1-738.2 of Title 63 of Oklahoma Statutes  
8 during a previous calendar year shall submit to the Board a copy of  
9 the form described in subsection A of this section with the  
10 requested data entered accurately and completely.

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

21           E. By June 30 of each year, the Board shall issue a public  
22 report providing statistics for the previous calendar year compiled  
23 from all of the reports covering that year submitted in accordance  
24 with this section for each of the items listed in subsection A of

1 this section. Each such report shall also provide the statistics  
2 for all previous calendar years, adjusted to reflect any additional  
3 information from late or corrected reports. The Board shall take  
4 care to ensure that none of the information included in the public  
5 reports could reasonably lead to the identification of any  
6 individual providing information in accordance with subsection A, B  
7 or C of this section.

8 F. The Board may by rule promulgated in accordance with the  
9 Administrative Procedures Act alter the dates established by  
10 paragraph 3 of subsection B, subsections C, D or E of this section  
11 or consolidate the forms or reports described in this section with  
12 other forms or reports to achieve administrative convenience or  
13 fiscal savings or to reduce the burden of reporting requirements, so  
14 long as reporting forms are sent to all licensed physicians in the  
15 state at least once every year, and the report described in  
16 subsection E of this section is issued at least once every year.

17 SECTION 6. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 1-737.6 of Title 63, unless  
19 there is created a duplication in numbering, reads as follows:

20 A. Within ninety (90) days after this act is enacted, the State  
21 Board of Medical Licensure and Supervision shall prepare a reporting  
22 form for physicians requesting the following information:

23 1. The number of females to a parent of whom the physician  
24 provided notice described in subsection A of Section 1-740.2 of

1 Title 63 of the Oklahoma Statutes; of that number, the number  
2 provided personally as described in this subsection and the number  
3 provided by mail as described in this subsection; and of each of  
4 those numbers, the number of females who, to the best of the  
5 reporting physician's information and belief, went on to obtain the  
6 abortion;

7 2. The number of females upon whom the physician performed an  
8 abortion without providing the parent of the minor the notice  
9 described in this subsection; of that number, the number who were  
10 emancipated minors and the numbers for whom each of the subsections  
11 of this section were applicable;

12 3. The number of abortions performed by the physician after  
13 receiving judicial authorization to do so without parental notice;

14 4. The number of judicial authorizations granted because of a  
15 finding the minor girl was mature and capable of giving informed  
16 consent;

17 5. The number of judicial authorizations granted because of a  
18 finding that the performance of the abortion without parental  
19 notification was in the minor's best interest; and

20 6. The information described in paragraphs 1 through 5 of this  
21 subsection with respect to females for whom a guardian has been  
22 appointed pursuant to this subsection because of a finding of  
23 incompetence.

24

1 B. The Board shall ensure that copies of the reporting form  
2 described in this subsection, together with a reprint of this act,  
3 are provided:

4 1. Within one hundred twenty (120) days after the effective  
5 date of this act to all physicians licensed to practice in the  
6 state;

7 2. To each physician who subsequently becomes newly licensed to  
8 practice in the state at the same time as official notification to  
9 that physician that the physician is so licensed; and

10 3. By December 1 of every year, other than the calendar year in  
11 which forms are distributed in accordance with paragraph 1 of this  
12 subsection, to all physicians licensed to practice in the state.

13 C. By February 28 of each year following a calendar year in any  
14 part of which this act was in effect, each physician who provided,  
15 or whose agent provided, the notice described in this subsection and  
16 any physician who knowingly performed an abortion upon a minor or  
17 upon a female for whom a guardian or conservator had been appointed  
18 pursuant to this subsection because of a finding of incompetency  
19 during a previous calendar year shall submit to the Board a copy of  
20 the reporting form described in this section, with the requested  
21 data entered accurately and completely.

22 D. Reports that are not submitted after a grace period of  
23 thirty (30) days following the due date shall be subject to a late  
24 fee of Five Hundred Dollars (\$500.00) for each additional thirty-day

1 period or a portion of a thirty-day period they are overdue. Any  
2 physician required to report in accordance with this section who has  
3 not submitted a report or has submitted only an incomplete report  
4 more than one year following the due date may, in action brought by  
5 the Board, be directed by a court of competent jurisdiction to  
6 submit a complete report within a period stated by court order or be  
7 subject to sanctions for civil contempt.

8 E. By June 30th of each year, the Board shall issue a public  
9 report providing statistics for the previous calendar year compiled  
10 from all other reports covering that year submitted in accordance  
11 with this section for each of the items listed in this section. The  
12 report shall also include statistics which shall be obtained by the  
13 Administrative Office of the Court giving the total number of  
14 petitions or motions filed under Section 1-740.3 of Title 63 of  
15 Oklahoma Statutes, and of that number: the number in which the  
16 court appointed a guardian ad litem, the number in which the court  
17 appointed counsel, the number in which the judge issued an order  
18 authorizing an abortion without consent, the number in which the  
19 judge denied such an order, and of the last, the number of denials  
20 for which an appeal was filed, the number of such appeals that  
21 resulted in the denials being affirmed and the number of such  
22 appeals that resulted in reversals of such denials. Each report  
23 shall also provide the statistics for all previous calendar years  
24 for which such a public statistical report was required to be

1 issued, adjusted to reflect any additional information from later  
2 corrected reports. The Board shall take care to ensure that none of  
3 the information included in the public reports could reasonably lead  
4 to the identification of any individual female or of any female for  
5 whom a guardian or conservator has been appointed.

6 F. The Board may by rule promulgated in accordance with  
7 Administrative Procedures Act alter the dates established in this  
8 section or consolidate the forms or reports to achieve  
9 administrative convenience or fiscal savings or to reduce the burden  
10 of reporting requirements, so long as reporting forms are sent to  
11 all licensed physicians in the state at least once every year and  
12 the report described in this subsection is issued at least once  
13 every year.

14 G. If the Board fails to issue the public report required by  
15 this section, any group of ten or more citizens of the state may  
16 seek an injunction in a court of competent jurisdiction against the  
17 Director of the Board requiring that a complete report be issued  
18 within a period stated by court order. Failure to abide by such an  
19 injunction shall subject the Director to sanctions for civil  
20 contempt.

21 H. If judgment is rendered in favor of the plaintiff in any  
22 action described in this section, the court shall also render  
23 judgment for a reasonable attorney's fee in favor of the plaintiff  
24 against the defendant. If judgment is rendered in favor of the

1 defendant and the court finds that the plaintiffs suit was frivolous  
2 and brought in bad faith, the court shall also render judgment for a  
3 reasonable attorney fee in favor of the defendant against the  
4 plaintiff.

5 SECTION 7. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 1-737.7 of Title 63, unless  
7 there is created a duplication in numbering, reads as follows:

8 A. Physicians performing abortions or treating related  
9 complications shall complete and submit the appropriate reporting  
10 form to the State Board of Medical Licensure and Supervision no  
11 later than April 1 for the previous calendar year.

12 B. By July 1 of each year, the Board shall issue a public  
13 report providing the same detailed information required in the  
14 Abortion Reporting Form and the Induced Abortion Complications  
15 report. The public report shall cover the entire previous calendar  
16 year and shall be compiled from the data in all the Abortion  
17 Reporting Forms and the Induced Abortion Complications Reports  
18 submitted to the Board in accordance with this act. Each such  
19 public report shall also provide such detailed information for all  
20 previous calendar years subsequent to enactment of this act,  
21 adjusted to reflect any additional information from late or  
22 corrected reports. The Board shall take care to ensure that none of  
23 the information included in the public reports could reasonably lead  
24

1 to identification of any physician who performed or treated an  
2 abortion or any female who has had an abortion.

3 C. The Board may, by rule, alter the dates established by  
4 subsections A and B of this section for administrative convenience  
5 or fiscal savings or other valid reason, provided that physicians  
6 performing induced abortions or treating complications of abortions  
7 submit the forms once a year and the Board issues its report once a  
8 year.

9 SECTION 8. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 1-737.8 of Title 63, unless  
11 there is created a duplication in numbering, reads as follows:

12 A. Physicians who fail to submit the Abortion Reporting Form or  
13 the Induced Abortion Complications Report after a grace period of  
14 thirty (30) days following the due date shall be subject to a late  
15 fee of Five Hundred Dollars (\$500.00) for each additional thirty-day  
16 period that they are overdue. Any physician required to report in  
17 accordance with this section who has not submitted a report or has  
18 submitted only an incomplete report more than one year following the  
19 due date, may be so fined and, in an action brought by the State  
20 Board of Medical Licensure and Supervision, be directed by a court  
21 of competent jurisdiction to submit a complete report within a  
22 period stated by court order or be subject to sanctions for civil  
23 contempt.

24

1 B. If the Board fails to issue the public report required by  
2 this act or fails in any way to enforce this act's provisions, any  
3 group of ten or more citizens of this state may seek an injunction  
4 in a court of competent jurisdiction against the Director of the  
5 Board requiring that a complete public report be issued (within a  
6 period stated by court order), or that enforcement action be taken.  
7 Failure to abide by such an injunction shall subject the Director of  
8 the Board to sanctions for civil contempt.

9 C. Anyone who knowingly or recklessly fails to submit an  
10 Abortion Reporting Form or an Induced Abortion Complications Report,  
11 or submits false information under this act shall be guilty of a  
12 misdemeanor.

13 D. The Board may take reasonable steps to ensure observance of  
14 this act and to verify data provided, including, but not limited to,  
15 inspection of places where induced abortions are performed in  
16 accordance with relevant statutes.

17 SECTION 9. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 1-737.9 of Title 63, unless  
19 there is created a duplication in numbering, reads as follows:

20 No report made under this act shall include the name of any  
21 female having an abortion.

22 SECTION 10. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 1-737.10 of Title 63, unless  
24 there is created a duplication in numbering, reads as follows:

1 If any one or more provision, section, subsection, sentence,  
2 clause, phrase or word of this act or the application thereof to any  
3 person or circumstance is found to be unconstitutional, the same is  
4 hereby declared to be severable, and the balance of this act shall  
5 remain effective, notwithstanding such unconstitutionality. The  
6 Legislature hereby declares that it would have passed this act, and  
7 each provision, section, subsection, sentence, clause, phrase or  
8 word thereof, irrespective of the fact that any one or more  
9 provision, section, subsection, sentence, clause, phrase or word be  
10 declared unconstitutional.

11 SECTION 11. AMENDATORY Section 15, Chapter 185, O.S.L.  
12 2006 (63 O.S. Supp. 2006, Section 1-738.15), is amended to read as  
13 follows:

14 Section 1-738.15 A. Any person upon whom an abortion has been  
15 performed without the Unborn Child Pain Awareness/Prevention Act  
16 having been complied with, the father of the unborn child who was  
17 the subject of such an abortion, or the grandparent of such an  
18 unborn child may maintain an action against the person who performed  
19 the abortion in knowing or reckless violation of the Unborn Child  
20 Pain Awareness/Prevention Act for actual and punitive damages. Any  
21 person upon whom an abortion has been attempted without the Unborn  
22 Child Pain Awareness/Prevention Act having been complied with may  
23 maintain an action against the person who attempted to perform the  
24

1 abortion in knowing or reckless violation of the Unborn Child Pain  
2 Awareness/Prevention Act for actual and punitive damages.

3 B. If the Department fails to issue the public report required  
4 by the ~~Statistical Reporting of Abortion Act of Oklahoma~~ Unborn  
5 Child Pain Awareness/Prevention Act, an action pursuant to Title 12  
6 of the Oklahoma Statutes may be initiated.

7 SECTION 12. REPEALER 63 O.S. 2001, Section 1-738, is  
8 hereby repealed.

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

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