

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB1595
Page _____ Section _____ Lines _____
Of the printed Bill
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Daniel Sullivan _____

Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1595

By: Sullivan

7 PROPOSED COMMITTEE SUBSTITUTE

8 An Act relating to public health and safety; amending
9 63 O.S. 2001, Section 1-730, as amended by Section 1,
10 Chapter 161, O.S.L. 2007 (63 O.S. Supp. 2008, Section
11 1-730), which relates to abortion; modifying
12 definitions; prohibiting the performance of an
13 abortion solely on account of the sex of the unborn
14 child; specifying liability; authorizing injunctive
15 relief; specifying those persons authorized to bring
16 an action; specifying penalties; providing for civil
17 action; providing for the suspension or revocation of
18 a license; providing for certain privacy; creating
19 the Statistical Reporting of Abortion Act; providing
20 short title; defining terms; providing for the State
21 Department of Health to make an Individual Abortion
22 Form and a Complications of Induced Abortion Report
23 on its website; specifying content of forms;
24 providing for electronic submission; specifying time
in which reports are due; requiring certain public
reports; specifying time in which public reports
shall be filed; providing for enforcement of
reporting requirements; requiring notification of all
newly licensed physicians of reporting requirements;
requiring periodic inspections of certain facilities;
providing for penalties; providing for
confidentiality; providing for certain intervention
in certain circumstance; providing for certain laws
to be of nonbinding force in certain circumstance;
repealing 63 O.S. 2001, Section 1-738, which relates
to abortion reporting; providing for severability;
providing for codification; providing for
noncodification; and providing an effective date.

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

2 SECTION 1. AMENDATORY 63 O.S. 2001, Section 1-730, as
3 amended by Section 1, Chapter 161, O.S.L. 2007 (63 O.S. Supp. 2008,
4 Section 1-730), is amended to read as follows:

5 Section 1-730. A. As used in this article:

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

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

19 3. "Certified technician" means a Registered Diagnostic Medical
20 Sonographer who is certified in obstetrics and gynecology by the
21 American Registry for Diagnostic Medical Sonography (ARDMS) or a
22 Nurse Midwife or Advance Practice Nurse Practitioner in Obstetrics
23 with certification in obstetrical ultrasonography;

24

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

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

9 6. "Viable" means potentially able to live outside of the womb
10 of the mother upon premature birth, whether resulting from natural
11 causes or an abortion;

12 ~~4.~~ 7. "Conception" means the fertilization of the ovum of a
13 female individual by the sperm of a male individual;

14 ~~5.~~ 8. "Health" means physical or mental health;

15 ~~6.~~ 9. "Department" means the State Department of Health; and

16 ~~7.~~ 10. "Inducing an abortion" means the administration by any
17 person, including the pregnant woman, of any substance designed or
18 intended to cause an expulsion of the unborn child, effecting an
19 abortion as defined above, ~~and~~.

20 ~~8.~~ B. Nothing contained herein shall be construed in any manner
21 to include any birth control device or medication or sterilization
22 procedure.

23

24

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1-731.1 of Title 63, unless
3 there is created a duplication in numbering, reads as follows:

4 A. No person shall knowingly or recklessly perform or attempt
5 to perform an abortion with knowledge that the pregnant female is
6 seeking the abortion solely on account of the sex of the unborn
7 child. Nothing in this section shall be construed to proscribe the
8 performance of an abortion because the unborn child has a genetic
9 disorder that is sex-linked.

10 B. Any person who knowingly or recklessly violates a provision
11 of this section shall be liable for damages as provided in this
12 subsection and may be enjoined from such acts in accordance with
13 this section in an appropriate court.

14 1. A cause of action for injunctive relief against any person
15 who has knowingly or recklessly violated a provision of this section
16 may be maintained by:

17 a. the female upon whom an abortion was performed or
18 attempted to be performed in violation of this
19 section,

20 b. any person who is the spouse, parent, sibling, or
21 guardian of, or a current or former licensed health
22 care provider of, the female upon whom an abortion has
23 been performed or attempted to be performed in
24 violation of this section,

- c. a district attorney with appropriate jurisdiction, or
- d. the Attorney General.

2. The injunction shall prevent the abortion provider from performing further abortions in violation of this section in this state.

3. Any person who knowingly violates the terms of an injunction issued in accordance with this section shall be subject to civil contempt and shall be fined Ten Thousand Dollars (\$10,000.00) for the first violation, Fifty Thousand Dollars (\$50,000.00) for the second violation, and One Hundred Thousand Dollars (\$100,000.00) for the third violation and for each succeeding violation. The fines shall be the exclusive penalties for civil contempt pursuant to this paragraph. Each performance or attempted performance of an abortion in violation of the terms of an injunction is a separate violation. These fines shall be cumulative. No fine shall be assessed against the female upon whom an abortion is performed or attempted.

4. A pregnant female upon whom an abortion has been performed in violation of this section, or the parent or legal guardian of the female if she is an unemancipated minor, may commence a civil action against the abortion provider for any knowing or reckless violation of this section for actual and punitive damages.

C. An abortion provider who performed an abortion in violation of this section shall be considered to have engaged in unprofessional conduct for which the certificate or license of the

1 provider to provide health care services in this state shall be
2 suspended or revoked by the State Board of Medical Licensure and
3 Supervision or the State Board of Osteopathic Examiners.

4 D. In every proceeding or action brought under this section,
5 the anonymity of any female upon whom an abortion is performed or
6 attempted shall be preserved unless she gives her consent to such
7 disclosure. The court, upon motion or sua sponte, shall issue
8 orders to the parties, witnesses, and counsel, and shall direct the
9 sealing of the record and exclusion of individuals from courtrooms
10 or hearing rooms, to the extent necessary to safeguard her identity
11 from public disclosure. In the absence of written consent of the
12 female upon whom an abortion has been performed or attempted, anyone
13 who brings an action under subsection B of this section shall do so
14 under a pseudonym.

15 SECTION 3. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 1-738a of Title 63, unless there
17 is created a duplication in numbering, reads as follows:

18 This act shall be known and may be cited as the "Statistical
19 Reporting of Abortion Act".

20 SECTION 4. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 1-738b of Title 63, unless there
22 is created a duplication in numbering, reads as follows:

23 A. As used in the Statistical Reporting of Abortion Act:
24

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

3 2. "Complication" means any adverse physical or psychological
4 condition arising from the performance of an abortion, which
5 includes but is not limited to: uterine perforation, cervical
6 perforation, infection, bleeding, hemorrhage, blood clots, failure
7 to actually terminate the pregnancy, incomplete abortion (retained
8 tissue), pelvic inflammatory disease, endometritis, missed ectopic
9 pregnancy, cardiac arrest, respiratory arrest, renal failure,
10 metabolic disorder, shock, embolism, coma, placenta previa, preterm
11 delivery in subsequent pregnancies, free fluid in abdomen, adverse
12 reaction to anesthesia and other drugs, and mental and psychological
13 complications such as depression, anxiety, sleeping disorders,
14 psychiatric hospitalization, and emotional problems; and

15 3. "Stable Internet website" means a website that, to the
16 extent reasonably practicable, is safeguarded from having its
17 content altered other than by the State Department of Health.

18 B. By March 1, 2010, the State Department of Health shall make
19 available, on its stable Internet website, an Individual Abortion
20 Form as required by Section 5 of this act, and a form for a
21 Complications of Induced Abortion Report as required by Section 6 of
22 this act.

23 C. By March 1, 2010, the State Department of Health shall, on
24 its stable Internet website, provide the language of all Oklahoma

1 Statutes and regulations directly relating to abortion, and shall
2 promptly update its website to reflect subsequent statutory and
3 regulatory changes. The Department shall also, by March 1, 2010,
4 provide, on its stable Internet website, the means by which
5 physicians may electronically submit the reports required by the
6 Statistical Reporting of Abortion Act. The Department shall include
7 instructions on its stable Internet website regarding electronic
8 submission. The Department shall take all necessary precautions to
9 ensure the security of the electronically submitted reports so that
10 the data they include is able to be accessed only by specially
11 authorized departmental personnel during and following the process
12 of transmission.

13 SECTION 5. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 1-738c of Title 63, unless there
15 is created a duplication in numbering, reads as follows:

16 A. Subsections B and C of this section shall become operative
17 on the later of:

18 1. April 1, 2010; or

19 2. Thirty (30) calendar days following the date on which the
20 State Department of Health posts on its website the Individual
21 Abortion Form and instructions concerning its electronic submission
22 referenced in this section.

23 B. Any physician performing abortions shall fully complete and
24 submit, electronically, an Individual Abortion Form to the State

1 Department of Health by the last business day of the calendar month
2 following the month in which the physician performs an abortion, for
3 each abortion the physician performs.

4 C. In cases in which a physician or the agent of a physician:

5 1. Mails the printed materials described in Section 1-738.3 of
6 Title 63 of the Oklahoma Statutes to a female specifically to comply
7 with division (1) of subparagraph d of paragraph 2 of subsection B
8 of Section 1-738.2 of Title 63 of the Oklahoma Statutes;

9 2. Gives or mails the printed materials described in Section 1-
10 738.10 of Title 63 of the Oklahoma Statutes to a female specifically
11 to comply with subsection A of Section 1-738.8 of Title 63 of the
12 Oklahoma Statutes; or

13 3. Provides notice to a parent in compliance with Section 1-
14 740.2 of Title 63 of the Oklahoma Statutes,
15 but does not subsequently perform an abortion on the female or
16 minor, the physician shall electronically submit an Individual
17 Abortion Form to the State Department of Health, and shall mark as
18 "not applicable" those items of information that may accurately be
19 provided only when an abortion is performed. The physician shall
20 not submit such a form if the physician knows that an abortion was
21 subsequently performed on the female or minor by another physician.
22 Individual Abortion Forms required by this subsection shall be
23 submitted by the last business day of the second calendar month

24

1 following the calendar month in which the physician mails the
2 printed materials or provides notice to a parent.

3 D. The Department shall post the required Individual Abortion
4 Form on its stable Internet website. Nothing in the Individual
5 Abortion Form shall contain the name, address, or information
6 specifically identifying any patient. The Department's Individual
7 Abortion Form shall be substantially similar to, but need not be in
8 the specific format, provided in subsection F of this section.

9 E. The Individual Abortion Form shall contain a notice
10 containing an assurance that, in accordance with subsection F of
11 Section 7 of this act, public reports based on the form submitted
12 will not contain the name, address, or any other identifying
13 information of any individual female, that the State Department of
14 Health will take care to ensure that none of the information
15 included in its public reports could reasonably lead to the
16 identification of any individual female about whom information is
17 reported in accordance with the Statistical Reporting of Abortion
18 Act or of any physician providing information in accordance with the
19 Statistical Reporting of Abortion Act, and that such information is
20 not subject to the Oklahoma Open Records Act.

21 F. Individual Abortion Form. The Department's Individual
22 Abortion Form shall be substantially similar to, but need not be in
23 the specific format of, the following form:

24 Individual Abortion Form

(TO BE COMPLETED FOR EACH ABORTION PERFORMED)

1. Date of abortion _____
2. County in which abortion performed _____
3. Age of mother _____
4. Marital status of mother _____
(married, divorced, separated, widowed, or never married)
5. Race of mother _____
6. Years of education of mother _____
(specify highest year completed)
7. State or foreign country of residence of mother _____
8. Total number of previous pregnancies of the mother

Live Births _____
Miscarriages _____
Induced Abortions _____
9. Approximate gestational age in weeks, as measured from the last
menstrual period of the mother, of the unborn child subject to
abortion _____
10. Method of abortion used:
Suction Aspiration _____
Dilation and Curettage _____
RU 486 _____
Methotrexate _____
Other drug/chemical/medicine (specify) _____

- 1 Dilation and Evacuation _____
- 2 Saline _____
- 3 Urea _____
- 4 Prostaglandins _____
- 5 Partial Birth Abortion _____
- 6 Hysterotomy _____
- 7 Other (specify) _____
- 8 11. Was there an infant born alive as a result of the abortion?
- 9 _____
- 10 If yes:
- 11 Were life-sustaining measures undertaken? _____
- 12 How long did the infant survive? _____
- 13 12. Was anesthesia administered to mother _____
- 14 If yes, what type? _____
- 15 13. Was anesthesia administered to the fetus? _____
- 16 If yes:
- 17 What type? _____
- 18 How was it administered? _____
- 19 14. Method of fetal tissue disposal _____
- 20 15. The abortion provider or agent shall ask the pregnant female to
- 21 provide, orally or in writing, the reason(s) she is seeking the
- 22 abortion.
- 23 REASON GIVEN FOR ABORTION (check all applicable):
- 24 Having a baby:

- 1 Would dramatically change the life of the mother _____
- 2 Would interfere with the education of the mother _____
- 3 Would interfere with the job/employment/career of the
- 4 mother _____
- 5 Mother has other children or dependents _____
- 6 Mother cannot afford the child _____
- 7 Mother is unmarried _____
- 8 Mother is a student or planning to be a student _____
- 9 Mother cannot afford child care _____
- 10 Mother cannot afford the basic needs of life _____
- 11 Mother is unemployed _____
- 12 Mother cannot leave job to care for a baby _____
- 13 Mother would have to find a new place to live _____
- 14 Mother does not have enough support from a husband or partner
- 15 _____
- 16 Husband or partner is unemployed _____
- 17 Mother is currently or temporarily on welfare or public
- 18 assistance _____
- 19 Mother does not want to be a single mother _____
- 20 Mother is having relationship problems _____
- 21 Mother is not certain of relationship with the father of the
- 22 child _____
- 23 Partner and mother are unable to or do not want to get married
- 24 _____

1 Mother is not currently in a relationship _____
2 The relationship or marriage of the mother may soon break up
3 _____
4 Husband or partner is abusive to the mother or her children
5 _____
6 Mother has completed her childbearing _____
7 Mother is not ready for a, or another, child _____
8 Mother does not want people to know that she had sex or became
9 pregnant _____
10 Mother does not feel mature enough to raise a, or another,
11 child _____
12 Husband or partner wants mother to have an abortion _____
13 There may be possible problem affecting the health of the fetus
14 _____
15 Physical health of the mother is at risk _____
16 Parents want mother to have an abortion _____
17 Emotional health of the mother is at risk _____
18 Mother suffered from a medical emergency as defined in Section
19 1-738.1 of Title 63 of the Oklahoma Statutes _____
20 Mother wanted a child of a different sex _____
21 Abortion is necessary to avert the death of the mother _____
22 Pregnancy was a result of forcible rape _____
23 Pregnancy was a result of incest _____
24 Other (specify) _____

1 Patient was asked why she is seeking an abortion, but she
2 declined to give a reason _____

3 16. Method of payment (check one):
4 Private insurance _____
5 Public health plan _____
6 Medicaid _____
7 Private pay _____
8 Other (specify) _____

9 17. Type of medical health insurance coverage, if any (check one):
10 Fee-for-service insurance company _____
11 Managed care company _____
12 Other (specify) _____

13 18. Sum of fee(s) collected _____

14 19. Specialty area of medicine of the physician _____
15 _____

16 20. Was ultrasound equipment used before, during, or after the
17 performance of this abortion?
18 Before? _____ Vaginal, abdominal, or both? _____
19 During? _____ Vaginal, abdominal, or both? _____
20 After? _____ Vaginal, abdominal, or both? _____

21 21. If ultrasound equipment was used, was the ultrasound, as
22 required by Section 1-738.3b of Title 63 of the Oklahoma
23 Statutes, performed by a:
24 Physician _____

1 Certified Technician as defined in Section 1-730 of Title 63 of
2 the Oklahoma Statutes _____

3 22. Was the information required by paragraph 1 of subsection B of
4 Section 1-738.2 of Title 63 of the Oklahoma Statutes provided
5 to the mother? _____

6 a. If yes, was it provided:

7 In person _____

8 By telephone _____

9 b. Was it provided by:

10 A referring physician _____

11 The physician performing the abortion _____

12 An agent of a referring physician _____

13 An agent of the physician performing the abortion

14 _____

15 23. Was the information required by paragraph 2 of subsection B of
16 Section 1-738.2 of Title 63 of the Oklahoma Statutes provided
17 to the mother? _____

18 a. If yes, was it provided:

19 In person _____

20 By telephone _____

21 b. Was it provided by:

22 A referring physician _____

23 An agent of a referring physician _____

24 The physician performing the abortion _____

1 An agent of the physician performing the abortion

2 _____

3 24. Did the mother avail herself of the opportunity to have the
4 printed materials described in Section 1-738.3 of Title 63 of
5 the Oklahoma Statutes mailed to her? _____

6 25. Were the informed consent requirements of subsection B of
7 Section 1-738.2 of Title 63 of the Oklahoma Statutes dispensed
8 with because of a medical emergency necessitating an immediate
9 abortion:

10 To avert death _____

11 To avert substantial and irreversible impairment of a major
12 bodily function arising from continued pregnancy _____

13 26. Was the probable gestational age of the unborn child twenty
14 (20) weeks or more? _____

15 a. If yes, was the mother provided the information
16 described in subsection A of Section 1-738.8 of Title
17 63 of the Oklahoma Statutes? _____

18 (1) If yes, was the information provided:

19 In person _____

20 By telephone _____

21 (2) If yes, was the information provided by:

22 A referring physician _____

23 An agent of a referring physician _____

24 The physician performing the abortion _____

1 An agent of the physician performing the abortion

2 _____

3 b. Did the mother choose to be given or mailed the
4 materials described in Section 1-738.10 of Title 63 of
5 the Oklahoma Statutes? _____

6 c. To the best of the information and belief of the
7 reporting physician, did the mother go on to obtain
8 the abortion? _____

9 27. Was the abortion performed within the scope of employment of an
10 Oklahoma state employee or an employee of an agency or
11 political subdivision of the state? _____

12 28. Was the abortion performed with the use of any public
13 institution, public facility, public equipment, or other
14 physical asset owned, leased, or controlled by this state, its
15 agencies, or political subdivisions? _____

16 29. If the answer to question 27 or 28 is yes:

17 a. Was the abortion necessary to save the life of the
18 mother? _____

19 If yes, what was the life-endangering condition?

20 _____

21 b. Did the pregnancy result from an act of forcible rape?

22 _____

23 If yes, list the law enforcement authority to which
24 the rape was reported _____

1 List the date of the report _____

2 c. Did the pregnancy result from an act of incest
3 committed against a minor? _____

4 If yes, list the law enforcement authority to which
5 the perpetrator was reported _____

6 List the date of the report _____

7 THIS PORTION TO BE COMPLETED IN CASE OF MINOR

8 30. Minor's age _____

9 31. Was a parent of the minor provided notice prior to the abortion
10 as described in Section 1-740.2 of Title 63 of the Oklahoma
11 Statutes? _____

12 a. If yes, how was the notice provided?

13 In person _____

14 By mail _____

15 b. If yes, to the best of the reporting physician's
16 knowledge and belief, did the minor go on to obtain
17 the abortion? _____

18 32. Was informed written consent of one parent obtained as
19 described in Section 1-740.2 of Title 63 of the Oklahoma
20 Statutes? _____

21 If yes, how was it secured?

22 In person _____

23 Other (specify) _____

24

1 33. If no notice was provided nor consent obtained, please indicate
2 which of the following apply:

3 Minor was emancipated _____

4 Abortion was necessary to prevent the death of the minor _____

5 Medical emergency, as defined in Section 1-738.1 of Title 63 of
6 the Oklahoma Statutes, existed _____

7 Minor received judicial authorization to obtain abortion
8 without parental notice or consent _____

9 34. If no notice was provided nor consent obtained because a
10 medical emergency existed, please indicate:

11 Whether parent was subsequently notified (state period of time
12 elapsed before notice was given) _____

13 Whether judicial waiver of notice requirement was obtained
14 _____

15 35. If the minor received judicial authorization to obtain an
16 abortion without parental notice or consent, please indicate
17 which of the following applies:

18 Judge ruled that minor was mature enough to give informed
19 consent on her own _____

20 Judge ruled that abortion was in the best interest of the minor
21 _____

22 36. If the female was a minor at the time of conception, please
23 indicate the age of the father of the unborn child at the time
24 of conception _____

1 37. If at the time of conception the ages of the mother and father
2 were such that a violation of Section 1111, 1112, 1114, or 1123
3 of Title 21 or Section 7115 of Title 10 of the Oklahoma
4 Statutes occurred, was the rape or abuse reported to the proper
5 authorities _____

6 Filed this ____ day of _____, ____ by:

7 _____

8 (Name of physician)

9 _____

10 (Physician's license number)

11 NOTICE: In accordance with subsection F of Section 1-738d of Title
12 63 of the Oklahoma Statutes, public reports based on this form will
13 not contain the name, address, or any other identifying information
14 of any individual female. The State Department of Health shall take
15 care to ensure that none of the information included in its public
16 reports could reasonably lead to the identification of any
17 individual female about whom information is reported or of any
18 physician providing information in accordance with the Statistical
19 Reporting of Abortion Act. Such information is not subject to the
20 Oklahoma Open Records Act.

21 Please be advised that any complication(s) shall be detailed in
22 a "Complications of Induced Abortion Report" and submitted to the
23 Department as soon as is practicable after the encounter with the
24 induced-abortion-related illness or injury, but in no case more than

1 sixty (60) days after such an encounter. In addition, there is a
2 specific requirement promptly to provide a written report of
3 specified complications associated with RU-486, mifepristone, to the
4 State Board of Medical Licensure and Supervision or the State Board
5 of Osteopathic Examiners, in accordance with paragraph 1 of
6 subsection D of Section 1-729 of Title 63 of the Oklahoma Statutes.

7 SECTION 6. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 1-738d of Title 63, unless there
9 is created a duplication in numbering, reads as follows:

10 A. Complications of Induced Abortion Report. By March 1, 2010,
11 the State Department of Health shall prepare and make available, on
12 its stable Internet website, a Complications of Induced Abortion
13 Report for all physicians licensed and practicing in the State of
14 Oklahoma.

15 B. Subsection C of this section shall become operative on the
16 later of:

17 1. April 1, 2010; or

18 2. Thirty (30) calendar days following the date on which the
19 State Department of Health posts on its website the Individual
20 Abortion Form and instructions concerning its electronic submission
21 referenced in Section 5 of this act.

22 C. Any physician practicing in Oklahoma who encounters an
23 illness or injury that a reasonably knowledgeable physician would
24 judge is related to an induced abortion shall complete and submit,

1 electronically or by regular mail, a Complications of Induced
2 Abortion Report to the Department as soon as is practicable after
3 the encounter with the induced-abortion-related illness or injury,
4 but in no case more than sixty (60) days after such an encounter.
5 Nothing in the Complications of Induced Abortion Report shall
6 contain the name, address, or any other information specifically
7 identifying any patient. Knowing or reckless unreasonable delay or
8 failure to submit a Complications of Induced Abortion Report shall
9 be sanctioned according to the provisions of the Statistical
10 Reporting of Abortion Act.

11 D. The Complications of Induced Abortion Report shall contain a
12 notice containing an assurance that in accordance with subsection F
13 of Section 5 of this act, public reports based on the form submitted
14 will not contain the name, address, or any other identifying
15 information of any individual female, that the State Department of
16 Health will take care to ensure that none of the information
17 included in its public reports could reasonably lead to the
18 identification of any individual female about whom information is
19 reported in accordance with the Statistical Reporting of Abortion
20 Act, and that such information is not subject to the Oklahoma Open
21 Records Act.

22 E. Complication(s) of Induced Abortion Report. The
23 Complications of Induced Abortion Report shall be substantially
24

1 similar to, but need not be in the specific format of, the following
2 form:

3 Complications of Induced Abortion Report

4 1. Name and specialty field of medical practice of the
5 physician filing the report: _____;

6 2. Did the physician filing the report perform or induce the
7 abortion: _____;

8 3. Name, address, and telephone number of the health care
9 facility where the induced abortion complication was discovered or
10 treated: _____;

11 4. Date on which the complication was discovered: _____;

12 5. Date on which, and location of the facility where, the
13 abortion was performed, if known: _____;

14 6. Age of the patient experiencing the complication: _____;

15 7. Describe the complication(s) resulting from the induced
16 abortion: _____;

17 8. Circle all that apply:

18 a. Death

19 b. Cervical laceration requiring suture or repair

20 c. Heavy bleeding/hemorrhage with estimated blood loss of
21 greater than or equal to 500cc

22 d. Uterine Perforation

23 e. Infection requiring inpatient transfusion

24

1 f. Failed termination of pregnancy (continued viable
2 pregnancy)

3 g. Incomplete termination of pregnancy (Retained parts of
4 fetus requiring re-evacuation)

5 h. Other (May include psychological complications, future
6 reproductive complications, or other illnesses or
7 injuries that in the physician's medical judgment
8 occurred as a result of an induced abortion. Please
9 specify Diagnosis.) _____;

10 9. Type of follow-up care, if any, recommended

11 _____;

12 10. Will the physician filing the Complications of Induced
13 Abortion Report be providing such follow-up care (if not, the name
14 of the medical professional who will, if known):

15 _____;

16 11. Name and license number of physician filing the
17 Complications of Induced Abortion Report: _____.

18 F. The Complications of Induced Abortion Report shall contain
19 information advising physicians of their independent duty promptly
20 to provide a written report of specified complications associated
21 with RU-486, mifepristone, to the State Board of Medical Licensure
22 and Supervision or the State Board of Osteopathic Examiners, in
23 accordance with paragraph 1 of subsection D of Section 1-729 of
24 Title 63 of the Oklahoma Statutes.

1 SECTION 7. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1-738e of Title 63, unless there
3 is created a duplication in numbering, reads as follows:

4 A. By June 1 of each year, the Department shall issue, on its
5 stable Internet website, a public Annual Abortion Report providing
6 statistics for the previous calendar year compiled from all of the
7 reports covering that year submitted in accordance with the
8 Statistical Reporting of Abortion Act.

9 B. The Department's public report shall also provide statistics
10 for all previous calendar years for which abortion reporting
11 requirements have been in effect, adjusted to reflect any additional
12 information from late or corrected reports.

13 C. The Annual Abortion Report shall include, but not be limited
14 to, the following information:

15 1. The number of induced abortions performed in the previous
16 calendar year, broken down by month and county;

17 2. The number of abortions classified by:

18 a. the state or foreign country of residence of the
19 mother,

20 b. the age, marital status, and race of the mother, and

21 c. the number of years of education of the mother;

22 3. The number of abortions classified by:

23 a. the number of previous pregnancies of the mother,

24 b. previous live births to the mother,

- 1 c. previous miscarriages, and
- 2 d. previous induced abortions;
- 3 4. The number of abortions by week of gestational age;
- 4 5. The number of abortions performed by each reported method;
- 5 6. The number of abortions resulting in an infant born alive;
- 6 of these, the number of cases in which life-sustaining measures were
- 7 taken; and a statistical summary of the length of survival of such
- 8 infants;
- 9 7. The number of cases in which anesthesia was administered to
- 10 the mother and the number of each type of anesthesia;
- 11 8. The number of cases in which anesthesia was administered to
- 12 the unborn child, and the number of each type of anesthesia and of
- 13 each method of administration;
- 14 9. The number of each reported method of fetal disposal;
- 15 10. The reasons reported for the abortions, and the number of
- 16 times each reported reason was cited;
- 17 11. The number of abortions paid for by:
 - 18 a. private insurance,
 - 19 b. public health plan,
 - 20 c. Medicaid,
 - 21 d. private pay, or
 - 22 e. other (please specify);
- 23 12. The number of abortions in which medical health insurance
- 24 coverage was under:

1 a. a fee-for-service insurance company,

2 b. a managed care company, or

3 c. other (please specify);

4 13. A statistical summary of the fees collected;

5 14. Specialty area of medicine of the physician;

6 15. The number of abortions in which ultrasound equipment was
7 used before, during, or after the abortion, and the number of times
8 vaginal ultrasound, abdominal ultrasound, or both were used in each
9 of the three circumstances;

10 16. The number of abortions before which an ultrasound was
11 performed, as required by Section 1-738.3b of Title 63 of the
12 Oklahoma Statutes, by:

13 a. the physician, or

14 b. a certified technician as defined by Section 1-730 of
15 Title 63 of the Oklahoma Statutes.

16 17. The number of abortions performed without first explaining,
17 displaying, and describing ultrasound images as provided under
18 paragraphs 2 through 4 of subsection B of Section 1-738.3b of Title
19 63 of the Oklahoma Statutes because of a medical emergency
20 determination;

21 18. The number of abortions resulting in reported
22 complications, and of those, how many were reported by the physician
23 who performed the abortion, and how many were reported by another
24 physician, the types of reported complications, and the number of

1 each type, including, based on data which shall be compiled and
2 transmitted to the State Department of Health by the State Boards of
3 Medical Licensure and Supervision and of Osteopathic Examiners, the
4 complications related to RU-486, mifepristone, reported under
5 paragraph 1 of subsection D of Section 1-729 of Title 63 of the
6 Oklahoma Statutes;

7 19. The number of abortions resulting in the reported death of
8 the mother;

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

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

1 22. The number of females who availed themselves of the
2 opportunity to have a copy of the printed information described in
3 Section 1-738.3 of Title 63 of the Oklahoma Statutes mailed to them;
4 and of that number, the number who, based on the submitted reports,
5 did and did not obtain an abortion;

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

13 24. The number of females to whom physicians or their agents
14 provided the information described in subsection A of Section 1-
15 738.8 of Title 63 of the Oklahoma Statutes; of that number:

16 a. the number provided by telephone and the number
17 provided in person; and of each of those numbers, the
18 number provided in the capacity of a referring
19 physician and the number provided in the capacity of a
20 physician who is to perform the abortion, or by the
21 agent of such physician, and

22 b. the number of females who availed themselves of the
23 opportunity to be given or mailed the materials
24 described in Section 1-738.10 of Title 63 of the

1 Oklahoma Statutes, and the number who did not; and of
2 each of those numbers, the number who, to the best of
3 the information and belief of the reporting physician,
4 went on to obtain the abortion;

5 25. The number of females to whom the information described in
6 subsection A of Section 1-738.8 of Title 63 of the Oklahoma Statutes
7 would have had to be provided but for a medical emergency
8 determination; of that number, the number for whom an immediate
9 abortion was necessary to avert the death of the female, and the
10 number for whom a delay would have created serious risk of
11 substantial and irreversible impairment of a major bodily function;

12 26. The number of abortions performed within the scope of
13 employment of Oklahoma state employees and employees of an agency or
14 political subdivision of the state, the number of abortions
15 performed with the use of public institutions, facilities,
16 equipment, or other physical assets owned, leased, or controlled by
17 this state, its agencies, or political subdivisions, and for each
18 category:

- 19 a. the number of abortions reported as necessary to save
20 the life of the mother, the life-endangering
21 conditions identified, and the number of each such
22 condition reported,
- 23 b. the number of abortions reported from pregnancies
24 resulting from forcible rape, the number of such rapes

1 reported to law enforcement authorities, general
2 categories of law enforcement authorities to whom
3 reports were made and the number made to each
4 category, and a statistical summary of the length of
5 time between the dates of reporting to law enforcement
6 authorities and the dates of the abortions, and
7 c. the number of abortions reported from pregnancies
8 resulting from incest committed against a minor, the
9 number of perpetrators of incest in such cases
10 reported to law enforcement authorities, general
11 categories of law enforcement authorities to whom
12 reports were made and the number made to each
13 category, and a statistical summary of the length of
14 time between the dates of reporting to law enforcement
15 authorities and the dates of the abortions;

16 27. The number of females to a parent of whom the physician
17 provided notice as required by Section 1-740.2 of Title 63 of the
18 Oklahoma Statutes; of that number, the number provided personally as
19 described in that section, and the number provided by mail as
20 described in that section, and of each of those numbers, the number
21 of females who, to the best of the information and belief of the
22 reporting physician, went on to obtain the abortion;

23 28. The number of females upon whom the physician performed an
24 abortion without the notice to or consent of the parent of the minor

1 required by Section 1-740.2 of Title 63 of the Oklahoma Statutes; of
2 that number, the number who were emancipated minors and the number
3 who suffered from a medical emergency, and of the latter, the number
4 of cases in which a parent was notified subsequently and the number
5 of cases in which a judicial waiver was obtained. In the case of
6 medical emergencies in which a parent was informed subsequently, a
7 statistical summary of the period of time elapsed before
8 notification;

9 29. The number of abortions performed after receiving judicial
10 authorization to do so without parental notice and consent;

11 30. The number of abortions performed on minors after judicial
12 authorizations granted because of a finding the minor girl was
13 mature and capable of giving informed consent; and

14 31. The number of abortions performed on minors after judicial
15 authorizations granted because of a finding that the performance of
16 the abortion without parental notification and consent was in the
17 best interest of the minor.

18 D. By June 1 of each year, the State Department of Health shall
19 post, on its stable Internet website, a public Annual Judicial
20 Bypass of Abortion Parental Consent Summary Report providing
21 statistics which shall be compiled and supplied to the Department by
22 the Administrative Office of the Courts giving the total number of
23 petitions or motions filed under Section 1-740.3 of Title 63 of the
24 Oklahoma Statutes and of that number, the number in which:

1 1. The court appointed a guardian ad litem;

2 2. The court appointed counsel;

3 3. The judge issued an order authorizing an abortion without
4 parental notification or consent, and of those:

5 a. the number authorized due to a determination by the
6 judge that the minor was mature and capable of giving
7 consent to the proposed abortion, and

8 b. the number authorized due to a determination by the
9 judge that an abortion was in the best interest of the
10 minor; and

11 4. The judge denied such an order, and of this, the number of:

12 a. denials from which an appeal was filed,

13 b. the appeals that resulted in the denial being
14 affirmed, and

15 c. appeals that resulted in reversals of the denials.

16 E. Each Annual Judicial Bypass of Abortion Parental Consent
17 Summary Report shall also provide the statistics for all previous
18 calendar years for which the public statistical report was required
19 to be issued, adjusted to reflect any additional information from
20 late or corrected reports.

21 F. The Department's public reports shall not contain the name,
22 address, or any other identifying information of any individual
23 female, and shall take care to ensure that none of the information
24 included in its public reports could reasonably lead to the

1 identification of any individual female about whom information is
2 reported in accordance with the Statistical Reporting of Abortion
3 Act or of any physician providing information in accordance with the
4 Statistical Reporting of Abortion Act. Nor shall the information
5 described in the preceding sentence be subject to the Oklahoma Open
6 Records Act.

7 SECTION 8. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 1-738f of Title 63, unless there
9 is created a duplication in numbering, reads as follows:

10 A. The State Department of Health shall notify the following of
11 the requirements of the Statistical Reporting of Abortion Act and of
12 the addresses of the pages on its website providing access to the
13 forms it requires and instructions for their electronic submission:

14 1. By March 1, 2010, all physicians licensed to practice in
15 this state; and

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

19 B. Individual Abortion Forms or Complications of Induced
20 Abortion Reports that are not submitted by the end of a grace period
21 of thirty (30) days following the due date shall be subject to a
22 late fee of Five Hundred Dollars (\$500.00) for each additional
23 thirty-day period the forms or reports are overdue. Any monies
24 collected under this subsection shall be deposited into an account

1 created within the Department, which shall be used for the
2 administration of the Statistical Reporting of Abortion Act. Any
3 physician required to report in accordance with the Statistical
4 Reporting of Abortion Act who has not completed and electronically
5 submitted a form or report, or has submitted only an incomplete form
6 or report, more than one (1) year following the due date shall be
7 precluded from renewing his or her license until such fines are paid
8 in full and outstanding forms or reports are submitted, and may, in
9 an action brought by the State Department of Health, be directed by
10 a court of competent jurisdiction to electronically submit completed
11 forms or reports within a period stated by court order or be subject
12 to sanctions for civil contempt.

13 C. Anyone who knowingly or recklessly fails to submit an
14 Individual Abortion Form or Complications of Induced Abortion
15 Report, or submits false information under the Statistical Reporting
16 of Abortion Act, shall be guilty of a misdemeanor.

17 D. The Department shall ensure compliance with the Statistical
18 Reporting of Abortion Act and shall verify the data provided by
19 periodic inspections of places where abortions are performed.

20 E. The Department may promulgate rules in accordance with the
21 Administrative Procedures Act to alter the dates established by the
22 Statistical Reporting of Abortion Act to achieve administrative
23 convenience, fiscal savings, or to reduce the burden of reporting
24 requirements, so long as the forms and reports are made available,

1 on its stable Internet website, to all licensed physicians in this
2 state, and the public reports described in Section 7 of this act are
3 issued at least once every year.

4 F. If the Department fails to issue the public reports
5 described in Section 7 of this act, an action pursuant to Chapter 26
6 of Title 12 of the Oklahoma Statutes may be initiated. If judgment
7 is rendered in favor of the plaintiff in any action described in
8 this subsection, the court shall also render judgment for a
9 reasonable attorney fee in favor of the plaintiff against the
10 defendant. If judgment is rendered in favor of the defendant and
11 the court finds that the plaintiff's suit was frivolous and brought
12 in bad faith, the court shall also render judgment for a reasonable
13 attorney fee in favor of the defendant against the plaintiff.

14 SECTION 9. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 1-738g of Title 63, unless there
16 is created a duplication in numbering, reads as follows:

17 The Oklahoma Legislature, by joint resolution, may appoint one
18 or more of its members, who sponsored or cosponsored this act, in
19 his or her official capacity, to intervene as a matter of right in
20 any case in which the constitutionality of this law is challenged.

21 SECTION 10. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 1-738h of Title 63, unless there
23 is created a duplication in numbering, reads as follows:

24

1 A. Sections 1-738.3a, 1-738.13 and 1-740.4a of Title 63 of the
2 Oklahoma Statutes shall become ineffective and of no binding force
3 on the date specified in subsection B of this section, but if the
4 Statistical Reporting of Abortion Act is ever temporarily or
5 permanently restrained or enjoined by judicial order, these sections
6 shall become effective and enforceable; provided, however, that if
7 such temporary or permanent restraining order or injunction is ever
8 stayed or dissolved, or otherwise ceases to have effect, these
9 sections shall again become ineffective and of no binding force
10 until or unless an injunction or restraining order against the
11 Statistical Reporting of Abortion Act is again in effect. If and to
12 the extent the Statistical Reporting of Abortion Act is restrained
13 or enjoined in part, then only those provisions of these sections
14 that neither conflict with nor substantively duplicate the
15 provisions of the Statistical Reporting of Abortion Act that are not
16 enjoined shall have effect. As promptly as feasible following the
17 issuance of any restraining order or injunction that enjoins part
18 but not all of the Statistical Reporting of Abortion Act, the
19 Attorney General shall issue an opinion specifically identifying
20 those provisions of these sections that are effective and
21 enforceable in accordance with the preceding sentence.

22 B. The date specified in this subsection is the later of:

23 1. April 1, 2010; or
24

1 2. Thirty (30) calendar days following the date on which the
2 State Department of Health posts on its website the Individual
3 Abortion Form and instructions concerning its electronic submission
4 referenced in Section 5 of this act.

5 SECTION 11. REPEALER 63 O.S. 2001, Section 1-738, is
6 hereby repealed.

7 SECTION 12. NEW LAW A new section of law not to be
8 codified in the Oklahoma Statutes reads as follows:

9 If any one or more provision, section, subsection, sentence,
10 clause, phrase or word of this act or the application thereof to any
11 person or circumstance is found to be unconstitutional, the same is
12 declared to be severable and the balance of this act shall remain
13 effective notwithstanding the unconstitutionality. The Legislature
14 declares that it would have passed this act, and each provision,
15 section, subsection, sentence, clause, phrase or word thereof,
16 irrespective of the fact that any one or more provision, section,
17 subsection, sentence, clause, phrase, or word be declared
18 unconstitutional.

19 SECTION 13. This act shall become effective November 1, 2009.

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