

THE HOUSE OF REPRESENTATIVES
Wednesday, February 17, 2010

House Bill No. 2656

HB 2656

HOUSE BILL NO. 2656 - By: SULLIVAN AND REYNOLDS of the House and CRAIN of the Senate.

An Act relating to public health and safety; stating legislative intent; defining terms; prohibiting recovery of damages in certain circumstances for wrongful birth and wrongful life actions; excepting specific circumstances; repealing Section 14, Chapter 36, O.S.L. 2008 (63 O.S. Supp. 2009, Section 1-741.11), which prohibits the recovery of damages in certain circumstances for wrongful birth and wrongful life actions; providing for codification; and declaring an emergency.

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

1 SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 1-741.12 of Title 63, unless there is created a duplication in
3 numbering, reads as follows:

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

7 B. For the purposes of this section:

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

10 2. "Wrongful life action" means a cause of action that is brought by or on behalf of a
11 child, which seeks economic or noneconomic damages for the child because of a condition
12 of the child that existed at the time of the child's birth, and which is based on a claim

1 that a person's act or omission contributed to the mother's not having obtained an
2 abortion; and

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

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

12 D. This section shall not preclude causes of action based on claims that, but for a
13 wrongful act or omission, maternal death or injury would not have occurred, or handicap,
14 disease, or disability of an individual prior to birth would have been prevented, cured, or
15 ameliorated in a manner that preserved the health and life of the affected individual.

16 SECTION 2. REPEALER Section 14, Chapter 36, O.S.L. 2008 (63 O.S. Supp.
17 2009, Section 1-741.11), is hereby repealed.

18 SECTION 3. It being immediately necessary for the preservation of the public
19 peace, health and safety, an emergency is hereby declared to exist, by reason whereof
20 this act shall take effect and be in full force from and after its passage and approval.

21 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02-16-10 - DO PASS,
22 As Coauthored.

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