

1 THE STATE SENATE  
2 Thursday, April 2, 2009

3 ENGROSSED

4 House Bill No. 1595

5 As Amended

6 ENGROSSED HOUSE BILL NO. 1595 - By: Sullivan, Peterson, Denney,  
7 Terrill, Ritze, Ownbey, Billy, Osborn, Faught, Reynolds, Thompson,  
8 Cooksey, Kern, Dank, Wright (Harold), Ortega, Enns, Sanders,  
9 Liebmann, Derby, Nelson, Christian, Moore and Walker of the House  
10 and Lamb, Brown, Mazzei, Crain and Newberry of the Senate.

11 [ public health and safety - amending 63 O.S., Section 1-730  
12 - abortion - Statistical Reporting of Abortion Act -  
13 codification - noncodification - effective date ]

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

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

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

19 1. "Abortion" means the use or prescription of any instrument,  
20 medicine, drug, or any other substance or device intentionally to  
21 terminate the pregnancy of a female known to be pregnant with an  
22 intention other than to increase the probability of a live birth, to  
23 preserve the life or health of the child after live birth, to remove  
24 an ectopic pregnancy, or to remove a dead unborn child who died as  
25 the result of a spontaneous miscarriage, accidental trauma, or a  
26 criminal assault on the pregnant female or her unborn child;

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

6           3. "Certified technician" means a Registered Diagnostic Medical  
7 Sonographer who is certified in obstetrics and gynecology by the  
8 American Registry for Diagnostic Medical Sonography (ARDMS) or a  
9 Nurse Midwife or Advance Practice Nurse Practitioner in Obstetrics  
10 with certification in obstetrical ultrasonography;

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

15          ~~3-~~ 5. "Unemancipated minor" means any person less than eighteen  
16 (18) years of age who is not or has not been married or who is under  
17 the care, custody, and control of the person's parent or parents,  
18 guardian, or juvenile court of competent jurisdiction;

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

22          ~~4-~~ 7. "Conception" means the fertilization of the ovum of a  
23 female individual by the sperm of a male individual;

1       ~~5.~~ 8. "Health" means physical or mental health;  
2       ~~6.~~ 9. "Department" means the State Department of Health; and  
3       ~~7.~~ 10. "Inducing an abortion" means the administration by any  
4 person, including the pregnant woman, of any substance designed or  
5 intended to cause an expulsion of the unborn child, effecting an  
6 abortion as defined above, ~~and.~~

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

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

13       A. No person shall knowingly or recklessly perform or attempt  
14 to perform an abortion with knowledge that the pregnant female is  
15 seeking the abortion solely on account of the sex of the unborn  
16 child. Nothing in this section shall be construed to proscribe the  
17 performance of an abortion because the unborn child has a genetic  
18 disorder that is sex-linked.

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

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

4           a. the female upon whom an abortion was performed or  
5 attempted to be performed in violation of this  
6 section,

7           b. any person who is the spouse, parent, sibling, or  
8 guardian of, or a current or former licensed health  
9 care provider of, the female upon whom an abortion has  
10 been performed or attempted to be performed in  
11 violation of this section,

12           c. a district attorney with appropriate jurisdiction, or

13           d. the Attorney General.

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

17           3. Any person who knowingly violates the terms of an injunction  
18 issued in accordance with this section shall be subject to civil  
19 contempt and shall be fined Ten Thousand Dollars (\$10,000.00) for  
20 the first violation, Fifty Thousand Dollars (\$50,000.00) for the  
21 second violation, and One Hundred Thousand Dollars (\$100,000.00) for  
22 the third violation and for each succeeding violation. The fines  
23 shall be the exclusive penalties for civil contempt pursuant to this

1 paragraph. Each performance or attempted performance of an abortion  
2 in violation of the terms of an injunction is a separate violation.  
3 These fines shall be cumulative. No fine shall be assessed against  
4 the female upon whom an abortion is performed or attempted.

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

10 C. An abortion provider who performed an abortion in violation  
11 of this section shall be considered to have engaged in  
12 unprofessional conduct for which the certificate or license of the  
13 provider to provide health care services in this state shall be  
14 suspended or revoked by the State Board of Medical Licensure and  
15 Supervision or the State Board of Osteopathic Examiners.

16 D. In every proceeding or action brought under this section,  
17 the anonymity of any female upon whom an abortion is performed or  
18 attempted shall be preserved unless she gives her consent to such  
19 disclosure. The court, upon motion or sua sponte, shall issue  
20 orders to the parties, witnesses, and counsel, and shall direct the  
21 sealing of the record and exclusion of individuals from courtrooms  
22 or hearing rooms, to the extent necessary to safeguard her identity  
23 from public disclosure. In the absence of written consent of the

1 female upon whom an abortion has been performed or attempted, anyone  
2 who brings an action under subsection B of this section shall do so  
3 under a pseudonym.

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

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

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

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

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

15 2. "Complication" means any adverse physical or psychological  
16 condition arising from the performance of an abortion, which  
17 includes but is not limited to: uterine perforation, cervical  
18 perforation, infection, bleeding, hemorrhage, blood clots, failure  
19 to actually terminate the pregnancy, incomplete abortion (retained  
20 tissue), pelvic inflammatory disease, endometritis, missed ectopic  
21 pregnancy, cardiac arrest, respiratory arrest, renal failure,  
22 metabolic disorder, shock, embolism, coma, placenta previa, preterm  
23 delivery in subsequent pregnancies, free fluid in abdomen, adverse

1 reaction to anesthesia and other drugs, and mental and psychological  
2 complications such as depression, anxiety, sleeping disorders,  
3 psychiatric hospitalization, and emotional problems; and

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

7 B. By March 1, 2010, the State Department of Health shall make  
8 available, on its stable Internet website, an Individual Abortion  
9 Form as required by Section 5 of this act, and a form for a  
10 Complications of Induced Abortion Report as required by Section 6 of  
11 this act.

12 C. By March 1, 2010, the State Department of Health shall, on  
13 its stable Internet website, provide the language of all Oklahoma  
14 Statutes and regulations directly relating to abortion, and shall  
15 promptly update its website to reflect subsequent statutory and  
16 regulatory changes. The Department shall also, by March 1, 2010,  
17 provide, on its stable Internet website, the means by which  
18 physicians may electronically submit the reports required by the  
19 Statistical Reporting of Abortion Act. The Department shall include  
20 instructions on its stable Internet website regarding electronic  
21 submission. The Department shall take all necessary precautions to  
22 ensure the security of the electronically submitted reports so that  
23 the data they include is able to be accessed only by specially

1 authorized departmental personnel during and following the process  
2 of transmission.

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

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

8 1. April 1, 2010; or

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

13 B. Any physician performing abortions shall fully complete and  
14 submit, electronically, an Individual Abortion Form to the State  
15 Department of Health by the last business day of the calendar month  
16 following the month in which the physician performs an abortion, for  
17 each abortion the physician performs.

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

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

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

5           3. Provides notice to a parent in compliance with Section 1-  
6 740.2 of Title 63 of the Oklahoma Statutes,  
7 but does not subsequently perform an abortion on the female or  
8 minor, the physician shall electronically submit an Individual  
9 Abortion Form to the State Department of Health, and shall mark as  
10 "not applicable" those items of information that may accurately be  
11 provided only when an abortion is performed. The physician shall  
12 not submit such a form if the physician knows that an abortion was  
13 subsequently performed on the female or minor by another physician.  
14 Individual Abortion Forms required by this subsection shall be  
15 submitted by the last business day of the second calendar month  
16 following the calendar month in which the physician mails the  
17 printed materials or provides notice to a parent.

18           D. The Department shall post the required Individual Abortion  
19 Form on its stable Internet website. Nothing in the Individual  
20 Abortion Form shall contain the name, address, or information  
21 specifically identifying any patient. The Department's Individual  
22 Abortion Form shall be substantially similar to, but need not be in  
23 the specific format, provided in subsection F of this section.

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

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

16 Individual Abortion Form

17 (TO BE COMPLETED FOR EACH ABORTION PERFORMED)

- 18 1. Date of abortion \_\_\_\_\_  
19 2. County in which abortion performed \_\_\_\_\_  
20 3. Age of mother \_\_\_\_\_  
21 4. Marital status of mother \_\_\_\_\_  
22 (married, divorced, separated, widowed, or never married)  
23 5. Race of mother \_\_\_\_\_

- 1 6. Years of education of mother \_\_\_\_\_  
2 (specify highest year completed)
- 3 7. State or foreign country of residence of mother \_\_\_\_\_
- 4 8. Total number of previous pregnancies of the mother  
5 \_\_\_\_\_  
6 Live Births \_\_\_\_\_  
7 Miscarriages \_\_\_\_\_  
8 Induced Abortions \_\_\_\_\_
- 9 9. Approximate gestational age in weeks, as measured from the last  
10 menstrual period of the mother, of the unborn child subject to  
11 abortion \_\_\_\_\_
- 12 10. Method of abortion used:  
13 Suction Aspiration \_\_\_\_\_  
14 Dilation and Curettage \_\_\_\_\_  
15 RU 486 \_\_\_\_\_  
16 Methotrexate \_\_\_\_\_  
17 Other drug/chemical/medicine (specify) \_\_\_\_\_  
18 Dilation and Evacuation \_\_\_\_\_  
19 Saline \_\_\_\_\_  
20 Urea \_\_\_\_\_  
21 Prostaglandins \_\_\_\_\_  
22 Partial Birth Abortion \_\_\_\_\_  
23 Hysterotomy \_\_\_\_\_

1 Other (specify) \_\_\_\_\_

2 11. Was there an infant born alive as a result of the abortion?

3 \_\_\_\_\_

4 If yes:

5 Were life-sustaining measures undertaken? \_\_\_\_\_

6 How long did the infant survive? \_\_\_\_\_

7 12. Was anesthesia administered to mother \_\_\_\_\_

8 If yes, what type? \_\_\_\_\_

9 13. Was anesthesia administered to the fetus? \_\_\_\_\_

10 If yes:

11 What type? \_\_\_\_\_

12 How was it administered? \_\_\_\_\_

13 14. Method of fetal tissue disposal \_\_\_\_\_

14 15. The abortion provider or agent shall ask the pregnant female to

15 provide, orally or in writing, the reason(s) she is seeking the

16 abortion.

17 REASON GIVEN FOR ABORTION (check all applicable):

18 Having a baby:

19 Would dramatically change the life of the mother \_\_\_\_\_

20 Would interfere with the education of the mother \_\_\_\_\_

21 Would interfere with the job/employment/career of the

22 mother \_\_\_\_\_

23 Mother has other children or dependents \_\_\_\_\_

1 Mother cannot afford the child \_\_\_\_\_  
2 Mother is unmarried \_\_\_\_\_  
3 Mother is a student or planning to be a student \_\_\_\_\_  
4 Mother cannot afford child care \_\_\_\_\_  
5 Mother cannot afford the basic needs of life \_\_\_\_\_  
6 Mother is unemployed \_\_\_\_\_  
7 Mother cannot leave job to care for a baby \_\_\_\_\_  
8 Mother would have to find a new place to live \_\_\_\_\_  
9 Mother does not have enough support from a husband or partner  
10 \_\_\_\_\_  
11 Husband or partner is unemployed \_\_\_\_\_  
12 Mother is currently or temporarily on welfare or public  
13 assistance \_\_\_\_\_  
14 Mother does not want to be a single mother \_\_\_\_\_  
15 Mother is having relationship problems \_\_\_\_\_  
16 Mother is not certain of relationship with the father of the  
17 child \_\_\_\_\_  
18 Partner and mother are unable to or do not want to get married  
19 \_\_\_\_\_  
20 Mother is not currently in a relationship \_\_\_\_\_  
21 The relationship or marriage of the mother may soon break up  
22 \_\_\_\_\_

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

- 1 16. Method of payment (check one):
- 2 Private insurance \_\_\_\_\_
- 3 Public health plan \_\_\_\_\_
- 4 Medicaid \_\_\_\_\_
- 5 Private pay \_\_\_\_\_
- 6 Other (specify) \_\_\_\_\_
- 7 17. Type of medical health insurance coverage, if any (check one):
- 8 Fee-for-service insurance company \_\_\_\_\_
- 9 Managed care company \_\_\_\_\_
- 10 Other (specify) \_\_\_\_\_
- 11 18. Sum of fee(s) collected \_\_\_\_\_
- 12 19. Specialty area of medicine of the physician \_\_\_\_\_
- 13 \_\_\_\_\_
- 14 20. Was ultrasound equipment used before, during, or after the
- 15 performance of this abortion?
- 16 Before? \_\_\_\_\_ Vaginal, abdominal, or both? \_\_\_\_\_
- 17 During? \_\_\_\_\_ Vaginal, abdominal, or both? \_\_\_\_\_
- 18 After? \_\_\_\_\_ Vaginal, abdominal, or both? \_\_\_\_\_
- 19 21. If ultrasound equipment was used, was the ultrasound, as
- 20 required by Section 1-738.3b of Title 63 of the Oklahoma
- 21 Statutes, performed by a:
- 22 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 \_\_\_\_\_

1                   The physician performing the abortion \_\_\_\_\_

2                   An agent of the physician performing the abortion

3                   \_\_\_\_\_

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

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

11 To avert death \_\_\_\_\_

12 To avert substantial and irreversible impairment of a major  
13 bodily function arising from continued pregnancy \_\_\_\_\_

14 26. Was the probable gestational age of the unborn child twenty  
15 (20) weeks or more? \_\_\_\_\_

16 a. If yes, was the mother provided the information  
17 described in subsection A of Section 1-738.8 of Title  
18 63 of the Oklahoma Statutes? \_\_\_\_\_

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

20 In person \_\_\_\_\_

21 By telephone \_\_\_\_\_

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

23 A referring physician \_\_\_\_\_

1                   An agent of a referring physician \_\_\_\_\_  
2                   The physician performing the abortion \_\_\_\_\_  
3                   An agent of the physician performing the abortion  
4                   \_\_\_\_\_

5           b.    Did the mother choose to be given or mailed the  
6           materials described in Section 1-738.10 of Title 63 of  
7           the Oklahoma Statutes? \_\_\_\_\_

8           c.    To the best of the information and belief of the  
9           reporting physician, did the mother go on to obtain  
10          the abortion? \_\_\_\_\_

11 27. Was the abortion performed within the scope of employment of an  
12 Oklahoma state employee or an employee of an agency or  
13 political subdivision of the state? \_\_\_\_\_

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

18 29. If the answer to question 27 or 28 is yes:  
19       a.    Was the abortion necessary to save the life of the  
20       mother? \_\_\_\_\_  
21       If yes, what was the life-endangering condition?  
22       \_\_\_\_\_



1 32. Was informed written consent of one parent obtained as  
2 described in Section 1-740.2 of Title 63 of the Oklahoma  
3 Statutes? \_\_\_\_\_

4 If yes, how was it secured?

5 In person \_\_\_\_\_

6 Other (specify) \_\_\_\_\_

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

9 Minor was emancipated \_\_\_\_\_

10 Abortion was necessary to prevent the death of the minor \_\_\_\_\_

11 Medical emergency, as defined in Section 1-738.1 of Title 63 of  
12 the Oklahoma Statutes, existed \_\_\_\_\_

13 Minor received judicial authorization to obtain abortion  
14 without parental notice or consent \_\_\_\_\_

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

17 Whether parent was subsequently notified (state period of time  
18 elapsed before notice was given) \_\_\_\_\_

19 Whether judicial waiver of notice requirement was obtained  
20 \_\_\_\_\_

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

1 Judge ruled that minor was mature enough to give informed  
2 consent on her own \_\_\_\_\_

3 Judge ruled that abortion was in the best interest of the minor  
4 \_\_\_\_\_

5 36. If the female was a minor at the time of conception, please  
6 indicate the age of the father of the unborn child at the time  
7 of conception \_\_\_\_\_

8 37. If at the time of conception the ages of the mother and father  
9 were such that a violation of Section 1111, 1112, 1114, or 1123  
10 of Title 21 or Section 7115 of Title 10 of the Oklahoma  
11 Statutes occurred, was the rape or abuse reported to the proper  
12 authorities \_\_\_\_\_

13 Filed this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_ by:

14 \_\_\_\_\_

15 (Name of physician)

16 \_\_\_\_\_

17 (Physician's license number)

18 NOTICE: In accordance with subsection F of Section 1-738d of Title  
19 63 of the Oklahoma Statutes, public reports based on this form will  
20 not contain the name, address, or any other identifying information  
21 of any individual female. The State Department of Health shall take  
22 care to ensure that none of the information included in its public  
23 reports could reasonably lead to the identification of any

1 individual female about whom information is reported or of any  
2 physician providing information in accordance with the Statistical  
3 Reporting of Abortion Act. Such information is not subject to the  
4 Oklahoma Open Records Act.

5 Please be advised that any complication(s) shall be detailed in  
6 a "Complications of Induced Abortion Report" and submitted to the  
7 Department as soon as is practicable after the encounter with the  
8 induced-abortion-related illness or injury, but in no case more than  
9 sixty (60) days after such an encounter. In addition, there is a  
10 specific requirement promptly to provide a written report of  
11 specified complications associated with RU-486, mifepristone, to the  
12 State Board of Medical Licensure and Supervision or the State Board  
13 of Osteopathic Examiners, in accordance with paragraph 1 of  
14 subsection D of Section 1-729 of Title 63 of the Oklahoma Statutes.

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

18 A. Complications of Induced Abortion Report. By March 1, 2010,  
19 the State Department of Health shall prepare and make available, on  
20 its stable Internet website, a Complications of Induced Abortion  
21 Report for all physicians licensed and practicing in the State of  
22 Oklahoma.

1           B. Subsection C of this section shall become operative on the  
2 later of:

3           1. April 1, 2010; or

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

8           C. Any physician practicing in Oklahoma who encounters an  
9 illness or injury that a reasonably knowledgeable physician would  
10 judge is related to an induced abortion shall complete and submit,  
11 electronically or by regular mail, a Complications of Induced  
12 Abortion Report to the Department as soon as is practicable after  
13 the encounter with the induced-abortion-related illness or injury,  
14 but in no case more than sixty (60) days after such an encounter.  
15 Nothing in the Complications of Induced Abortion Report shall  
16 contain the name, address, or any other information specifically  
17 identifying any patient. Knowing or reckless unreasonable delay or  
18 failure to submit a Complications of Induced Abortion Report shall  
19 be sanctioned according to the provisions of the Statistical  
20 Reporting of Abortion Act.

21           D. The Complications of Induced Abortion Report shall contain a  
22 notice containing an assurance that in accordance with subsection F  
23 of Section 5 of this act, public reports based on the form submitted

1 will not contain the name, address, or any other identifying  
2 information of any individual female, that the State Department of  
3 Health will take care to ensure that none of the information  
4 included in its public reports could reasonably lead to the  
5 identification of any individual female about whom information is  
6 reported in accordance with the Statistical Reporting of Abortion  
7 Act, and that such information is not subject to the Oklahoma Open  
8 Records Act.

9 E. Complication(s) of Induced Abortion Report. The  
10 Complications of Induced Abortion Report shall be substantially  
11 similar to, but need not be in the specific format of, the following  
12 form:

13 Complications of Induced Abortion Report

- 14 1. Name and specialty field of medical practice of the  
15 physician filing the report: \_\_\_\_\_;
- 16 2. Did the physician filing the report perform or induce the  
17 abortion: \_\_\_\_\_;
- 18 3. Name, address, and telephone number of the health care  
19 facility where the induced abortion complication was discovered or  
20 treated: \_\_\_\_\_;
- 21 4. Date on which the complication was discovered: \_\_\_\_\_;
- 22 5. Date on which, and location of the facility where, the  
23 abortion was performed, if known: \_\_\_\_\_;

- 1           6. Age of the patient experiencing the complication: \_\_\_\_\_;
- 2           7. Describe the complication(s) resulting from the induced
- 3 abortion: \_\_\_\_\_;
- 4           8. Circle all that apply:
- 5           a. Death
- 6           b. Cervical laceration requiring suture or repair
- 7           c. Heavy bleeding/hemorrhage with estimated blood loss of
- 8           greater than or equal to 500cc
- 9           d. Uterine Perforation
- 10          e. Infection requiring inpatient transfusion
- 11          f. Failed termination of pregnancy (continued viable
- 12          pregnancy)
- 13          g. Incomplete termination of pregnancy (Retained parts of
- 14          fetus requiring re-evacuation)
- 15          h. Other (May include psychological complications, future
- 16          reproductive complications, or other illnesses or
- 17          injuries that in the physician's medical judgment
- 18          occurred as a result of an induced abortion. Please
- 19          specify Diagnosis.) \_\_\_\_\_;
- 20          9. Type of follow-up care, if any, recommended:
- 21 \_\_\_\_\_;
- 22          10. Will the physician filing the Complications of Induced
- 23 Abortion Report be providing such follow-up care (if not, the name

1 of the medical professional who will, if known):

2 \_\_\_\_\_;

3 11. Name and license number of physician filing the  
4 Complications of Induced Abortion Report: \_\_\_\_\_.

5 F. The Complications of Induced Abortion Report shall contain  
6 information advising physicians of their independent duty promptly  
7 to provide a written report of specified complications associated  
8 with RU-486, mifepristone, to the State Board of Medical Licensure  
9 and Supervision or the State Board of Osteopathic Examiners, in  
10 accordance with paragraph 1 of subsection D of Section 1-729 of  
11 Title 63 of the Oklahoma Statutes.

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

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

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

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

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

5 2. The number of abortions classified by:

6 a. the state or foreign country of residence of the  
7 mother,

8 b. the age, marital status, and race of the mother, and  
9 c. the number of years of education of the mother;

10 3. The number of abortions classified by:

11 a. the number of previous pregnancies of the mother,  
12 b. previous live births to the mother,  
13 c. previous miscarriages, and  
14 d. previous induced abortions;

15 4. The number of abortions by week of gestational age;

16 5. The number of abortions performed by each reported method;

17 6. The number of abortions resulting in an infant born alive;  
18 of these, the number of cases in which life-sustaining measures were  
19 taken; and a statistical summary of the length of survival of such  
20 infants;

21 7. The number of cases in which anesthesia was administered to  
22 the mother and the number of each type of anesthesia;

- 1           8. The number of cases in which anesthesia was administered to  
2 the unborn child, and the number of each type of anesthesia and of  
3 each method of administration;
- 4           9. The number of each reported method of fetal disposal;
- 5           10. The reasons reported for the abortions, and the number of  
6 times each reported reason was cited;
- 7           11. The number of abortions paid for by:
- 8               a. private insurance,  
9               b. public health plan,  
10              c. Medicaid,  
11              d. private pay, or  
12              e. other (please specify);
- 13           12. The number of abortions in which medical health insurance  
14 coverage was under:
- 15               a. a fee-for-service insurance company,  
16               b. a managed care company, or  
17               c. other (please specify);
- 18           13. A statistical summary of the fees collected;
- 19           14. Specialty area of medicine of the physician;
- 20           15. The number of abortions in which ultrasound equipment was  
21 used before, during, or after the abortion, and the number of times  
22 vaginal ultrasound, abdominal ultrasound, or both were used in each  
23 of the three circumstances;

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

4           a. the physician, or

5           b. a certified technician as defined by Section 1-730 of  
6 Title 63 of the Oklahoma Statutes;

7           17. The number of abortions performed without first explaining,  
8 displaying, and describing ultrasound images as provided under  
9 paragraphs 2 through 4 of subsection B of Section 1-738.3b of Title  
10 63 of the Oklahoma Statutes because of a medical emergency  
11 determination;

12           18. The number of abortions resulting in reported  
13 complications, and of those, how many were reported by the physician  
14 who performed the abortion, and how many were reported by another  
15 physician, the types of reported complications, and the number of  
16 each type, including, based on data which shall be compiled and  
17 transmitted to the State Department of Health by the State Boards of  
18 Medical Licensure and Supervision and of Osteopathic Examiners, the  
19 complications related to RU-486, mifepristone, reported under  
20 paragraph 1 of subsection D of Section 1-729 of Title 63 of the  
21 Oklahoma Statutes;

22           19. The number of abortions resulting in the reported death of  
23 the mother;

1           20. The number of females to whom the physician provided the  
2 information in subparagraph a of paragraph 1 of subsection B of  
3 Section 1-738.2 of Title 63 of the Oklahoma Statutes; of that  
4 number, the number provided by telephone and the number provided in  
5 person; and of each of those numbers, the number provided in the  
6 capacity of a referring physician and the number provided in the  
7 capacity of a physician who is to perform the abortion;

8           21. The number of females to whom physicians or agents of  
9 physicians provided the information in paragraph 2 of subsection B  
10 of Section 1-738.2 of Title 63 of the Oklahoma Statutes; of that  
11 number, the number provided by telephone and the number provided in  
12 person; of each of those numbers, the number provided in the  
13 capacity of a referring physician and the number provided in the  
14 capacity of a physician who is to perform the abortion; and of each  
15 of those numbers, the number provided by the physician and the  
16 number provided by an agent of the physician;

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

22           23. The number of abortions performed by the physician in which  
23 information otherwise required to be provided at least twenty-four

1 (24) hours before the abortion was not so provided because an  
2 immediate abortion was necessary to avert the death of the female,  
3 and the number of abortions in which such information was not so  
4 provided because a delay would create serious risk of substantial  
5 and irreversible impairment of a major bodily function;

6 24. The number of females to whom physicians or their agents  
7 provided the information described in subsection A of Section 1-  
8 738.8 of Title 63 of the Oklahoma Statutes; of that number:

9 a. the number provided by telephone and the number  
10 provided in person; and of each of those numbers, the  
11 number provided in the capacity of a referring  
12 physician and the number provided in the capacity of a  
13 physician who is to perform the abortion, or by the  
14 agent of such physician, and

15 b. the number of females who availed themselves of the  
16 opportunity to be given or mailed the materials  
17 described in Section 1-738.10 of Title 63 of the  
18 Oklahoma Statutes, and the number who did not; and of  
19 each of those numbers, the number who, to the best of  
20 the information and belief of the reporting physician,  
21 went on to obtain the abortion;

22 25. The number of females to whom the information described in  
23 subsection A of Section 1-738.8 of Title 63 of the Oklahoma Statutes

1 would have had to be provided but for a medical emergency  
2 determination; of that number, the number for whom an immediate  
3 abortion was necessary to avert the death of the female, and the  
4 number for whom a delay would have created serious risk of  
5 substantial and irreversible impairment of a major bodily function;

6 26. The number of abortions performed within the scope of  
7 employment of Oklahoma state employees and employees of an agency or  
8 political subdivision of the state, the number of abortions  
9 performed with the use of public institutions, facilities,  
10 equipment, or other physical assets owned, leased, or controlled by  
11 this state, its agencies, or political subdivisions, and for each  
12 category:

- 13 a. the number of abortions reported as necessary to save  
14 the life of the mother, the life-endangering  
15 conditions identified, and the number of each such  
16 condition reported,
- 17 b. the number of abortions reported from pregnancies  
18 resulting from forcible rape, the number of such rapes  
19 reported to law enforcement authorities, general  
20 categories of law enforcement authorities to whom  
21 reports were made and the number made to each  
22 category, and a statistical summary of the length of

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

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

19           28.   The number of females upon whom the physician performed an  
20                  abortion without the notice to or consent of the parent of the minor  
21                  required by Section 1-740.2 of Title 63 of the Oklahoma Statutes; of  
22                  that number, the number who were emancipated minors and the number  
23                  who suffered from a medical emergency, and of the latter, the number

1 of cases in which a parent was notified subsequently and the number  
2 of cases in which a judicial waiver was obtained. In the case of  
3 medical emergencies in which a parent was informed subsequently, a  
4 statistical summary of the period of time elapsed before  
5 notification;

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

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

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

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

22 1. The court appointed a guardian ad litem;

23 2. The court appointed counsel;

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

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

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

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

10          a. denials from which an appeal was filed,

11          b. the appeals that resulted in the denial being  
12 affirmed, and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 those provisions of these sections that are effective and  
2 enforceable in accordance with the preceding sentence.

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

4 1. April 1, 2010; or

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

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

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

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

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

1 COMMITTEE REPORT BY: COMMITTEE ON HEALTH & HUMAN SERVICES, dated  
2 3-26-09 - DO PASS, As Amended and Coauthored.