

EHB 2656

1 THE STATE SENATE
2 Tuesday, March 30, 2010

3 ENGROSSED

4 House Bill No. 2656

5 ENGROSSED HOUSE BILL NO. 2656 - By: Sullivan, Reynolds, Faught,
6 Duncan, Kern and Terrill of the House and Crain of the Senate.

7 An Act relating to public health and safety; stating
8 legislative intent; defining terms; prohibiting recovery of
9 damages in certain circumstances for wrongful birth and
10 wrongful life actions; excepting specific circumstances;
11 repealing Section 14, Chapter 36, O.S.L. 2008 (63 O.S. Supp.
12 2009, Section 1-741.11), which prohibits the recovery of
13 damages in certain circumstances for wrongful birth and
14 wrongful life actions; providing for codification; and
15 declaring an emergency.

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

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

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

24 B. For the purposes of this section:

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

27 2. "Wrongful life action" means a cause of action that is
28 brought by or on behalf of a child, which seeks economic or

1 noneconomic damages for the child because of a condition of the
2 child that existed at the time of the child's birth, and which is
3 based on a claim that a person's act or omission contributed to the
4 mother's not having obtained an abortion; and

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

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

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

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

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

7 COMMITTEE REPORT BY: COMMITTEE ON HEALTH & HUMAN SERVICES, dated
8 3-25-10 - DO PASS, As Coauthored.