

EHB 3284

THE STATE SENATE
Tuesday, March 30, 2010

ENGROSSED

House Bill No. 3284

As Amended

ENGROSSED HOUSE BILL NO. 3284 - By: Peterson, Reynolds, Sullivan,
Kern, Cooksey, Ritze, Faught, Ortega and Thompson of the House and
Jolley of the Senate.

An Act relating to public health and safety; creating the
Statistical Abortion Reporting Act; providing short title;
defining terms; providing for the State Department of Health
to make and publish an Individual Abortion Form and a
Complications of Induced Abortion Report on its website;
providing for the compilation and publication of certain
information; prohibiting the posting of certain forms and
reports; directing the State Department of Health to publish
certain statutes and regulations on its website; providing
for effective date of certain provisions; directing the
Department to post certain form with instructions on its
website; providing for electronic submission; specifying
time in which reports are due; providing for certain notice;
specifying content of certain form; requiring certain public
reports; specifying time in which public reports shall be
filed; requiring the completion and submission of certain
report; requiring notification of all newly licensed
physicians of reporting requirements; stating penalties for
late submission, no submission and incomplete submission of
forms or reports; requiring periodic inspections of certain
facilities; authorizing the promulgation of rules;
authorizing certain action for failure to issue public
reports; providing for certain intervention in litigation;
providing for certain laws to be of nonbinding force in
certain circumstance; directing the Attorney General to
issue opinion in certain circumstances; repealing Sections
3, 4, 5, 6, 7, 8, 9 and 10, Chapter 227, O.S.L. 2009 (63
O.S. Supp. 2009, Sections 1-738a, 1-738b, 1-738c, 1-738d, 1-
738e, 1-738f, 1-738g and 1-738h), which relate to the
Statistical Reporting of Abortion Act; providing for
severability; providing for codification; providing for
noncodification; and declaring an emergency.

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

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

5 This act shall be known and may be cited as the "Statistical
6 Abortion Reporting Act".

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

10 A. As used in the Statistical Abortion Reporting Act:

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

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

1 complications such as depression, anxiety, sleeping disorders,
2 psychiatric hospitalization, and emotional problems; and

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

6 B. By March 1, 2012, the State Department of Health shall make
7 available, on its stable Internet website, an Individual Abortion
8 Form as required by Section 3 of this act, and a form for a
9 Complications of Induced Abortion Report as required by Section 4 of
10 this act.

11 C. As required by Section 5 of this act, information from a
12 completed Individual Abortion Form or a completed Complications of
13 Induced Abortion Report shall be combined with information from all
14 other such completed forms and reports submitted for the year. An
15 Annual Abortion Report providing statistics for the previous
16 calendar year compiled from all of that year's completed forms and
17 reports submitted in accordance with the Statistical Abortion
18 Reporting Act shall be published annually by the Department on its
19 stable Internet website.

20 D. No Individual Abortion Forms or Complications of Induced
21 Abortion Reports that have been completed and submitted to the
22 Department by any physician pursuant to subsection B of Section 3 of

1 this act or subsection C of Section 4 of this act shall be posted
2 online.

3 E. By March 1, 2012, the State Department of Health shall, on
4 its stable Internet website, provide the language of all Oklahoma
5 Statutes and regulations directly relating to abortion, and shall
6 promptly update its website to reflect subsequent statutory and
7 regulatory changes. The Department shall also, by March 1, 2012,
8 provide, on its stable Internet website, the means by which
9 physicians may electronically submit the reports required by the
10 Statistical Abortion Reporting Act. The Department shall include
11 instructions on its stable Internet website regarding electronic
12 submission. The Department shall take all necessary precautions to
13 ensure the security of the electronically submitted reports so that
14 the submitted data is able to be accessed only by specially
15 authorized departmental personnel during and following the process
16 of transmission.

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

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

22 1. April 1, 2012; or

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 this section.

5 B. The Department shall post the Individual Abortion Form and
6 instructions concerning its electronic submission on its stable
7 Internet website. Nothing in the Individual Abortion Form shall
8 contain the name, address, hometown, county of residence, or any
9 other information specifically identifying any patient. The
10 Department's Individual Abortion Form shall be substantially similar
11 to, but need not be in the specific format, provided in subsection F
12 of this section.

13 C. 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 D. 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 a completed
9 Individual Abortion Form to the State Department of Health, and
10 shall mark as "not applicable" those items of information that may
11 accurately be provided only when an abortion is performed. The
12 physician shall not submit such a form if the physician knows that
13 an abortion was subsequently performed on the female or minor by
14 another physician. Individual Abortion Forms required by this
15 subsection shall be submitted by the last business day of the second
16 calendar month following the calendar month in which the physician
17 mails the printed materials or provides notice to a parent.

18 E. The Individual Abortion Form shall contain a notice
19 containing an assurance that, in accordance with subsection F of
20 Section 5 of this act, public reports based on the form submitted
21 will not contain the name, address, hometown, county of residence,
22 or any other identifying information of any individual female, that
23 the State Department of Health will take care to ensure that none of

1 the information included in its public reports could reasonably lead
2 to the identification of any individual female about whom
3 information is reported in accordance with the Statistical Abortion
4 Reporting Act or of any physician providing information in
5 accordance with the Statistical Abortion Reporting Act, and that
6 such information is not subject to the Oklahoma Open Records Act.

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

10 Individual Abortion Form

11 (TO BE COMPLETED FOR EACH ABORTION PERFORMED)

12 1. Date of abortion: _____

13 2. County in which the abortion was performed: _____

14 3. Age of mother: _____

15 4. Marital status of mother: _____

16 (specify married, divorced, separated, widowed, or never
17 married)

18 5. Race of mother: _____

19 6. Years of education of mother: _____

20 (specify highest year completed)

21 7. State or foreign country of residence of mother: _____

22 8. Total number of previous pregnancies of the mother: _____

23 Live Births: _____

1 Miscarriages: _____
2 Induced Abortions: _____
3 9. Approximate gestational age in weeks, as measured from the last
4 menstrual period of the mother, of the unborn child subject to
5 abortion: _____
6 10. Method of abortion used:
7 Suction Aspiration: _____
8 Dilation and Curettage: _____
9 RU 486: _____
10 Methotrexate: _____
11 Other drug/chemical/medicine (specify): _____
12 Dilation and Evacuation: _____
13 Saline: _____
14 Urea: _____
15 Prostaglandins: _____
16 Partial Birth Abortion: _____
17 Hysterotomy: _____
18 Other (specify): _____
19 11. Was there an infant born alive as a result of the abortion?
20 _____
21 If yes:
22 Were life-sustaining measures undertaken? _____
23 How long did the infant survive? _____

1 12. Was anesthesia administered to mother? _____
2 If yes, what type? _____
3 13. Was anesthesia administered to the fetus? _____
4 If yes:
5 What type? _____
6 How was it administered? _____
7 14. Method of fetal tissue disposal: _____
8 15. Unless a medical emergency, as defined in Section 1-738.1 of
9 Title 63 of the Oklahoma Statutes, exists, the abortion
10 provider or agent shall ask the pregnant female to provide,
11 orally or in writing, the reason(s) she is seeking the
12 abortion. If such a medical emergency exists, the abortion
13 provider or agent shall specify on the form the condition which
14 necessitated the immediate abortion: _____
15 REASON GIVEN FOR ABORTION (check all applicable):
16 Having a baby:
17 Would dramatically change the life of the mother: _____
18 Would interfere with the education of the mother: _____
19 Would interfere with the job/employment/career of the
20 mother: _____
21 Mother has other children or dependents: _____
22 Mother cannot afford the child: _____
23 Mother is unmarried: _____

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

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

1 Medicaid: _____

2 Private pay: _____

3 Other (specify): _____

4 17. Type of private medical health insurance coverage, if any

5 (check one):

6 Fee-for-service insurance company: _____

7 Managed care company: _____

8 Other (specify): _____

9 18. Sum of fee(s) collected: _____

10 19. Time of fee collection (check one):

11 Full fee for abortion collected prior to or at the time the

12 patient was provided the information required under subsection A of

13 Section 1-738.2 of Title 63 of the Oklahoma Statutes: _____

14 Partial fee for abortion collected prior to or at the time the

15 patient was provided the information required under subsection A of

16 Section 1-738.2 of Title 63 of the Oklahoma Statutes: _____

17 Full fee for abortion collected at time the abortion was

18 performed: _____

19 Other (specify): _____

20 20. Specialty area of medicine of the physician: _____

21 _____

22 21. Was ultrasound equipment used before, during, or after the

23 performance of this abortion?

1 Before? _____ Vaginal, abdominal, or both? _____

2 During? _____ Vaginal, abdominal, or both? _____

3 After? _____ Vaginal, abdominal, or both? _____

4 22. If ultrasound equipment was used, was the ultrasound performed
5 by:

6 The physician performing the abortion: _____

7 A physician other than the physician performing the abortion:

8 _____

9 Other (specify): _____

10 23. Was the information required by paragraph 1 of subsection B of
11 Section 1-738.2 of Title 63 of the Oklahoma Statutes provided
12 to the mother? _____

13 a. If yes, was it provided:

14 In person: _____

15 By telephone: _____

16 b. Was it provided by:

17 A referring physician: _____

18 The physician performing the abortion: _____

19 An agent of a referring physician: _____

20 An agent of the physician performing the abortion:

21 _____

1 24. Was the information required by paragraph 2 of subsection B of
2 Section 1-738.2 of Title 63 of the Oklahoma Statutes provided
3 to the mother? _____
4 a. If yes, was it provided:
5 In person: _____
6 By telephone: _____
7 b. Was it provided by:
8 A referring physician: _____
9 An agent of a referring physician: _____
10 The physician performing the abortion: _____
11 An agent of the physician performing the abortion:
12 _____
13 25. Did the mother avail herself of the opportunity to have the
14 printed materials described in Section 1-738.3 of Title 63 of
15 the Oklahoma Statutes mailed to her? _____
16 26. Were the informed consent requirements of subsection B of
17 Section 1-738.2 of Title 63 of the Oklahoma Statutes dispensed
18 with because of a medical emergency necessitating an immediate
19 abortion:
20 To avert death: _____
21 To avert substantial and irreversible impairment of a major
22 bodily function arising from continued pregnancy: _____

1 27. Was the probable gestational age of the unborn child twenty
2 (20) weeks or more? _____

3 a. If yes, was the mother provided the information
4 described in subsection A of Section 1-738.8 of Title
5 63 of the Oklahoma Statutes? _____

6 (1) If yes, was the information provided:
7 In person: _____
8 By telephone: _____

9 (2) If yes, was the information provided by:
10 A referring physician: _____
11 An agent of a referring physician: _____
12 The physician performing the abortion: _____
13 An agent of the physician performing the
14 abortion: _____

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

18 c. To the best of the information and belief of the
19 reporting physician, did the mother go on to obtain
20 the abortion? _____

21 28. Was the abortion performed within the scope of employment of an
22 Oklahoma state employee or an employee of an agency or
23 political subdivision of the state? _____

- 1 29. Was the abortion performed with the use of any public
2 institution, public facility, public equipment, or other
3 physical asset owned, leased, or controlled by this state, its
4 agencies, or political subdivisions? _____
- 5 30. If the answer to question 28 or 29 is yes:
- 6 a. Was the abortion necessary to save the life of the
7 mother? _____
8 If yes, what was the life-endangering condition?
9 _____
- 10 b. Did the pregnancy result from an act of forcible rape?
11 _____
12 If yes, list the law enforcement authority to which
13 the rape was reported: _____
14 List the date of the report: _____
- 15 c. Did the pregnancy result from an act of incest
16 committed against a minor? _____
17 If yes, list the law enforcement authority to which
18 the perpetrator was reported: _____
19 List the date of the report: _____
- 20 THIS PORTION TO BE COMPLETED IN CASE OF MINOR
- 21 31. Minor's age at the time the abortion was performed: _____

1 32. Was a parent of the minor provided notice prior to the abortion
2 as described in Section 1-740.2 of Title 63 of the Oklahoma
3 Statutes? _____
4 a. If yes, how was the notice provided?
5 In person: _____
6 By mail: _____
7 b. If yes, to the best of the reporting physician's
8 knowledge and belief, did the minor go on to obtain
9 the abortion? _____
10 33. Was informed written consent of one parent obtained as
11 described in Section 1-740.2 of Title 63 of the Oklahoma
12 Statutes? _____
13 If yes, how was it secured?
14 In person: _____
15 Other (specify): _____
16 34. If no notice was provided nor consent obtained, indicate which
17 of the following apply:
18 Minor was emancipated: _____
19 Abortion was necessary to prevent the death of the minor: _____
20 Medical emergency, as defined in Section 1-738.1 of Title 63 of
21 the Oklahoma Statutes, existed: _____
22 Minor received judicial authorization to obtain abortion
23 without parental notice or consent: _____

1 35. If no notice was provided nor consent obtained because a
2 medical emergency existed, indicate:
3 Whether parent was subsequently notified (state period of time
4 elapsed before notice was given): _____
5 Whether judicial waiver of notice requirement was obtained:
6 _____
7 36. If the minor received judicial authorization to obtain an
8 abortion without parental notice or consent, indicate which of
9 the following applies:
10 Judge ruled that minor was mature enough to give informed
11 consent on her own: _____
12 Judge ruled that abortion was in the best interest of the
13 minor: _____
14 37. If the female was a minor at the time of conception, indicate
15 the age of the father of the unborn child at the time of
16 conception: _____
17 38. If at the time of conception the ages of the mother and father
18 were such that a violation of Section 1111, 1112, 1114 or 1123
19 of Title 21 or Section 7115 of Title 10 of the Oklahoma
20 Statutes occurred, was the rape or abuse reported to the proper
21 authorities? _____
22 Filed this ____ day of _____, _____, by:
23 _____

1 (Name of physician)
2 _____
3 (Physician's license number)

4 NOTICE: In accordance with subsection F of Section 5 of this act,
5 public reports based on this form will not contain the name,
6 address, hometown, county of residence, or any other identifying
7 information of any individual female. The State Department of
8 Health shall take care to ensure that none of the information
9 included in its public reports could reasonably lead to the
10 identification of any individual female about whom information is
11 reported or of any physician providing information in accordance
12 with the Statistical Abortion Reporting Act. Such information is
13 not subject to the Oklahoma Open Records Act.

14 Be advised that any complication(s) shall be detailed in a
15 "Complications of Induced Abortion Report" and submitted to the
16 Department as soon as is practicable after the encounter with the
17 induced-abortion-related illness or injury, but in no case more than
18 sixty (60) days after such an encounter.

19 SECTION 4. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 1-7381 of Title 63, unless there
21 is created a duplication in numbering, reads as follows:

22 A. Complications of Induced Abortion Report. By March 1, 2012,
23 the State Department of Health shall prepare and make available, on

1 its stable Internet website, a Complications of Induced Abortion
2 Report for all physicians licensed and practicing in the State of
3 Oklahoma.

4 B. Subsection C of this section shall become operative on the
5 later of:

6 1. April 1, 2012; or

7 2. Thirty (30) calendar days following the date on which the
8 State Department of Health posts on its stable Internet website the
9 Individual Abortion Form and instructions concerning its electronic
10 submission referenced in Section 3 of this act.

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

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

13 E. Complication(s) of Induced Abortion Report. The
14 Complications of Induced Abortion Report shall be substantially
15 similar to, but need not be in the specific format of, the following
16 form:

17 Complications of Induced Abortion Report

18 1. Name and specialty field of medical practice of the
19 physician filing the report: _____

20 2. Did the physician filing the report perform or induce the
21 abortion? _____

- 1 3. Name, address, and telephone number of the health care
2 facility where the induced abortion complication was discovered or
3 treated: _____
- 4 4. Date on which the complication was discovered: _____
- 5 5. Date on which, and location of the facility where, the
6 abortion was performed, if known: _____
- 7 6. Age of the patient experiencing the complication: _____
- 8 7. Describe the complication(s) resulting from the induced
9 abortion: _____
- 10 8. Circle all that apply:
- 11 a. Death
- 12 b. Cervical laceration requiring suture or repair
- 13 c. Heavy bleeding/hemorrhage with estimated blood loss of
14 greater than or equal to 500cc
- 15 d. Uterine Perforation
- 16 e. Infection
- 17 f. Failed termination of pregnancy (continued viable
18 pregnancy)
- 19 g. Incomplete termination of pregnancy (Retained parts of
20 fetus requiring re-evacuation)
- 21 h. Other (May include psychological complications, future
22 reproductive complications, or other illnesses or
23 injuries that in the physician's medical judgment

1 occurred as a result of an induced abortion. Specify
2 diagnosis.): _____

3 9. Type of follow-up care, if any, recommended:
4 _____

5 10. Will the physician filing the Complications of Induced
6 Abortion Report be providing such follow-up care (if not, the name
7 of the medical professional who will, if known)?
8 _____

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

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

14 A. Beginning in 2013, by June 1 of each year, the Department
15 shall issue, on its stable Internet website, a public Annual
16 Abortion Report providing statistics for the previous calendar year
17 compiled from all of the reports covering that year submitted in
18 accordance with the Statistical Abortion Reporting Act.

19 B. The Department's public report shall also provide statistics
20 for all previous calendar years for which abortion-reporting
21 requirements have been in effect, adjusted to reflect any additional
22 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 in which the abortion
5 was performed;

6 2. The number of abortions classified by:

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

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

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

11 3. The number of abortions classified by:

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

13 b. previous live births to the mother,

14 c. previous miscarriages, and

15 d. previous induced abortions;

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

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

18 6. The number of abortions resulting in an infant born alive;

19 of these, the number of cases in which life-sustaining measures were
20 taken; and a statistical summary of the length of survival of such
21 infants;

22 7. The number of cases in which anesthesia was administered to
23 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;
- 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;
- 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 by:

3 a. the physician performing the abortion,

4 b. a physician other than the physician performing the
5 abortion, or

6 c. other;

7 17. The number of abortions resulting in reported
8 complications, and of those, how many were reported by the physician
9 who performed the abortion, and how many were reported by another
10 physician, the types of reported complications, and the number of
11 each type based on data which shall be compiled and transmitted to
12 the State Department of Health by the State Board of Medical
13 Licensure and Supervision and the State Board of Osteopathic
14 Examiners;

15 18. The number of abortions resulting in the reported death of
16 the mother;

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

1 20. The number of females to whom physicians or agents of
2 physicians provided the information in paragraph 2 of subsection B
3 of 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; 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; and of each
8 of those numbers, the number provided by the physician and the
9 number provided by an agent of the physician;

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

15 22. The number of abortions performed by the physician in which
16 information otherwise required to be provided at least twenty-four
17 (24) hours before the abortion was not so provided because an
18 immediate abortion was necessary to avert the death of the female,
19 and the number of abortions in which such information was not so
20 provided because a delay would create serious risk of substantial
21 and irreversible impairment of a major bodily function;

1 23. The number of females to whom physicians or their agents
2 provided the information described in subsection A of Section 1-
3 738.8 of Title 63 of the Oklahoma Statutes; of that number:

4 a. the number provided by telephone and the number
5 provided in person; and of each of those numbers, the
6 number provided in the capacity of a referring
7 physician and the number provided in the capacity of a
8 physician who is to perform the abortion, or by the
9 agent of such physician, and

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

17 24. The number of females to whom the information described in
18 subsection A of Section 1-738.8 of Title 63 of the Oklahoma Statutes
19 would have had to be provided but for a medical emergency
20 determination; of that number, the number for whom an immediate
21 abortion was necessary to avert the death of the female, and the
22 number for whom a delay would have created serious risk of
23 substantial and irreversible impairment of a major bodily function;

1 25. The number of abortions performed within the scope of
2 employment of Oklahoma state employees and employees of an agency or
3 political subdivision of the state, the number of abortions
4 performed with the use of public institutions, facilities,
5 equipment, or other physical assets owned, leased, or controlled by
6 this state, its agencies, or political subdivisions, and for each
7 category:

- 8 a. the number of abortions reported as necessary to save
9 the life of the mother, the life-endangering
10 conditions identified, and the number of each such
11 condition reported,
- 12 b. the number of abortions reported from pregnancies
13 resulting from forcible rape, the number of such rapes
14 reported to law enforcement authorities, general
15 categories of law enforcement authorities to whom
16 reports were made and the number made to each
17 category, and a statistical summary of the length of
18 time between the dates of reporting to law enforcement
19 authorities and the dates of the abortions, and
- 20 c. the number of abortions reported from pregnancies
21 resulting from incest committed against a minor, the
22 number of perpetrators of incest in such cases
23 reported to law enforcement authorities, general

1 categories of law enforcement authorities to whom
2 reports were made and the number made to each
3 category, and a statistical summary of the length of
4 time between the dates of reporting to law enforcement
5 authorities and the dates of the abortions;

6 26. The number of females to a parent of whom the physician
7 provided notice as required by Section 1-740.2 of Title 63 of the
8 Oklahoma Statutes; of that number, the number provided personally as
9 described in that section, and the number provided by mail as
10 described in that section, and of each of those numbers, the number
11 of females who, to the best of the information and belief of the
12 reporting physician, went on to obtain the abortion;

13 27. The number of females upon whom the physician performed an
14 abortion without the notice to or consent of the parent of the minor
15 required by Section 1-740.2 of Title 63 of the Oklahoma Statutes; of
16 that number, the number who were emancipated minors and the number
17 who suffered from a medical emergency, and of the latter, the number
18 of cases in which a parent was notified subsequently and the number
19 of cases in which a judicial waiver was obtained. In the case of
20 medical emergencies in which a parent was informed subsequently, a
21 statistical summary of the period of time elapsed before
22 notification;

1 28. The number of abortions performed after receiving judicial
2 authorization to do so without parental notice and consent;

3 29. The number of abortions performed on minors after judicial
4 authorizations were granted because of a finding that the minor girl
5 was mature and capable of giving informed consent; and

6 30. The number of abortions performed on minors after judicial
7 authorizations were granted because of a finding that the
8 performance of the abortion without parental notification and
9 consent was in the best interest of the minor.

10 D. Beginning in 2013, by June 1 of each year, the State
11 Department of Health shall post, on its stable Internet website, a
12 public Annual Judicial Bypass of Abortion Parental Consent Summary
13 Report providing statistics which shall be compiled and supplied to
14 the Department by the Administrative Office of the Courts giving the
15 total number of petitions or motions filed under Section 1-740.3 of
16 Title 63 of the Oklahoma Statutes and of that number, the number in
17 which:

18 1. The court appointed a guardian ad litem;

19 2. The court appointed counsel;

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

1 a. the number authorized due to a determination by the
2 judge that the minor was mature and capable of giving
3 consent to the proposed abortion, and
4 b. the number authorized due to a determination by the
5 judge that an abortion was in the best interest of the
6 minor; and
7 4. The judge denied such an order, and of this, the number of:
8 a. denials from which an appeal was filed,
9 b. the appeals that resulted in the denial being
10 affirmed, and
11 c. appeals that resulted in reversals of the denials.
12 E. Each Annual Judicial Bypass of Abortion Parental Consent
13 Summary Report shall also provide the statistics for all previous
14 calendar years for which the public statistical report was required
15 to be issued, adjusted to reflect any additional information from
16 late or corrected reports.
17 F. The Department's public reports shall not contain the name,
18 address, hometown, county of residence, or any other identifying
19 information of any individual female, and shall take care to ensure
20 that none of the information included in its public reports could
21 reasonably lead to the identification of any individual female about
22 whom information is reported in accordance with the Statistical
23 Abortion Reporting Act or of any physician providing information in

1 accordance with the Statistical Abortion Reporting Act. Nor shall
2 the information described in the preceding sentence be subject to
3 the Oklahoma Open Records Act.

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

7 A. The State Board of Medical Licensure and Supervision and the
8 State Board of Osteopathic Examiners shall notify, by March 1, 2012,
9 all physicians licensed to practice in this state over whom they
10 have licensure authority of the requirements of the Statistical
11 Abortion Reporting Act and of the addresses of the pages on the
12 State Department of Health's secure Internet website providing
13 access to the forms it requires and instructions for their
14 electronic submission. The respective Board shall also notify each
15 physician who subsequently becomes newly licensed to practice in
16 this state, at the same time as an official notification to that
17 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 Abortion Reporting Act. Any
3 physician required to report in accordance with the Statistical
4 Abortion Reporting 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 Abortion
16 Reporting Act, shall be guilty of a misdemeanor.

17 D. The Department, **the State Board of Medical Licensure and**
18 **Supervision and the State Board of Osteopathic Examiners** shall
19 ensure compliance with the Statistical Abortion Reporting Act and
20 shall verify the data provided by periodic inspections of places
21 where **the Department, the State Board of Medical Licensure and**
22 **Supervision or the State Board of Osteopathic Examiners know or have**
23 **reason to believe** abortions are performed.

1 E. The Department may promulgate rules in accordance with the
2 Administrative Procedures Act to alter the dates established by the
3 Statistical Abortion Reporting Act to achieve administrative
4 convenience, fiscal savings, or to reduce the burden of reporting
5 requirements, so long as the forms and reports are made available,
6 on its stable Internet website, to all licensed physicians in this
7 state, and the public reports described in Section 5 of this act are
8 issued at least once every year.

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

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

22 The Oklahoma Legislature, by joint resolution, may appoint one
23 or more of its members who sponsored or cosponsored this act in his

1 or her official capacity to intervene as a matter of right in any
2 case in which the constitutionality of this law is challenged.

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

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

1 an opinion specifically identifying those provisions of these
2 sections that are effective and enforceable in accordance with the
3 preceding sentence.

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

5 1. April 1, 2012; or

6 2. Thirty (30) calendar days following the date on which the
7 State Department of Health posts on its secure Internet website the
8 Individual Abortion Form and instructions concerning its electronic
9 submission referenced in Section 3 of this act.

10 SECTION 9. REPEALER Sections 3, 4, 5, 6, 7, 8, 9 and 10,
11 Chapter 227, O.S.L. 2009 (63 O.S. Supp. 2009, Sections 1-738a, 1-
12 738b, 1-738c, 1-738d, 1-738e, 1-738f, 1-738g and 1-738h), are hereby
13 repealed.

14 SECTION 10. NEW LAW A new section of law not to be
15 codified in the Oklahoma Statutes reads as follows:

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

1 sections, subsections, sentences, clauses, phrases, or words be
2 declared unconstitutional.

3 SECTION 11. 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 Amended and Coauthored.