

3 Senate Bill No. 1890

4 SENATE BILL NO. 1890 - By: Lamb and Jolley of the Senate and
5 Sullivan and Reynolds of the House.

6 An Act relating to public health and safety; defining terms;
7 prohibiting the performance of an abortion solely on account
8 of the sex of the unborn child; specifying liability;
9 authorizing injunctive relief; specifying those persons
10 authorized to bring an action; specifying penalties;
11 providing for civil action; providing for the suspension or
12 revocation of a certificate or license; providing for
13 certain privacy; repealing Section 2, Chapter 227, O.S.L.
14 2009 (63 O.S. Supp. 2009, Section 1-731.1), which relates to
15 abortion on account of the sex of the unborn child;
16 providing for codification; and declaring an emergency.

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

18 SECTION 1. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 1-731.2 of Title 63, unless
20 there is created a duplication in numbering, reads as follows:

21 A. As used in this section:

22 1. "Attempt to perform an abortion" means an act, or an
23 omission of a statutorily required act, that under the circumstances
24 as the actor believes them to be constitutes a substantial step in a
25 course of conduct planned to culminate in the performance of an
26 abortion; and

27 2. "Unemancipated minor" means any person less than eighteen
28 (18) years of age who is not or has not been married or who is under

1 the care, custody, and control of the person's parent or parents,
2 guardian, or juvenile court of competent jurisdiction.

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

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

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

- 16 a. the female upon whom an abortion was performed or
17 attempted to be performed in violation of this
18 section,
19 b. any person who is the spouse, parent, sibling, or
20 guardian of, or current or former licensed health care
21 provider of, the female upon whom an abortion has been
22 performed in violation of this section,
23 c. a district attorney with appropriate jurisdiction, or

1 d. the Attorney General.

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

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

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

21 D. An abortion provider who knowingly or recklessly performed
22 an abortion in violation of this section shall be considered to have
23 engaged in unprofessional conduct for which the certificate or

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

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

16 SECTION 2. REPEALER Section 2, Chapter 227, O.S.L. 2009
17 (63 O.S. Supp. 2009, Section 1-731.1), is hereby repealed.

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

22 COMMITTEE REPORT BY: COMMITTEE ON HEALTH & HUMAN SERVICES, dated
23 2-11-10 - DO PASS, As Coauthored.