

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 HOUSE BILL 2656

By: Sullivan

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5  
6 AS INTRODUCED

7 An Act relating to public health and safety; stating  
8 legislative intent; defining terms; prohibiting  
9 recovery of damages in certain circumstances for  
10 wrongful birth and wrongful life actions; excepting  
11 specific circumstances; repealing Section 14, Chapter  
12 36, O.S.L. 2008 (63 O.S. Supp. 2009, Section 1-  
13 741.11), which prohibits the recovery of damages in  
14 certain circumstances for wrongful birth and wrongful  
15 life actions; providing for codification; and  
16 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 1-741.12 of Title 63, unless  
20 there is created a duplication in numbering, reads as follows:

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

B. For the purposes of this section:

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

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

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

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

21 D. This section shall not preclude causes of action based on  
22 claims that, but for a wrongful act or omission, maternal death or  
23 injury would not have occurred, or handicap, disease, or disability  
24 of an individual prior to birth would have been prevented, cured, or

1 ameliorated in a manner that preserved the health and life of the  
2 affected individual.

3 SECTION 2. REPEALER Section 14, Chapter 36, O.S.L. 2008  
4 (63 O.S. Supp. 2009, Section 1-741.11), is hereby repealed.

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

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