

1 ENGROSSED HOUSE
2 BILL NO. 2381

By: Cockroft, Roberts (Sean),
Ritze and Faught of the
House

3
4 and

5 David of the Senate
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8 An Act relating to public health and safety;
9 requiring physician who prescribes certain drug to be
10 physically present when such drug is first provided
11 to patient; providing for penalty; providing for
12 damages; permitting certain individuals to maintain
13 action for damages; providing for attorney fee;
14 permitting certain individuals to maintain action for
15 injunctive relief; providing certain fines for
16 violation of terms of injunction; providing physician
17 who violates certain act to have engaged in
18 unprofessional conduct; requiring anonymity of woman
19 bringing certain action unless consent is given;
20 requiring court to issue orders, direct sealing of
21 record, and exclude individuals from courtroom to
22 safeguard identity; requiring certain individuals to
23 bring action under a pseudonym; preventing certain
24 individual from being subject to certain action;
providing for interpretation; providing for
severability; providing for codification; and
providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 1-729.1 of Title 63, unless
there is created a duplication in numbering, reads as follows:

1 When RU-486 (mifepristone) or any other drug or chemical is used
2 for the purpose of performing or inducing an abortion, the physician
3 who is prescribing, dispensing, or otherwise providing the drug or
4 chemical shall be physically present, in person, in the same room as
5 the patient when the drug or chemical is first provided to the
6 patient.

7 SECTION 2. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 1-729.2 of Title 63, unless
9 there is created a duplication in numbering, reads as follows:

10 Any person who knowingly or recklessly violates this act shall
11 be guilty of a felony. No penalty may be assessed against the
12 female upon whom the abortion is performed or induced or attempted
13 to be performed or induced.

14 SECTION 3. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 1-729.3 of Title 63, unless
16 there is created a duplication in numbering, reads as follows:

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

21 B. Any female upon whom an abortion has been performed or
22 induced, the father of the unborn child who was the subject of the
23 abortion if the father was married to the woman who received the
24 abortion at the time the abortion was performed or induced, or a

1 maternal grandparent of the unborn child may maintain an action
2 against the person who performed or induced the abortion in knowing
3 or reckless violation of this act for actual and punitive damages.
4 Any female upon whom an abortion has been attempted to be performed
5 or induced in knowing or reckless violation of this act may maintain
6 an action against the person who attempted to perform or induce the
7 abortion for actual and punitive damages.

8 C. If a judgment is rendered in favor of the plaintiff in any
9 action described in this section, the court shall also render
10 judgment for a reasonable attorney fee in favor of the plaintiff
11 against the defendant. If a judgment is rendered in favor of the
12 defendant and the court finds that the plaintiff's suit was
13 frivolous and brought in bad faith, the court shall also render
14 judgment for a reasonable attorney fee in favor of the defendant
15 against the plaintiff.

16 D. A cause of action for injunctive relief against any person
17 who has knowingly or recklessly violated this act may be maintained
18 by:

19 1. The female upon whom an abortion was performed or induced or
20 attempted to be performed or induced in violation of this act;

21 2. Any person who is the spouse, parent, sibling or guardian
22 of, or a current or former licensed health care provider of, the
23 female upon whom an abortion has been performed or induced or
24 attempted to be performed or induced in violation of this act;

- 1 3. A district attorney with appropriate jurisdiction; or
- 2 4. The Attorney General.

3 The injunction shall prevent the abortion provider from performing
4 or inducing further abortions in violation of this act in the State
5 of Oklahoma.

6 E. Any person who knowingly or recklessly violates the terms of
7 an injunction issued in accordance with this act shall be subject to
8 civil contempt, and shall be fined Ten Thousand Dollars (\$10,000.00)
9 for the first violation, Fifty Thousand Dollars (\$50,000.00) for the
10 second violation, One Hundred Thousand Dollars (\$100,000.00) for the
11 third violation and for each succeeding violation an amount in
12 excess of One Hundred Thousand Dollars (\$100,000.00) sufficient to
13 deter future violations. The fines shall be the exclusive penalties
14 for such contempt. Each performance or induction or attempted
15 performance or induction of an abortion in violation of the terms of
16 an injunction is a separate violation. These fines shall be
17 cumulative. However, no fine may be assessed against the woman on
18 whom an abortion was performed or induced or was attempted to be
19 performed or induced.

20 F. A physician who performed or induced an abortion or
21 attempted to perform or induce an abortion in violation of this act
22 shall be considered to have engaged in unprofessional conduct for
23 which his or her license to practice medicine in the State of
24 Oklahoma may be suspended or revoked by the State Medical Board of

1 Licensure and Supervision or the State Board of Osteopathic
2 Examiners.

3 SECTION 4. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1-729.4 of Title 63, unless
5 there is created a duplication in numbering, reads as follows:

6 In every proceeding or action brought under this act, the
7 anonymity of any woman upon whom an abortion is performed or induced
8 or attempted to be performed or induced shall be preserved from
9 public disclosure unless she gives her consent to such disclosure.
10 The court, upon motion or sua sponte, shall issue orders to the
11 parties, witnesses, and counsel and shall direct the sealing of the
12 record and exclusion of individuals from courtrooms or hearing rooms
13 to the extent necessary to safeguard her identity from public
14 disclosure. In the absence of written consent of the woman upon
15 whom an abortion has been performed or induced or has been attempted
16 to be performed or induced, anyone who brings an action under
17 Section 3 of this act shall do so under a pseudonym.

18 SECTION 5. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 1-729.5 of Title 63, unless
20 there is created a duplication in numbering, reads as follows:

21 No pregnant female who obtains or possesses RU-486
22 (mifepristone) or any other drug or chemical for the purpose of
23 performing or inducing an abortion to terminate her own pregnancy
24 shall be subject to any action brought under Section 3 of this act.

1 SECTION 6. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1-729.6 of Title 63, unless
3 there is created a duplication in numbering, reads as follows:

4 Nothing in this act shall be construed as creating or
5 recognizing a right to abortion.

6 SECTION 7. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 1-729.7 of Title 63, unless
8 there is created a duplication in numbering, reads as follows:

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

19 SECTION 8. This act shall become effective November 1, 2012.
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