ENGROSSED SENATE AMENDMENT
TO
ENGROSSED HOUSE
BILL NO. 2015

By: Roberts (Sean), Ritze, Biggs, Christian, Echols and Fisher of the House

and

Loveless of the Senate

An Act relating to public health and safety; amending 63 O.S. 2011, Section 1-738k, which relates to the Individual Abortion Form; adding certain questions to the Individual Abortion Form; amending 63 O.S. 2011, Section 1-738m, which relates to the Annual Abortion Report; adding certain information to the Annual Abortion Report; amending 63 O.S. 2011, Section 1-738n, which relates to certain notice requirements to physicians; permitting voters to institute proceedings if abortion provider fails to submit report; providing for attorney fees under certain conditions; and providing an effective date.

AMENDMENT NO. 1. Page 1, strike the title, enacting clause and entire bill and insert

"An Act relating to public health and safety; amending 63 O.S. 2011, Section 1-738k, which relates to the Individual Abortion Form; adding certain questions to the Individual Abortion Form; providing that certain medical records shall not be subject to an open records request but shall be subject to certain regulations; amending 63 O.S. 2011, Section 1-738m, which relates to the Annual Abortion Report; adding certain information to the Annual Abortion Report; amending 63 O.S. 2011, Section 1-738n, which relates to certain notice requirements to physicians; permitting voters to institute proceedings if abortion provider fails to submit report; providing

for attorney fees under certain conditions; providing certain sections be enforced in certain circumstances; providing for codification; and providing an effective date

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

SECTION 1. AMENDATORY 63 O.S. 2011, Section 1-738k, is amended to read as follows:

Section 1-738k. A. Subsections B and C of this section shall become operative on the later of:

1. April 1, 2012; or

2. Thirty (30) calendar days following the date on which the State Department of Health posts on its website the Individual Abortion Form and instructions concerning its electronic submission referenced in this section.

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

C. Any physician performing abortions shall fully complete and submit, electronically, an Individual Abortion Form to the State

Department of Health by the last business day of the calendar month following the month in which the physician performs an abortion, for each abortion the physician performs.

D. In cases in which a physician or the agent of a physician:

1. Mails the printed materials described in Section 1-738.3 of ~~Title 63 of the Oklahoma Statutes~~ this title to a female specifically to comply with division (1) of subparagraph d of paragraph 2 of subsection B of Section 1-738.2 of ~~Title 63 of the Oklahoma Statutes~~ this title;

2. Gives or mails the printed materials described in Section 1-738.10 of ~~Title 63 of the Oklahoma Statutes~~ this title to a female specifically to comply with subsection A of Section 1-738.8 of ~~Title 63 of the Oklahoma Statutes~~ this title; or

3. Provides notice to a parent in compliance with Section 1-740.2 of ~~Title 63 of the Oklahoma Statutes~~ this title,

but does not subsequently perform an abortion on the female or minor, the physician shall electronically submit a completed Individual Abortion Form to the State Department of Health, and shall mark as "not applicable" those items of information that may accurately be provided only when an abortion is performed. The physician shall not submit such a form if the physician knows that an abortion was subsequently performed on the female or minor by another physician. Individual Abortion Forms required by this subsection shall be submitted by the last business day of the second

calendar month following the calendar month in which the physician mails the printed materials or provides notice to a parent.

E. The Individual Abortion Form shall contain a notice containing an assurance that, in accordance with subsection F of Section ~~5~~ 1-738m of this ~~act~~ title, public reports based on the form submitted will not contain the name, address, hometown, county of residence, or any other identifying information of any individual female, that the State Department of Health will take care to ensure that none of the information included in its public reports could reasonably lead to the identification of any individual female about whom information is reported in accordance with the Statistical Abortion Reporting Act or of any physician providing information in accordance with the Statistical Abortion Reporting Act, and that such information is not subject to the Oklahoma Open Records Act.

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

Individual Abortion Form

(TO BE COMPLETED FOR EACH ABORTION PERFORMED)

1. Date of abortion: _____

2. County in which the abortion was performed: _____

3. Age of mother: _____

4. Marital status of mother: _____

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

5. Race of mother: _____

6. Years of education of mother: _____

(specify highest year completed)

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

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

Live Births: _____

Miscarriages: _____

Induced Abortions: _____

9. Approximate gestational age in weeks, as measured from the last menstrual period of the mother, of the unborn child subject to abortion: _____

10. Method of abortion used:

Suction Aspiration: _____

Dilation and Curettage: _____

RU 486: _____

Methotrexate: _____

Other drug/chemical/medicine (specify): _____

Dilation and Evacuation: _____

Saline: _____

Urea: _____

Prostaglandins: _____

Partial Birth Abortion: _____

Hysterotomy: _____

Other (specify): _____

11. Was there an infant born alive as a result of the abortion? _____

If yes:

Were life-sustaining measures undertaken? _____

How long did the infant survive? _____

12. Was anesthesia administered to mother? _____

If yes, what type? _____

13. Was anesthesia administered to the fetus? _____

If yes:

What type? _____

How was it administered? _____

14. Method of fetal tissue disposal: _____

15. Unless a medical emergency, as defined in Section ~~1-738.1~~ 1-738.1A, or as applicable, Section 1-745.2 of Title 63 of the Oklahoma Statutes, exists, the abortion provider or agent shall ask the pregnant female to provide, orally or in writing, the reason(s) she is seeking the abortion. If such a medical emergency exists, the abortion provider or agent shall specify on the form the condition which necessitated the immediate abortion:

_____

REASON GIVEN FOR ABORTION (check all applicable):

Having a baby:

Would dramatically change the life of the mother: _____

Would interfere with the education of the mother: _____

Would interfere with the job/employment/career of the mother: _____

Mother has other children or dependents: _____

Mother cannot afford the child: _____

Mother is unmarried: _____

Mother is a student or planning to be a student: _____

Mother cannot afford child care: _____

Mother cannot afford the basic needs of life: _____

Mother is unemployed: _____

Mother cannot leave job to care for a baby: _____

Mother would have to find a new place to live: _____

Mother does not have enough support from a husband or partner: _____

Husband or partner is unemployed: _____

Mother is currently or temporarily on welfare or public assistance: _____

Mother does not want to be a single mother: _____

Mother is having relationship problems: _____

Mother is not certain of relationship with the father of the child: _____

Partner and mother are unable to or do not want to get married: _____

Mother is not currently in a relationship: _____

The relationship or marriage of the mother may soon break up: _____

Husband or partner is abusive to the mother or her children: _____

Mother has completed her childbearing: _____

Mother is not ready for a, or another, child: _____

Mother does not want people to know that she had sex or became pregnant: _____

Mother does not feel mature enough to raise a, or another, child: _____

Husband or partner wants mother to have an abortion: _____

There may be possible problem affecting the health of the fetus: _____

Physical health of the mother is at risk: _____

Parents want mother to have an abortion: _____

Emotional health of the mother is at risk: _____

Mother suffered from a medical emergency as defined in Section ~~1-738.1~~ 1-738.1A of Title 63 of the Oklahoma Statutes: _____

Mother suffered from a medical emergency as defined in Section 1-745.2 of Title 63 of the Oklahoma Statutes: _____

Mother wanted a child of a different sex: _____

Abortion is necessary to avert the death of the mother: _____

Pregnancy was a result of forcible rape: _____

Pregnancy was a result of incest: _____

Other (specify): _____

Patient was asked why she is seeking an abortion, but she declined to give a reason: _____

16. Method of payment (check one):

Private insurance: _____

Public health plan: _____

Medicaid: _____

Private pay: _____

Other (specify): _____

17. Type of private medical health insurance coverage, if any (check one):

Fee-for-service insurance company: _____

Managed care company: _____

Other (specify): _____

18. Sum of fee(s) collected: _____

19. Time of fee collection (check one):

Full fee for abortion collected prior to or at the time the patient was provided the information required under subsection ~~A~~ B of Section 1-738.2 of Title 63 of the Oklahoma Statutes: _____

Partial fee for abortion collected prior to or at the time the patient was provided the information required under subsection ~~A~~ B of Section 1-738.2 of Title 63 of the Oklahoma Statutes: _____

Full fee for abortion collected at time the abortion was performed: _____

Other (specify): _____

20. Specialty area of medicine of the physician: _____

At which hospital(s) did the physician have hospital privileges at the time of the abortion?

_____

21. Was ultrasound equipment used before, during, or after the performance of this abortion?

Before? _____ Vaginal, abdominal, or both? _____

How long prior to the abortion was the ultrasound performed?

_____

Was the mother under the effect of anesthesia at the time of the ultrasound? _____

During? _____ Vaginal, abdominal, or both? _____

After? _____ Vaginal, abdominal, or both? _____

If an ultrasound was performed, what was the gestational age of the fetus at the time of the abortion, as determined by the ultrasound? _____

Attach to this form a copy or screenshot of the ultrasound, intact with the date on which the ultrasound was performed, and with

the name of the mother redacted; provided, however, such ultrasound shall not be subject to an open records request and shall be subject to HIPPA regulations governing confidentiality and release of private medical records.

21A. If an ultrasound was not performed prior to the abortion, was the reason for not performing an ultrasound a medical emergency necessitating an immediate abortion:

To avert death: _____

To avert substantial and irreversible impairment of a major bodily function arising from continued pregnancy: _____

Other reason: _____

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

The physician performing the abortion: _____

A physician other than the physician performing the abortion: _____

Other (specify): _____

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

a. If yes, was it provided:

In person: _____

By telephone: _____

b. Was it provided by:

A referring physician: _____

The physician performing the abortion: _____

An agent of a referring physician: _____

An agent of the physician performing the abortion: _____

24. Was the information required by paragraph 2 of subsection B of Section 1-738.2 of Title 63 of the Oklahoma Statutes provided to the mother? _____

a. If yes, was it provided:

In person: _____

By telephone: _____

b. Was it provided by:

A referring physician: _____

An agent of a referring physician: _____

The physician performing the abortion: _____

An agent of the physician performing the abortion: _____

25. Did the mother avail herself of the opportunity to have the printed materials described in Section 1-738.3 of Title 63 of the Oklahoma Statutes mailed to her? _____

26. Were the informed consent requirements of subsection B of Section 1-738.2 of Title 63 of the Oklahoma Statutes dispensed with because of a medical emergency necessitating an immediate abortion:

To avert death: _____

To avert substantial and irreversible impairment of a major bodily function arising from continued pregnancy: _____

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

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

~~(1) If yes, was the information provided:~~

~~In person: _____~~

~~By telephone: _____~~

~~(2) If yes, was the information provided by:~~

~~A referring physician: _____~~

~~An agent of a referring physician: _____~~

~~The physician performing the abortion: _____~~

~~An agent of the physician performing the abortion: _____~~

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

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

Was a determination of probable postfertilization age made as required by Section 1-745.5 of Title 63 of the Oklahoma Statutes? _____

a. If no, was the determination of probable postfertilization age dispensed with:

To avert death: _____

To avert substantial and irreversible impairment of a major bodily function arising from continued pregnancy: _____

b. If yes, what was the probable postfertilization age? ____

What was the method and basis of the determination? _____

What was the basis for the determination to perform the abortion:

To avert death: _____

To avert substantial and irreversible impairment of a major bodily function arising from continued pregnancy: ____

Was the method of abortion used one that, in reasonable medical judgment, provided the best opportunity for the unborn child to survive? _____

If yes, was there an infant born alive as a result of the abortion? _____

If no, what was the basis of the determination? _____

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

29. Was the abortion performed with the use of any public institution, public facility, public equipment, or other physical asset owned, leased, or controlled by this state, its agencies, or political subdivisions? _____

30. If the answer to question 28 or 29 is yes:

a. Was the abortion necessary to save the life of the mother? _____

If yes, what was the life-endangering condition? _____

b. Did the pregnancy result from an act of forcible rape? _____

If yes, list the law enforcement authority to which the rape was reported: _____

List the date of the report: _____

c. Did the pregnancy result from an act of incest committed against a minor? _____

If yes, list the law enforcement authority to which the perpetrator was reported: _____

List the date of the report: _____

THIS PORTION TO BE COMPLETED IN CASE OF MINOR

31. Minor's age at the time the abortion was performed: _____

32. Was a parent of the minor provided notice prior to the abortion as described in Section 1-740.2 of Title 63 of the Oklahoma Statutes? _____

a. If yes, how was the notice provided?

In person: _____

By mail: _____

b. If yes, to the best of the reporting physician's knowledge and belief, did the minor go on to obtain the abortion? _____

33. Was informed written consent of one parent obtained as described in Section 1-740.2 of Title 63 of the Oklahoma Statutes? _____

If yes, how was it secured?

In person: _____

Other (specify): _____

34. If no notice was provided nor consent obtained, indicate which of the following apply:

Minor was emancipated: _____

Abortion was necessary to prevent the death of the minor: _____

Medical emergency, as defined in Section ~~1-738.1~~ 1-738.1A of Title 63 of the Oklahoma Statutes, existed: _____

Minor received judicial authorization to obtain abortion without parental notice or consent: _____

35. If no notice was provided nor consent obtained because a medical emergency existed, indicate:

Whether parent was subsequently notified (state period of time elapsed before notice was given): _____

Whether judicial waiver of notice requirement was obtained: _____

36. If the minor received judicial authorization to obtain an abortion without parental notice or consent, indicate which of the following applies:

Judge ruled that minor was mature enough to give informed consent on her own: _____

Judge ruled that abortion was in the best interest of the minor: _____

37. If the female was a minor at the time of conception, indicate the age of the father of the unborn child at the time of conception: _____

38. If at the time of conception the ages of the mother and father were such that a violation of Section 1111, 1112, 1114 or 1123 of Title 21 or Section ~~7115~~ 843.5 of Title ~~10~~ 21 of the Oklahoma Statutes occurred, was the rape or abuse reported to the proper authorities? _____

39. Were the remains of the fetus after the abortion examined to ensure that all such remains were evacuated from the mother's body? _____

If the remains of the fetus were examined after the abortion, what was the sex of the child, as determined from such examination? _____

Was the sex of the child determined prior to the abortion? _____

If so, by whom? _____

If so, by what method? _____

If the sex of the child was determined prior to the abortion, was the mother given information of the child's sex prior to the abortion? _____

40. If the abortion was performed without surgery but rather as the result of the administration of chemicals, was the physician present in the same room as the woman to whom the chemicals were administered at the time any such chemicals were first administered? _____

41. Prior to the pregnant woman giving informed consent to having any part of the abortion performed or induced, if the pregnancy was at least eight (8) weeks after fertilization, was the pregnant woman told that it may be possible to make the embryonic or fetal heartbeat of the unborn child audible for the pregnant woman to hear? _____

Was the pregnant woman asked if she would like to hear the heartbeat? _____

Was the embryonic or fetal heartbeat of the unborn child made audible for the pregnant woman to hear, using a Doppler fetal heart rate monitor? _____

If the response to any of the questions in this paragraph 41 was anything other than an unqualified YES, how was the abortion performed in compliance with Sections 1-745.12 through 1-745.19 of Title 63 of the Oklahoma Statutes? _____

Filed this ____ day of _____, _____, by:

_____

(Name of physician)

_____

(Physician's license number)

NOTICE: In accordance with subsection F of Section ~~5~~ 1-738m of ~~this act~~ Title 63 of the Oklahoma Statutes, public reports based on this form will not contain the name, address, hometown, county of residence, or any other identifying information of any individual female. The State Department of Health shall take care to ensure that none of the information included in its public reports could reasonably lead to the identification of any individual female about whom information is reported or of any physician providing information in accordance with the Statistical Abortion Reporting

Act. Such information is not subject to the Oklahoma Open Records Act.

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

SECTION 2. AMENDATORY 63 O.S. 2011, Section 1-738m, is amended to read as follows:

Section 1-738m. A. Beginning in 2013, by June 1 of each year, the Department shall issue, on its stable Internet website, a public Annual Abortion Report providing statistics for the previous calendar year compiled from all of the reports covering that year submitted in accordance with the Statistical Abortion Reporting Act.

B. The Department's public report shall also provide statistics for all previous calendar years for which abortion-reporting requirements have been in effect, adjusted to reflect any additional information from late or corrected reports.

C. The Annual Abortion Report shall include, but not be limited to, the following information:

1. The number of induced abortions performed in the previous calendar year, broken down by month and county in which the abortion was performed;

2. The number of abortions classified by:

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

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

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

3. The number of abortions classified by:

a. the number of previous pregnancies of the mother,

b. previous live births to the mother,

c. previous miscarriages, and

d. previous induced abortions;

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

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

6. The number of abortions resulting in an infant born alive; of these, the number of cases in which life-sustaining measures were taken; and a statistical summary of the length of survival of such infants;

7. The number of cases in which anesthesia was administered to the mother and the number of each type of anesthesia;

8. The number of cases in which anesthesia was administered to the unborn child, and the number of each type of anesthesia and of each method of administration;

9. The number of each reported method of fetal disposal;

10. The reasons reported for the abortions, and the number of times each reported reason was cited;

11. The number of abortions paid for by:

a. private insurance,

b. public health plan,

c. Medicaid,

d. private pay, or

e. other;

12. The number of abortions in which medical health insurance coverage was under:

a. a fee-for-service insurance company,

b. a managed care company, or

c. other;

13. A statistical summary of the fees collected;

14. Specialty area of medicine of the physician;

15. The number of abortions in which ultrasound equipment was used before, during, or after the abortion, and the number of times vaginal ultrasound, abdominal ultrasound, or both were used in each of the three circumstances;

16. The number of abortions before which an ultrasound was performed by:

a. the physician performing the abortion,

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

c. other;

17. The number of abortions resulting in reported complications, and of those, how many were reported by the physician

who performed the abortion, and how many were reported by another physician, the types of reported complications, and the number of each type based on data which shall be compiled and transmitted to the State Department of Health by the State Board of Medical Licensure and Supervision and the State Board of Osteopathic Examiners;

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

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

20. The number of females to whom physicians or agents of physicians provided the information in paragraph 2 of subsection B of Section 1-738.2 of ~~Title 63 of the Oklahoma Statutes~~ this title; of that number, the number provided by telephone and the number provided in person; of each of those numbers, the number provided in the capacity of a referring physician and the number provided in the capacity of a physician who is to perform the abortion; and of each

of those numbers, the number provided by the physician and the number provided by an agent of the physician;

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

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

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

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

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

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

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

a. the number of abortions reported as necessary to save the life of the mother, the life-endangering

conditions identified, and the number of each such condition reported,

b. the number of abortions reported from pregnancies resulting from forcible rape, the number of such rapes reported to law enforcement authorities, general categories of law enforcement authorities to whom reports were made and the number made to each category, and a statistical summary of the length of time between the dates of reporting to law enforcement authorities and the dates of the abortions, and

c. the number of abortions reported from pregnancies resulting from incest committed against a minor, the number of perpetrators of incest in such cases reported to law enforcement authorities, general categories of law enforcement authorities to whom reports were made and the number made to each category, and a statistical summary of the length of time between the dates of reporting to law enforcement authorities and the dates of the abortions;

26. The number of females to a parent of whom the physician provided notice as required by Section 1-740.2 of ~~Title 63 of the Oklahoma Statutes~~ this title; of that number, the number provided personally as described in that section, and the number provided by mail as described in that section, and of each of those numbers, the

number of females who, to the best of the information and belief of the reporting physician, went on to obtain the abortion;

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

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

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

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

31. The number of abortions performed after which the remains of the fetus after the abortion were examined to ensure that all such remains were evacuated from the mother's body;

32. The number of male children aborted and female children aborted, as determined from the examination of fetal remains after abortion;

33. The number of male children aborted and female children aborted, as determined by any method other than those reported in paragraph 32 of this subsection;

34. The number of instances in which the mother was informed prior to the abortion that the child to be aborted was a female;

35. The number of abortions performed without surgery but rather as the results of the administration of chemicals;

36. The number of abortions performed as reported in paragraph 35 of this subsection, in which the physician was present in the same room as the woman to whom the chemicals were administered at the time any such chemicals were first administered;

37. The number of abortions performed for each hospital at which the abortionist had hospital privileges at the time of the abortion;

38. The number of abortions performed at which ultrasound equipment was used before the abortion;

39. The number of abortions reported in paragraph 38 of this subsection, during which the mother was under the effect of anesthesia at the time of the ultrasound;

40. The number of abortions performed at which ultrasound equipment was used during the abortion;

41. The number of abortions reported in paragraph 40 of this subsection, during which the mother was under the effect of anesthesia at the time of the ultrasound;

42. The number of abortions performed at which ultrasound equipment was used after the abortion;

43. The number of abortions reported in paragraph 42 of this subsection, during which the mother was under the effect of anesthesia at the time of the ultrasound;

44. The mean gestational age of the fetus at the time of the abortion, as determined by ultrasounds reported;

45. The number of abortions for which no determination of probable postfertilization age was made as required by Section 1-745.5 of this title; and

46. The number of abortions in which the pregnant woman was told that it may be possible to make the embryonic or fetal heartbeat of the unborn child audible for the pregnant woman to hear; the number of abortions in which the pregnant woman was asked if she would like to hear the heartbeat; and the number of abortions in which the embryonic or fetal heartbeat of the unborn child was made audible for the pregnant woman to hear, using a Doppler fetal heart rate monitor.

D. Beginning in 2013, by June 1 of each year, the State Department of Health shall post, on its stable Internet website, a public Annual Judicial Bypass of Abortion Parental Consent Summary

Report providing statistics which shall be compiled and supplied to the Department by the Administrative Office of the Courts giving the total number of petitions or motions filed under Section 1-740.3 of ~~Title 63 of the Oklahoma Statutes~~ this title and of that number, the number in which:

1. The court appointed a guardian ad litem;

2. The court appointed counsel;

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

   a. the number authorized due to a determination by the judge that the minor was mature and capable of giving consent to the proposed abortion, and

   b. the number authorized due to a determination by the judge that an abortion was in the best interest of the minor; and

4. The judge denied such an order, and of this, the number of:

   a. denials from which an appeal was filed,

   b. the appeals that resulted in the denial being affirmed, and

   c. appeals that resulted in reversals of the denials.

E. Each Annual Judicial Bypass of Abortion Parental Consent Summary Report shall also provide the statistics for all previous calendar years for which the public statistical report was required

to be issued, adjusted to reflect any additional information from late or corrected reports.

F. The Department's public reports shall not contain the name, address, hometown, county of residence, or any other identifying information of any individual female, and shall take care to ensure that none of the information included in its public reports could reasonably lead to the identification of any individual female about whom information is reported in accordance with the Statistical Abortion Reporting Act or of any physician providing information in accordance with the Statistical Abortion Reporting Act. Nor shall the information described in the preceding sentence be subject to the Oklahoma Open Records Act.

SECTION 3. AMENDATORY 63 O.S. 2011, Section 1-738n, is amended to read as follows:

Section 1-738n. A. The State Board of Medical Licensure and Supervision and the State Board of Osteopathic Examiners shall notify, by March 1, 2012, all physicians licensed to practice in this state over whom they have licensure authority of the requirements of the Statistical Abortion Reporting Act and of the addresses of the pages on the State Department of Health's secure Internet website providing access to the forms it requires and instructions for their electronic submission. The respective Board shall also notify each physician who subsequently becomes newly

licensed to practice in this state, at the same time as an official notification to that physician, that the physician is so licensed.

B. Individual Abortion Forms or Complications of Induced Abortion Reports that are not submitted by the end of a grace period of thirty (30) days following the due date shall be subject to a late fee of Five Hundred Dollars ($500.00) for each additional thirty-day period the forms or reports are overdue. Any monies collected under this subsection shall be deposited into an account created within the Department, which shall be used for the administration of the Statistical Abortion Reporting Act. Any physician required to report in accordance with the Statistical Abortion Reporting Act who has not completed and electronically submitted a form or report, or has submitted only an incomplete form or report, more than one (1) year following the due date shall be precluded from renewing his or her license until such fines are paid in full and outstanding forms or reports are submitted, and may, in an action brought by the State Department of Health, be directed by a court of competent jurisdiction to electronically submit completed forms or reports within a period stated by court order or be subject to sanctions for civil contempt.

C. Anyone who knowingly or recklessly fails to submit an Individual Abortion Form or Complications of Induced Abortion Report, or submits false information under the Statistical Abortion Reporting Act, shall be guilty of a misdemeanor.

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

E. The Department may promulgate rules in accordance with the Administrative Procedures Act to alter the dates established by the Statistical Abortion Reporting Act to achieve administrative convenience, fiscal savings, or to reduce the burden of reporting requirements, so long as the forms and reports are made available, on its stable Internet website, to all licensed physicians in this state, and the public reports described in Section ~~5~~ 1-738m of this ~~act~~ title are issued at least once every year.

F. If the Department fails to issue the public reports described in Section ~~5~~ 1-738m of this ~~act~~ title, an action pursuant to Chapter 26 of Title 12 of the Oklahoma Statutes may be initiated. If judgment is rendered in favor of the plaintiff in any action described in this subsection, the court shall also render judgment for a reasonable attorney fee in favor of the plaintiff against the defendant. If judgment is rendered in favor of the defendant and the court finds that the plaintiff's suit was frivolous and brought

in bad faith, the court shall also render judgment for a reasonable attorney fee in favor of the defendant against the plaintiff.

G. If an abortion provider fails to submit any report required pursuant to Section 1-738k of this title, upon the refusal, failure or neglect of the State Commissioner of Health, within twenty (20) days after written demand signed, verified and served upon the State Department of Health by at least ten registered voters of the state, to institute or diligently prosecute proper proceedings at law or in equity to compel an abortion provider to submit any report required pursuant to Section 1-738k of this title but not yet submitted to the State Department of Health, any resident taxpayer of the state after serving the notice aforesaid may in the name of the State of Oklahoma as plaintiff, institute and maintain any proper action which the State Department of Health might institute and maintain to compel the abortion provider to file such report. If a court of competent jurisdiction determines the claims to be meritorious, the abortionist shall be compelled to file the report and to pay the fee(s) prescribed in subsection B of this section, with costs and reasonable attorney fees. If all claims stated by the resident taxpayers in the written demand are determined in a court of competent jurisdiction to be frivolous and brought in bad faith, the resident taxpayers who signed such demand and who are parties to the lawsuit in which such claims are determined to be frivolous and brought in bad faith shall be jointly and severally liable for all

reasonable attorney fees and court costs incurred by the abortionist.

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

If some or all of the provisions of Sections 1-738k, 1-738m and 1-738n of Title 63 of the Oklahoma Statutes, as amended by Sections 1, 2 and 3 of this act, are ever temporarily or permanently restrained or enjoined by judicial order, these sections shall be enforced as though such restrained or enjoined provisions had not been adopted; provided, however, that whenever such temporary or permanent restraining order or injunction is stayed or dissolved, or otherwise ceases to have effect, such provisions shall have full force and effect.

SECTION 5. This act shall become effective November 1, 2013."

Passed the Senate the 16th day of April, 2013.

_____
Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2013.

_____
Presiding Officer of the House
of Representatives

ENGROSSED HOUSE
BILL NO. 2015

By: Roberts (Sean), Ritze, Biggs, Christian, Echols and Fisher of the House

and

Loveless of the Senate

An Act relating to public health and safety; amending 63 O.S. 2011, Section 1-738k, which relates to the Individual Abortion Form; adding certain questions to the Individual Abortion Form; amending 63 O.S. 2011, Section 1-738m, which relates to the Annual Abortion Report; adding certain information to the Annual Abortion Report; amending 63 O.S. 2011, Section 1-738n, which relates to certain notice requirements to physicians; permitting voters to institute proceedings if abortion provider fails to submit report; providing for attorney fees under certain conditions; and providing an effective date.

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

SECTION 6. AMENDATORY 63 O.S. 2011, Section 1-738k, is amended to read as follows:

Section 1-738k. A. Subsections B and C of this section shall become operative on the later of:

1. April 1, 2012; or

2. Thirty (30) calendar days following the date on which the State Department of Health posts on its website the Individual

Abortion Form and instructions concerning its electronic submission referenced in this section.

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

C. Any physician performing abortions shall fully complete and submit, electronically, an Individual Abortion Form to the State Department of Health by the last business day of the calendar month following the month in which the physician performs an abortion, for each abortion the physician performs.

D. In cases in which a physician or the agent of a physician:

1. Mails the printed materials described in Section 1-738.3 of ~~Title 63 of the Oklahoma Statutes~~ this title to a female specifically to comply with division (1) of subparagraph d of paragraph 2 of subsection B of Section 1-738.2 of ~~Title 63 of the Oklahoma Statutes~~ this title;

2. Gives or mails the printed materials described in Section 1-738.10 of ~~Title 63 of the Oklahoma Statutes~~ this title to a female

specifically to comply with subsection A of Section 1-738.8 of ~~Title 63 of the Oklahoma Statutes~~ this title; or

3. Provides notice to a parent in compliance with Section 1-740.2 of ~~Title 63 of the Oklahoma Statutes~~ this title,

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

E. The Individual Abortion Form shall contain a notice containing an assurance that, in accordance with subsection F of Section ~~5~~ 1-738m of this ~~act~~ title, public reports based on the form submitted will not contain the name, address, hometown, county of residence, or any other identifying information of any individual female, that the State Department of Health will take care to ensure that none of the information included in its public reports could reasonably lead to the identification of any individual female about whom information is reported in accordance with the Statistical

Abortion Reporting Act or of any physician providing information in accordance with the Statistical Abortion Reporting Act, and that such information is not subject to the Oklahoma Open Records Act.

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

Individual Abortion Form

(TO BE COMPLETED FOR EACH ABORTION PERFORMED)

1. Date of abortion: _____

2. County in which the abortion was performed: _____

3. Age of mother: _____

4. Marital status of mother: _____

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

5. Race of mother: _____

6. Years of education of mother: _____

(specify highest year completed)

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

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

Live Births: _____

Miscarriages: _____

Induced Abortions: _____

9. Approximate gestational age in weeks, as measured from the last menstrual period of the mother, of the unborn child subject to abortion: _____

10. Method of abortion used:

Suction Aspiration: _____

Dilation and Curettage: _____

RU 486: _____

Methotrexate: _____

Other drug/chemical/medicine (specify): _____

Dilation and Evacuation: _____

Saline: _____

Urea: _____

Prostaglandins: _____

Partial Birth Abortion: _____

Hysterectomy: _____

Other (specify): _____

11. Was there an infant born alive as a result of the abortion? _____

If yes:

Were life-sustaining measures undertaken? _____

How long did the infant survive? _____

12. Was anesthesia administered to mother? _____

If yes, what type? _____

13. Was anesthesia administered to the fetus? _____

If yes:

What type? _____

How was it administered? _____

14. Method of fetal tissue disposal: _____

15. Unless a medical emergency, as defined in Section ~~1-738.1~~ 1-738.1A, or as applicable, Section 1-745.2 of Title 63 of the Oklahoma Statutes, exists, the abortion provider or agent shall ask the pregnant female to provide, orally or in writing, the reason(s) she is seeking the abortion. If such a medical emergency exists, the abortion provider or agent shall specify on the form the condition which necessitated the immediate abortion: _____

REASON GIVEN FOR ABORTION (check all applicable):

Having a baby:

Would dramatically change the life of the mother: _____

Would interfere with the education of the mother: _____

Would interfere with the job/employment/career of the mother: _____

Mother has other children or dependents: _____

Mother cannot afford the child: _____

Mother is unmarried: _____

Mother is a student or planning to be a student: _____

Mother cannot afford child care: _____

Mother cannot afford the basic needs of life: _____

Mother is unemployed: _____

Mother cannot leave job to care for a baby: _____

Mother would have to find a new place to live: _____

Mother does not have enough support from a husband or partner: _____

Husband or partner is unemployed: _____

Mother is currently or temporarily on welfare or public assistance: _____

Mother does not want to be a single mother: _____

Mother is having relationship problems: _____

Mother is not certain of relationship with the father of the child: _____

Partner and mother are unable to or do not want to get married: _____

Mother is not currently in a relationship: _____

The relationship or marriage of the mother may soon break up: _____

Husband or partner is abusive to the mother or her children: _____

Mother has completed her childbearing: _____

Mother is not ready for a, or another, child: _____

Mother does not want people to know that she had sex or became pregnant: _____

Mother does not feel mature enough to raise a, or another, child: _____

Husband or partner wants mother to have an abortion: _____

There may be possible problem affecting the health of the fetus: _____

Physical health of the mother is at risk: _____

Parents want mother to have an abortion: _____

Emotional health of the mother is at risk: _____

Mother suffered from a medical emergency as defined in Section ~~1-738.1~~ 1-738.1A of Title 63 of the Oklahoma Statutes: _____

Mother suffered from a medical emergency as defined in Section 1-745.2 of Title 63 of the Oklahoma Statutes: _____

Mother wanted a child of a different sex: _____

Abortion is necessary to avert the death of the mother: _____

Pregnancy was a result of forcible rape: _____

Pregnancy was a result of incest: _____

Other (specify): _____

Patient was asked why she is seeking an abortion, but she declined to give a reason: _____

16. Method of payment (check one):

Private insurance: _____

Public health plan: _____

Medicaid: _____

Private pay: _____

Other (specify): _____

17. Type of private medical health insurance coverage, if any (check one):

Fee-for-service insurance company: _____

Managed care company: _____

Other (specify): _____

18. Sum of fee(s) collected: _____

19. Time of fee collection (check one):

Full fee for abortion collected prior to or at the time the patient was provided the information required under subsection ~~A~~ B of Section 1-738.2 of Title 63 of the Oklahoma Statutes: _____

Partial fee for abortion collected prior to or at the time the patient was provided the information required under subsection ~~A~~ B of Section 1-738.2 of Title 63 of the Oklahoma Statutes: _____

Full fee for abortion collected at time the abortion was performed: _____

Other (specify): _____

20. Specialty area of medicine of the physician: _____

_____

At which hospital(s) did the physician have hospital privileges at the time of the abortion?

_____

21. Was ultrasound equipment used before, during, or after the performance of this abortion?

Before? _____ Vaginal, abdominal, or both? _____

How long prior to the abortion was the ultrasound performed?

_____

Was the mother under the effect of anesthesia at the time of the ultrasound? _____

During? _____ Vaginal, abdominal, or both? _____

After? _____ Vaginal, abdominal, or both? _____

If an ultrasound was performed, what was the gestational age of the fetus at the time of the abortion, as determined by the ultrasound? _____

Attach to this form a copy or screenshot of the ultrasound, intact with the date on which the ultrasound was performed, and with the name of the mother redacted.

21A. If an ultrasound was not performed prior to the abortion, was the reason for not performing an ultrasound a medical emergency necessitating an immediate abortion:

To avert death: _____

To avert substantial and irreversible impairment of a major bodily function arising from continued pregnancy: _____

Other reason: _____

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

The physician performing the abortion: _____

A physician other than the physician performing the abortion: _____

Other (specify): _____

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

a. If yes, was it provided:

In person: _____

By telephone: _____

b. Was it provided by:

A referring physician: _____

The physician performing the abortion: _____

An agent of a referring physician: _____

An agent of the physician performing the abortion: _____

24. Was the information required by paragraph 2 of subsection B of Section 1-738.2 of Title 63 of the Oklahoma Statutes provided to the mother? _____

a. If yes, was it provided:

In person: _____

By telephone: _____

b. Was it provided by:

A referring physician: _____

An agent of a referring physician: _____

The physician performing the abortion: _____

An agent of the physician performing the abortion: _____

25. Did the mother avail herself of the opportunity to have the printed materials described in Section 1-738.3 of Title 63 of the Oklahoma Statutes mailed to her? _____

26. Were the informed consent requirements of subsection B of Section 1-738.2 of Title 63 of the Oklahoma Statutes dispensed with because of a medical emergency necessitating an immediate abortion:

To avert death: _____

To avert substantial and irreversible impairment of a major bodily function arising from continued pregnancy: _____

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

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

~~(1) If yes, was the information provided:~~

~~In person: _____~~

~~By telephone: _____~~

~~(2) If yes, was the information provided by:~~

~~A referring physician: _____~~

~~An agent of a referring physician: _____~~

~~The physician performing the abortion: _____~~

~~An agent of the physician performing the abortion: _____~~

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

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

Was a determination of probable postfertilization age made as required by Section 1-745.5 of Title 63 of the Oklahoma Statutes? _____

a. If no, was the determination of probable postfertilization age dispensed with:

To avert death: _____

To avert substantial and irreversible impairment of a major bodily function arising from continued pregnancy: _____

b. If yes, what was the probable postfertilization age? ____

What was the method and basis of the determination? _____

What was the basis for the determination to perform the abortion:

To avert death: _____

To avert substantial and irreversible impairment of a major bodily function arising from continued pregnancy: ____

Was the method of abortion used one that, in reasonable medical judgment, provided the best opportunity for the unborn child to survive? _____

If yes, was there an infant born alive as a result of the abortion? _____

If no, what was the basis of the determination? _____

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

29. Was the abortion performed with the use of any public institution, public facility, public equipment, or other physical asset owned, leased, or controlled by this state, its agencies, or political subdivisions? _____

30. If the answer to question 28 or 29 is yes:

a. Was the abortion necessary to save the life of the mother? _____

If yes, what was the life-endangering condition? _____

b. Did the pregnancy result from an act of forcible rape? _____

If yes, list the law enforcement authority to which the rape was reported: _____

List the date of the report: _____

c. Did the pregnancy result from an act of incest committed against a minor? _____

If yes, list the law enforcement authority to which the perpetrator was reported: _____

List the date of the report: _____

THIS PORTION TO BE COMPLETED IN CASE OF MINOR

31. Minor's age at the time the abortion was performed: _____

32. Was a parent of the minor provided notice prior to the abortion as described in Section 1-740.2 of Title 63 of the Oklahoma Statutes? _____

a. If yes, how was the notice provided?

In person: _____

By mail: _____

b. If yes, to the best of the reporting physician's knowledge and belief, did the minor go on to obtain the abortion? _____

33. Was informed written consent of one parent obtained as described in Section 1-740.2 of Title 63 of the Oklahoma Statutes? _____

If yes, how was it secured?

In person: _____

Other (specify): _____

34. If no notice was provided nor consent obtained, indicate which of the following apply:

Minor was emancipated: _____

Abortion was necessary to prevent the death of the minor: _____

Medical emergency, as defined in Section ~~1-738.1~~ 1-738.1A of Title 63 of the Oklahoma Statutes, existed: _____

Minor received judicial authorization to obtain abortion without parental notice or consent: _____

35. If no notice was provided nor consent obtained because a medical emergency existed, indicate:

Whether parent was subsequently notified (state period of time elapsed before notice was given): _____

Whether judicial waiver of notice requirement was obtained: _____

36. If the minor received judicial authorization to obtain an abortion without parental notice or consent, indicate which of the following applies:

Judge ruled that minor was mature enough to give informed consent on her own: _____

Judge ruled that abortion was in the best interest of the minor: _____

37. If the female was a minor at the time of conception, indicate the age of the father of the unborn child at the time of conception: _____

38. If at the time of conception the ages of the mother and father were such that a violation of Section 1111, 1112, 1114 or 1123 of Title 21 or Section ~~7115~~ 843.5 of Title ~~10~~ 21 of the Oklahoma Statutes occurred, was the rape or abuse reported to the proper authorities? _____

39. Were the remains of the fetus after the abortion examined to ensure that all such remains were evacuated from the mother's body? _____

If the remains of the fetus were examined after the abortion, what was the sex of the child, as determined from such examination? _____

Was the sex of the child determined prior to the abortion? _____ If so, by whom? _____ If so, by what method? _____

If the sex of the child was determined prior to the abortion, was the mother given information of the child's sex prior to the abortion? _____

40. If the abortion was performed without surgery but rather as the result of the administration of chemicals, was the physician present in the same room as the woman to whom the chemicals were administered at the time any such chemicals were first administered? _____

41. Prior to the pregnant woman giving informed consent to having any part of the abortion performed or induced, if the pregnancy was at least eight (8) weeks after fertilization, was the pregnant woman told that it may be possible to make the embryonic or fetal heartbeat of the unborn child audible for the pregnant woman to hear? _____

Was the pregnant woman asked if she would like to hear the heartbeat? _____

Was the embryonic or fetal heartbeat of the unborn child made audible for the pregnant woman to hear, using a Doppler fetal heart rate monitor? _____

If the response to any of the questions in this paragraph 41 was anything other than an unqualified YES, how was the abortion performed in compliance with Sections 1-745.12 through 1-745.19 of Title 63 of the Oklahoma Statutes? _____

Filed this ____ day of _____, _____, by:

_____

(Name of physician)

_____

(Physician's license number)

NOTICE: In accordance with subsection F of Section ~~5~~ 1-738m of ~~this act~~ Title 63 of the Oklahoma Statutes, public reports based on this form will not contain the name, address, hometown, county of residence, or any other identifying information of any individual

female. The State Department of Health shall take care to ensure that none of the information included in its public reports could reasonably lead to the identification of any individual female about whom information is reported or of any physician providing information in accordance with the Statistical Abortion Reporting Act. Such information is not subject to the Oklahoma Open Records Act.

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

SECTION 7. AMENDATORY 63 O.S. 2011, Section 1-738m, is amended to read as follows:

Section 1-738m. A. Beginning in 2013, by June 1 of each year, the Department shall issue, on its stable Internet website, a public Annual Abortion Report providing statistics for the previous calendar year compiled from all of the reports covering that year submitted in accordance with the Statistical Abortion Reporting Act.

B. The Department's public report shall also provide statistics for all previous calendar years for which abortion-reporting requirements have been in effect, adjusted to reflect any additional information from late or corrected reports.

C. The Annual Abortion Report shall include, but not be limited to, the following information:

1. The number of induced abortions performed in the previous calendar year, broken down by month and county in which the abortion was performed;

2. The number of abortions classified by:

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

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

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

3. The number of abortions classified by:

a. the number of previous pregnancies of the mother,

b. previous live births to the mother,

c. previous miscarriages, and

d. previous induced abortions;

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

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

6. The number of abortions resulting in an infant born alive; of these, the number of cases in which life-sustaining measures were taken; and a statistical summary of the length of survival of such infants;

7. The number of cases in which anesthesia was administered to the mother and the number of each type of anesthesia;

8. The number of cases in which anesthesia was administered to the unborn child, and the number of each type of anesthesia and of each method of administration;

9. The number of each reported method of fetal disposal;

10. The reasons reported for the abortions, and the number of times each reported reason was cited;

11. The number of abortions paid for by:

a. private insurance,

b. public health plan,

c. Medicaid,

d. private pay, or

e. other;

12. The number of abortions in which medical health insurance coverage was under:

a. a fee-for-service insurance company,

b. a managed care company, or

c. other;

13. A statistical summary of the fees collected;

14. Specialty area of medicine of the physician;

15. The number of abortions in which ultrasound equipment was used before, during, or after the abortion, and the number of times vaginal ultrasound, abdominal ultrasound, or both were used in each of the three circumstances;

16. The number of abortions before which an ultrasound was performed by:

a. the physician performing the abortion,

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

c. other;

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

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

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

20. The number of females to whom physicians or agents of physicians provided the information in paragraph 2 of subsection B of Section 1-738.2 of ~~Title 63 of the Oklahoma Statutes~~ this title; of that number, the number provided by telephone and the number provided in person; of each of those numbers, the number provided in the capacity of a referring physician and the number provided in the capacity of a physician who is to perform the abortion; and of each of those numbers, the number provided by the physician and the number provided by an agent of the physician;

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

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

23. The number of females to whom physicians or their agents provided the information described in subsection A of Section 1-

738.8 of ~~Title 63 of the Oklahoma Statutes~~ this title; of that number:

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

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

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

25. The number of abortions performed within the scope of employment of Oklahoma state employees and employees of an agency or

political subdivision of the state, the number of abortions performed with the use of public institutions, facilities, equipment, or other physical assets owned, leased, or controlled by this state, its agencies, or political subdivisions, and for each category:

a. the number of abortions reported as necessary to save the life of the mother, the life-endangering conditions identified, and the number of each such condition reported,

b. the number of abortions reported from pregnancies resulting from forcible rape, the number of such rapes reported to law enforcement authorities, general categories of law enforcement authorities to whom reports were made and the number made to each category, and a statistical summary of the length of time between the dates of reporting to law enforcement authorities and the dates of the abortions, and

c. the number of abortions reported from pregnancies resulting from incest committed against a minor, the number of perpetrators of incest in such cases reported to law enforcement authorities, general categories of law enforcement authorities to whom reports were made and the number made to each category, and a statistical summary of the length of

time between the dates of reporting to law enforcement authorities and the dates of the abortions;

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

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

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

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

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

31. The number of abortions performed after which the remains of the fetus after the abortion were examined to ensure that all such remains were evacuated from the mother's body;

32. The number of male children aborted and female children aborted, as determined from the examination of fetal remains after abortion;

33. The number of male children aborted and female children aborted, as determined by any method other than those reported in paragraph 32 of this subsection;

34. The number of instances in which the mother was informed prior to the abortion that the child to be aborted was a female;

35. The number of abortions performed without surgery but rather as the results of the administration of chemicals;

36. The number of abortions performed as reported in paragraph 35 of this subsection, in which the physician was present in the same room as the woman to whom the chemicals were administered at the time any such chemicals were first administered;

37. The number of abortions performed for each hospital at which the abortionist had hospital privileges at the time of the abortion;

38. The number of abortions performed at which ultrasound equipment was used before the abortion;

39. The number of abortions reported in paragraph 38 of this subsection, during which the mother was under the effect of anesthesia at the time of the ultrasound;

40. The number of abortions performed at which ultrasound equipment was used during the abortion;

41. The number of abortions reported in paragraph 40 of this subsection, during which the mother was under the effect of anesthesia at the time of the ultrasound;

42. The number of abortions performed at which ultrasound equipment was used after the abortion;

43. The number of abortions reported in paragraph 42 of this subsection, during which the mother was under the effect of anesthesia at the time of the ultrasound;

44. The mean gestational age of the fetus at the time of the abortion, as determined by ultrasounds reported;

45. The number of abortions for which no determination of probable postfertilization age was made as required by Section 1-745.5 of this title; and

46. The number of abortions in which the pregnant woman was told that it may be possible to make the embryonic or fetal heartbeat of the unborn child audible for the pregnant woman to hear; the number of abortions in which the pregnant woman was asked

if she would like to hear the heartbeat; and the number of abortions in which the embryonic or fetal heartbeat of the unborn child was made audible for the pregnant woman to hear, using a Doppler fetal heart rate monitor.

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

1. The court appointed a guardian ad litem;

2. The court appointed counsel;

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

a. the number authorized due to a determination by the judge that the minor was mature and capable of giving consent to the proposed abortion, and

b. the number authorized due to a determination by the judge that an abortion was in the best interest of the minor; and

4. The judge denied such an order, and of this, the number of:

a. denials from which an appeal was filed,

b. the appeals that resulted in the denial being affirmed, and

c. appeals that resulted in reversals of the denials.

E. Each Annual Judicial Bypass of Abortion Parental Consent Summary Report shall also provide the statistics for all previous calendar years for which the public statistical report was required to be issued, adjusted to reflect any additional information from late or corrected reports.

F. The Department's public reports shall not contain the name, address, hometown, county of residence, or any other identifying information of any individual female, and shall take care to ensure that none of the information included in its public reports could reasonably lead to the identification of any individual female about whom information is reported in accordance with the Statistical Abortion Reporting Act or of any physician providing information in accordance with the Statistical Abortion Reporting Act. Nor shall the information described in the preceding sentence be subject to the Oklahoma Open Records Act.

SECTION 8. AMENDATORY 63 O.S. 2011, Section 1-738n, is amended to read as follows:

Section 1-738n. A. The State Board of Medical Licensure and Supervision and the State Board of Osteopathic Examiners shall notify, by March 1, 2012, all physicians licensed to practice in this state over whom they have licensure authority of the

requirements of the Statistical Abortion Reporting Act and of the addresses of the pages on the State Department of Health's secure Internet website providing access to the forms it requires and instructions for their electronic submission. The respective Board shall also notify each physician who subsequently becomes newly licensed to practice in this state, at the same time as an official notification to that physician, that the physician is so licensed.

B. Individual Abortion Forms or Complications of Induced Abortion Reports that are not submitted by the end of a grace period of thirty (30) days following the due date shall be subject to a late fee of Five Hundred Dollars ($500.00) for each additional thirty-day period the forms or reports are overdue. Any monies collected under this subsection shall be deposited into an account created within the Department, which shall be used for the administration of the Statistical Abortion Reporting Act. Any physician required to report in accordance with the Statistical Abortion Reporting Act who has not completed and electronically submitted a form or report, or has submitted only an incomplete form or report, more than one (1) year following the due date shall be precluded from renewing his or her license until such fines are paid in full and outstanding forms or reports are submitted, and may, in an action brought by the State Department of Health, be directed by a court of competent jurisdiction to electronically submit completed

forms or reports within a period stated by court order or be subject to sanctions for civil contempt.

C. Anyone who knowingly or recklessly fails to submit an Individual Abortion Form or Complications of Induced Abortion Report, or submits false information under the Statistical Abortion Reporting Act, shall be guilty of a misdemeanor.

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

E. The Department may promulgate rules in accordance with the Administrative Procedures Act to alter the dates established by the Statistical Abortion Reporting Act to achieve administrative convenience, fiscal savings, or to reduce the burden of reporting requirements, so long as the forms and reports are made available, on its stable Internet website, to all licensed physicians in this state, and the public reports described in Section ~~5~~ 1-738m of this ~~act~~ title are issued at least once every year.

F. If the Department fails to issue the public reports described in Section ~~5~~ 1-738m of this ~~act~~ title, an action pursuant to Chapter 26 of Title 12 of the Oklahoma Statutes may be initiated.

If judgment is rendered in favor of the plaintiff in any action described in this subsection, the court shall also render judgment for a reasonable attorney fee in favor of the plaintiff against the defendant. If judgment is rendered in favor of the defendant and the court finds that the plaintiff's suit was frivolous and brought in bad faith, the court shall also render judgment for a reasonable attorney fee in favor of the defendant against the plaintiff.

G. If an abortion provider fails to submit any report required pursuant to Section 1-738k of this title, upon the refusal, failure or neglect of the State Commissioner of Health, within twenty (20) days after written demand signed, verified and served upon the State Department of Health by at least ten registered voters of the state, to institute or diligently prosecute proper proceedings at law or in equity to compel an abortion provider to submit any report required pursuant to Section 1-738k of this title but not yet submitted to the State Department of Health, any resident taxpayer of the state after serving the notice aforesaid may in the name of the State of Oklahoma as plaintiff, institute and maintain any proper action which the State Department of Health might institute and maintain to compel the abortion provider to file such report, and the state or such county, city, town or school district shall in such event be made defendant. If a court of competent jurisdiction determines the claims to be meritorious, the abortionist shall be compelled to file the report and to pay the fee(s) prescribed in subsection B of this

section, with costs and reasonable attorney fees. If all claims stated by the resident taxpayers in the written demand are determined in a court of competent jurisdiction to be frivolous and brought in bad faith, the resident taxpayers who signed such demand and who are parties to the lawsuit in which such claims are determined to be frivolous and brought in bad faith shall be jointly and severally liable for all reasonable attorney fees and court costs incurred by the abortionist.

SECTION 9. This act shall become effective November 1, 2013.

Passed the House of Representatives the 12th day of March, 2013.

_____
Presiding Officer of the House of Representatives

Passed the Senate the ___ day of _____, 2013.

_____
Presiding Officer of the Senate