

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 HOUSE BILL 1588

By: Hamilton

4  
5  
6 AS INTRODUCED

7 An Act relating to public health and safety; creating  
8 the Parental Notification for Abortion Act; defining  
9 terms; requiring notice to parent prior to abortion  
10 being performed; providing certain notice  
11 requirements; providing exceptions; providing for  
12 penalty and cause of action; providing for  
13 severability; repealing 63 O.S. 2011, Section 1-  
14 740.2, which relates to abortions performed upon  
15 unemancipated minors; providing for codification; and  
16 providing an effective date.

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 1-740.7a of Title 63, unless  
20 there is created a duplication in numbering, reads as follows:

21 This act shall be known and may be cited as the "Parental  
22 Notification for Abortion Act".

23 SECTION 2. NEW LAW A new section of law to be codified  
24 in the Oklahoma Statutes as Section 1-740.7b of Title 63, unless  
there is created a duplication in numbering, reads as follows:

For the purposes of this act only:

1 1. "Abortion" means the use of any means intentionally to  
2 terminate the pregnancy of a female known to be pregnant with  
3 knowledge that the termination with those means will, with  
4 reasonable likelihood, cause the death of the fetus. "Fetus" means  
5 any individual human organism from fertilization until birth;

6 2. "Medical emergency" means the existence of any physical  
7 condition, not including any emotional, psychological, or mental  
8 condition, which a reasonably prudent physician would determine  
9 necessitates the immediate abortion of the female's pregnancy to  
10 avert her death or to avert substantial and irreversible impairment  
11 of a major bodily function arising from continued pregnancy;

12 3. "Parent" means one parent of the pregnant minor, or the  
13 guardian or conservator if the pregnant female has one;

14 4. "Physician" means any person licensed to practice medicine  
15 and surgery or osteopathic medicine and surgery in the State of  
16 Oklahoma; and

17 5. "Reasonable medical judgment" means a medical judgment that  
18 would be made by a reasonably prudent physician knowledgeable about  
19 the case and the treatment possibilities with respect to the medical  
20 conditions involved.

21 SECTION 3. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 1-740.7c of Title 63, unless  
23 there is created a duplication in numbering, reads as follows:

24

1 A. No abortion shall be performed or induced upon an  
2 unemancipated minor until at least forty-eight (48) hours after  
3 written notice of the pending abortion has been delivered in the  
4 manner specified in subsection B or C of this section to one of the  
5 parents of the minor upon whom the abortion is contemplated.

6 B. The notice shall be addressed to the parent at the usual  
7 place of abode of the parent and delivered personally to the parent  
8 by the physician or an agent.

9 C. In lieu of the delivery required in subsection B of this  
10 section, notice shall be made by certified mail addressed to the  
11 parent at the usual place of abode of the parent with return receipt  
12 requested and restricted delivery to the addressee, which means the  
13 postal employee can deliver the mail only to the authorized  
14 addressee. Time of delivery shall be deemed to occur at noon on the  
15 third day on which regular mail delivery takes place, subsequent to  
16 mailing.

17 SECTION 4. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 1-740.7d of Title 63, unless  
19 there is created a duplication in numbering, reads as follows:

20 Immediate notice shall not be required if the attending  
21 physician certifies in the pregnant female's medical record that, in  
22 reasonable medical judgment, a medical emergency exists and there is  
23 insufficient time to provide the prior notification required by  
24 Section 3 of this act. The attending physician or the physician's

1 agent shall verbally inform the parent within twenty-four (24) hours  
2 after the performance of a medical emergency abortion, that a  
3 medical emergency abortion was performed on the unemancipated minor  
4 or on the female for whom a guardian or conservator has been  
5 appointed and shall also send a written notice, within twenty-four  
6 (24) hours after the performance of a medical emergency abortion, to  
7 the last-known address of the parent that a medical emergency  
8 abortion was performed. The written notice shall follow the  
9 requirements as set forth in subsection C of Section 3 of this act.

10 SECTION 5. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 1-740.7e of Title 63, unless  
12 there is created a duplication in numbering, reads as follows:

13 No notice shall be required under this act if:

14 1. The person who is entitled to notice states in a notarized  
15 writing that he or she has been notified and said statement is  
16 placed in the female's medical record; or

17 2. The pregnant female declares that she is a victim of sexual  
18 or physical abuse, as defined in Section 1-1-105 of Title 10A of the  
19 Oklahoma Statutes, by her parent and the attending physician has  
20 notified local law enforcement or the Department of Human Services  
21 of the name and address of the abusing parent so they can  
22 investigate. Local law enforcement or the Department of Human  
23 Services shall maintain the confidentiality of the fact that the  
24 minor has sought or obtained an abortion and shall take all

1 necessary steps to ensure that this information is not revealed to  
2 the female's parent.

3 SECTION 6. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 1-740.7f of Title 63, unless  
5 there is created a duplication in numbering, reads as follows:

6 Performance of an abortion in violation of this act shall be a  
7 misdemeanor and shall be grounds for a civil action by a person  
8 wrongfully denied notification. A person shall not be held liable  
9 under this act if the person establishes by written evidence that he  
10 or she relied upon evidence sufficient to convince a careful and  
11 prudent person that the representations of the pregnant female  
12 regarding information necessary to comply with this act are bona  
13 fide and true, or if the person has attempted with reasonable  
14 diligence to deliver notice, but has been unable to do so.

15 SECTION 7. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 1-740.7g of Title 63, unless  
17 there is created a duplication in numbering, reads as follows:

18 If any provision, word, phrase or clause of this act or the  
19 application thereof to any person or circumstances shall be held  
20 invalid, such invalidity shall not affect the provisions, words,  
21 phrases, clauses or application of this act which can be given  
22 effect without the invalid provision, word, phrase, clause, or  
23 application, and to this end the provisions, words, phrases, and  
24 clauses of this act are declared to be severable.

1 SECTION 8. This act shall become effective November 1, 2013.

2  
3 54-1-5687 AM 01/14/13  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24