

AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB139 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by
inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Rebecca Hamilton

Adopted: _____

Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 FLOOR SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 139

By: Gumm and Branam of the
Senate

6 and

7 Hamilton of the House

8
9 FLOOR SUBSTITUTE

10 An Act relating to abortion; amending 63 O.S. 2001,
11 Section 1-730, which relates to abortion; expanding
12 certain definition; amending Section 6, Chapter 200,
13 O.S.L. 2005 (63 O.S. Supp. 2006, Section 1-738.1),
14 which relates to voluntary and informed consent to
15 abortion; modifying certain definition; providing for
16 the State Department of Health to prepare and make
17 available certain reporting forms; providing for the
18 content of the reporting forms; providing for the
19 time in which the reports are due; requiring public
20 reports containing certain information; providing for
21 enforcement of reporting requirements; providing for
22 penalties; providing for confidentiality; authorizing
23 promulgation of certain rules; amending Section 7,
24 Chapter 185, O.S.L. 2006 (63 O.S. Supp. 2006, Section
1-738.7), which relates to the Unborn Child Pain
Awareness/Prevention Act; modifying certain
definitions; amending Section 11, Chapter 200, O.S.L.
2005 (63 O.S. Supp. 2006, Section 1-740.1), which
relates to abortion; adding definition; amending
Section 12, Chapter 200, O.S.L. 2005, as amended by
Section 18, Chapter 185, O.S.L. 2006 (63 O.S. Supp.
2006, Section 1-740.2), which relates to notification
and consent of parent; requiring proof of age,
emancipation, or judicial waiver before performing
abortion; providing exception; requiring proof of
identification of parent for consent; providing for
certifications for consent; establishing records

requirements; providing for parental notification after abortion; providing exception; providing for forms developed by the State Department of Health; amending Section 13, Chapter 200, O.S.L. 2005, as amended by Section 19, Chapter 185, O.S.L. 2006 (63 O.S. Supp. 2006, Section 1-740.3), which relates to judicial authorization; establishing clear and convincing standard for waiver of notification before and after abortion; providing for the State Department of Health to prepare reporting forms; providing for the content of the reporting forms; providing the time in which the reports are due; requiring public reports containing certain information; providing for enforcement of reporting requirements; providing for penalties; providing for confidentiality; providing for conditions upon determination of unconstitutionality; prohibiting certain persons from performing or assisting an abortion; providing exception; prohibiting certain fund from being used for abortion; providing exception; defining term; limiting coverage for elective abortions; specifying applicable contracts; 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. 2001, Section 1-730, is amended to read as follows:

Section 1-730. As used in this article:

1. "Abortion" means the ~~purposeful termination of a human pregnancy, by any person with an intention other than to produce a live birth or to remove a dead unborn child~~ use or prescription of any instrument, medicine, drug, or any other substance or device intentionally to terminate the pregnancy of a female known to be pregnant with an intention other than to increase the probability of

1 a live birth, to preserve the life or health of the child after live
2 birth, to remove an ectopic pregnancy, or to remove a dead unborn
3 child who died as the result of a spontaneous miscarriage,
4 accidental trauma, or a criminal assault on the pregnant female or
5 her unborn child;

6 2. "Unborn child" means the unborn offspring of human beings
7 from the moment of conception, through pregnancy, and until live
8 birth including the human conceptus, zygote, morula, blastocyst,
9 embryo and fetus;

10 3. "Viable" means potentially able to live outside of the womb
11 of the mother upon premature birth, whether resulting from natural
12 causes or an abortion;

13 4. "Conception" means the fertilization of the ovum of a female
14 individual by the sperm of a male individual;

15 5. "Health" means physical or mental health;

16 6. "Department" means the State Department of Health;

17 7. "Inducing an abortion" means the administration by any
18 person, including the pregnant woman, of any substance designed or
19 intended to cause an expulsion of the unborn child, effecting an
20 abortion as defined above; and

21 8. Nothing contained herein shall be construed in any manner to
22 include any birth control device or medication or sterilization
23 procedure.

1 SECTION 2. AMENDATORY Section 6, Chapter 200, O.S.L.
2 2005 (63 O.S. Supp. 2006, Section 1-738.1), is amended to read as
3 follows:

4 Section 1-738.1 As used in Sections ~~6~~ 1-738.1 through ~~10~~ 1-
5 738.5 of this ~~act~~ title:

6 1. "Abortion" means the term as is defined in Section 1-730 of
7 ~~Title 63 of the Oklahoma Statutes~~ this title;

8 2. "Attempt to perform an abortion" means an act, or an
9 omission of a statutorily required act, that, under the
10 circumstances as the actor believes them to be, constitutes a
11 substantial step in a course of conduct planned to culminate in the
12 performance of an abortion in this state in violation of this act;

13 3. "Board" means the State Board of Medical Licensure and
14 Supervision;

15 4. "Medical emergency" means the existence of any physical
16 condition, not including any emotional, psychological, or mental
17 condition, which, on the basis of the physician's good faith
18 clinical judgment, so complicates the medical condition of a
19 pregnant woman as to necessitate a reasonably prudent physician,
20 with knowledge of the case and treatment possibilities with respect
21 to the medical conditions involved, would determine necessitates the
22 immediate abortion of ~~her~~ the pregnancy of the female to avert her
23 death or ~~for which a delay will create serious risk of~~ to avert

1 substantial and irreversible impairment of a major bodily function
2 arising from continued pregnancy;

3 5. "Physician" means a person licensed to practice medicine in
4 this state pursuant to ~~Chapters 11 and 14~~ Sections 495 and 633 of
5 Title 59 of the Oklahoma Statutes;

6 6. "Probable gestational age of the unborn child" means what,
7 in the judgment of the physician, will with reasonable probability
8 be the gestational age of the unborn child at the time the abortion
9 is planned to be performed;

10 7. "Stable Internet web site" means a web site that, to the
11 extent reasonably practicable, is safeguarded from having its
12 content altered other than by the State Board of Medical Licensure
13 and Supervision; and

14 8. "Unborn child" means the term as is defined in Section 1-730
15 of ~~Title 63 of the Oklahoma Statutes~~ this title.

16 SECTION 3. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 1-738.3a of Title 63, unless
18 there is created a duplication in numbering, reads as follows:

19 A. By February 1, 2008, the State Department of Health shall
20 prepare and make available on its stable Internet web site the form
21 described in subsection B of this section. A copy of this act shall
22 be posted on the web site. Physicians performing abortions shall
23 complete and electronically submit the required forms to the
24 Department no later than April 1 for the previous calendar year.

1 Nothing in the report shall contain the name, address, or any other
2 identifying information of any patient.

3 B. The form for physicians shall contain a listing for the
4 following information:

5 1. The number of females to whom the physician, or an agent of
6 the physician, provided the information described in Section 1-738.2
7 of Title 63 of the Oklahoma Statutes; of that number, the number
8 provided the information by telephone and the number provided the
9 information in person; and of each of those numbers, the number
10 provided the information in the capacity of a referring physician
11 and the number provided the information in the capacity of a
12 physician who is to perform the abortion; and of each of those
13 numbers, the number provided the information by the physician and
14 the number provided the information by an agent of the physician;

15 2. The number of females who availed themselves of the
16 opportunity to obtain a copy of the printed information described in
17 Section 1-738.3 of Title 63 of the Oklahoma Statutes other than on
18 the web site, and the number who did not; and of each of those
19 numbers, the number who, to the best of the information and belief
20 of the reporting physician, went on to obtain the abortion; and

21 3. The number of abortions performed by the physician in which
22 information otherwise required to be provided at least twenty-four
23 (24) hours before the abortion was not so provided because an
24 immediate abortion was necessary to avert the death of the female,

1 and the number of abortions in which the information was not so
2 provided because a delay would cause substantial and irreversible
3 impairment of a major bodily function.

4 C. The State Department of Health shall ensure that the
5 reporting forms described in subsection B of this section are
6 posted, on its stable Internet web site, within one hundred twenty
7 (120) days after the effective date of this act. The State
8 Department of Health shall notify the following of the requirements
9 of this act:

10 1. By March 1, 2008, all physicians licensed to practice in
11 this state;

12 2. Each physician who subsequently becomes newly licensed to
13 practice in this state, at the same time as official notification to
14 that physician that the physician is so licensed; and

15 3. By December 1 of each year, other than the calendar year in
16 which forms are first made available to all physicians licensed to
17 practice in this state.

18 D. By February 28 of each year following a calendar year in any
19 part of which this section was in effect, each physician who
20 provided, or whose agent provided, information to one or more
21 females in accordance with Section 1-738.2 of Title 63 of the
22 Oklahoma Statutes during the previous calendar year shall
23 electronically submit to the State Department of Health the form
24

1 described in subsection B of this section, with the requested data
2 entered accurately and completely.

3 E. Reports that are not electronically submitted by the end of
4 a grace period of thirty (30) days following the due date shall be
5 subject to a late fee of Five Hundred Dollars (\$500.00) for each
6 additional thirty-day period or portion of a thirty-day period the
7 reports are overdue. Any physician required to report in accordance
8 with this section who has not completed and electronically submitted
9 a report, or has electronically submitted only an incomplete report,
10 more than one (1) year following the due date, may, in an action
11 brought by the State Department of Health, be directed by a court of
12 competent jurisdiction to electronically submit a complete report
13 within a period stated by court order or be subject to sanctions for
14 civil contempt.

15 F. By June 30 of each year, the State Department of Health
16 shall prepare and make available on its stable Internet web site a
17 public report providing statistics for the previous calendar year
18 compiled from all items listed in subsection B of this section.
19 Each report shall also provide statistics for all previous calendar
20 years, adjusted to reflect any additional information from late or
21 corrected reports. The State Department of Health shall take care
22 to ensure that none of the information included in the public
23 reports could reasonably lead to the identification of any
24

1 individual providing or provided information in accordance with
2 subsection B of this section.

3 G. The State Department of Health may promulgate rules in
4 accordance with the Administrative Procedures Act to alter the dates
5 established by this section or consolidate the form or report
6 described in this section with other forms or reports to achieve
7 administrative convenience, fiscal savings or to reduce the burden
8 of reporting requirements, as long as reporting forms are made
9 available, on its stable Internet web site to all licensed
10 physicians in the state, and the report described in this section is
11 issued at least once every year.

12 SECTION 4. AMENDATORY Section 7, Chapter 185, O.S.L.
13 2006 (63 O.S. Supp. 2006, Section 1-738.7), is amended to read as
14 follows:

15 Section 1-738.7 As used in the Unborn Child Pain
16 Awareness/Prevention Act:

17 1. "Abortion" means the use or prescription of any instrument,
18 medicine, drug, or any other substance or device intentionally to
19 terminate the pregnancy of a female known to be pregnant with an
20 intention other than to increase the probability of a live birth, to
21 preserve the life or health of the child after live birth, to remove
22 an ectopic pregnancy, or to remove a dead fetus who dies as the
23 result of a spontaneous miscarriage, accidental trauma or a criminal
24 assault on the pregnant female or her unborn child;

1 2. "Attempt to perform an abortion" means an act, or an
2 omission of a statutorily required act that, under the circumstances
3 as the actor believes them to be, constitutes a substantial step in
4 a course of conduct planned to culminate in the performance of an
5 abortion in Oklahoma in violation of the Unborn Child Pain
6 Awareness/Prevention Act;

7 3. "Unborn child" means a member of the species homo sapiens
8 from fertilization until birth;

9 4. "Medical emergency" means the existence of any physical
10 condition, not including any emotional, psychological, or mental
11 condition, which, on the basis of the good faith clinical judgment
12 of a reasonably prudent physician, so complicates the medical
13 condition of a pregnant female as to necessitate with knowledge of
14 the case and treatment possibilities with respect to the medical
15 conditions involved, would determine necessitates the immediate
16 abortion of the pregnancy of the female to avert the her death of
17 the pregnant female or for which a delay will create serious risk of
18 to avert substantial and irreversible impairment of a major bodily
19 function arising from continued pregnancy;

20 5. "Physician" means a person licensed to practice medicine in
21 this state pursuant to ~~Chapters 11 and 14~~ Sections 495 and 633 of
22 Title 59 of the Oklahoma Statutes; and
23
24

1 6. "Probable gestational age" means the gestational age of the
2 unborn child at the time the abortion is planned to be performed, as
3 determined by the physician using reasonable probability.

4 SECTION 5. AMENDATORY Section 11, Chapter 200, O.S.L.
5 2005 (63 O.S. Supp. 2006, Section 1-740.1), is amended to read as
6 follows:

7 Section 1-740.1 As used in Sections ~~11~~ 1-740.1 through ~~15~~ 1-
8 740.5 of this ~~act~~ title:

9 1. "Abortion" means the term as is defined in Section 1-730 of
10 ~~Title 63 of the Oklahoma Statutes~~ this title;

11 2. "Medical emergency" means the existence of any physical
12 condition, not including any emotional, psychological, or mental
13 condition, which a reasonably prudent physician, with knowledge of
14 the case and treatment possibilities with respect to the medical
15 conditions involved, would determine necessitates the immediate
16 abortion of the pregnancy of the minor in order to avert her death
17 or to avert substantial and irreversible impairment of a major
18 bodily function arising from continued pregnancy, and there is
19 insufficient time to provide the required notice and obtain the
20 written informed consent of one parent;

21 3. "Parent" means one parent of the pregnant unemancipated
22 minor or guardian if the pregnant unemancipated minor has one; and

23 ~~3-~~ 4. "Unemancipated minor" means any person ~~under~~ less than
24 eighteen (18) years of age who is not or has not been married or who

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

3 SECTION 6. AMENDATORY Section 12, Chapter 200, O.S.L.
4 2005, as amended by Section 18, Chapter 185, O.S.L. 2006 (63 O.S.
5 Supp. 2006, Section 1-740.2), is amended to read as follows:

6 Section 1-740.2 A. Except in the case of a medical emergency,
7 a physician may not perform an abortion on a pregnant female unless
8 the physician has:

9 1. Obtained proof of age demonstrating that the female is not a
10 minor;

11 2. Obtained proof that the female, although a minor, is
12 emancipated; or

13 3. Complied with Section 1-740.3 of this title.

14 B. No abortion shall be performed upon an unemancipated minor
15 or upon a female for whom a guardian has been appointed pursuant to
16 Section 1-113 of Title 30 of the Oklahoma Statutes because of a
17 finding of incompetency, except in a medical emergency or where a
18 judicial waiver was obtained pursuant to Section 1-740.3 of this
19 title, until at least forty-eight (48) hours after written notice of
20 the pending abortion has been delivered in the manner specified in
21 this subsection and the attending physician has secured proof of
22 identification and the written informed consent of one parent.

23 1. The notice and request for written informed consent of one
24 parent shall be addressed to the parent at the usual place of abode

1 of the parent and delivered personally to the parent by the
2 physician or an agent~~+~~.

3 2. In lieu of the delivery required by paragraph 1 of this
4 subsection, the notice and request for written informed consent of
5 one parent shall be made by certified mail addressed to the parent
6 at the usual place of abode of the parent with return-receipt
7 requested and restricted delivery to the addressee, which means a
8 postal employee can only deliver the mail to the authorized
9 addressee. Time of delivery shall be deemed to occur at 12 noon on
10 the next day on which regular mail delivery takes place, subsequent
11 to mailing~~er~~. The information concerning the address of the
12 parent shall be that which a reasonable and prudent person, under
13 similar circumstances, would have relied upon as sufficient evidence
14 that the parent resides at that address.

15 3. a. The parent entitled to notice and consent ~~certifies~~
16 shall provide to the physician a copy of proof of
17 identification, and shall certify in a signed, dated,
18 and notarized statement that he or she has been
19 notified and consents to the abortion. The signed,
20 dated, and notarized statement shall include: "I
21 certify that I, (insert name of parent), am the parent
22 of (insert name of minor daughter) and give consent
23 for (insert name of physician) to perform an abortion
24 on my daughter. I understand that any person who

1 knowingly makes a fraudulent statement in this regard
2 commits a felony."

3 b. The physician shall keep a copy of the proof of
4 identification of the parent and the certified
5 statement in the medical file of the minor for five
6 (5) years past the majority of the minor, but in no
7 event less than seven (7) years.

8 c. A physician receiving parental consent under this
9 section shall execute for inclusion in the medical
10 record of the minor an affidavit stating: "I, (insert
11 name of physician), certify that according to my best
12 information and belief, a reasonable person under
13 similar circumstances would rely on the information
14 presented by both the minor and her parent as
15 sufficient evidence of identity."

16 ~~B.~~ C. No notice or request for written informed consent of one
17 parent shall be required under this section if one of the following
18 conditions is met:

19 1. The attending physician certifies in the medical records of
20 the pregnant unemancipated minor that ~~the abortion is necessary to~~
21 ~~prevent the death of the minor and there is insufficient time to~~
22 ~~provide the required notice and obtain the written informed consent~~
23 ~~of one parent; or~~

1 ~~2. The attending physician certifies that a medical emergency~~
2 ~~exists and that a delay will create serious risk of substantial and~~
3 ~~irreversible impairment of a major bodily function; provided,~~
4 however, that the attending physician or an agent shall, within
5 twenty-four (24) hours after completion of the abortion, notify one
6 of the parents of the minor in the manner provided in Section 1-
7 740.2 of this title that an emergency abortion was performed on the
8 minor and of the circumstances that warranted invocation of this
9 paragraph; or

10 ~~3.~~ 2. The unemancipated minor declares that she is the victim
11 of sexual abuse, as defined in Section 7102 of Title 10 of the
12 Oklahoma Statutes and the attending physician has notified local law
13 enforcement or the Department of Human Services about the alleged
14 sexual abuse.

15 ~~C.~~ D. 1. Unless the unemancipated minor gives notice of her
16 intent to seek a judicial waiver pursuant to Section 1-740.3 of this
17 title, the attending physician, or the agent of the physician, shall
18 verbally inform the parent of the minor within twenty-four (24)
19 hours after the performance of a medical emergency abortion or an
20 abortion that was performed to prevent her death that an abortion
21 was performed on the unemancipated minor. The attending physician,
22 or the agent of the attending physician, shall also inform the
23 parent of the basis for the certification of the physician required
24 under paragraph 1 or 2 of subsection C of this section. The

1 attending physician, or the agent of the attending physician, shall
2 also send a written notice of the performed abortion via the United
3 States Post Office to the last-known address of the parent,
4 restricted delivery, return receipt requested. The information
5 concerning the address of the parent shall be that which a
6 reasonable and prudent person, under similar circumstances, would
7 have relied upon as sufficient evidence that the parent resides at
8 that address.

9 2. If the unemancipated minor gives notice to the attending
10 physician, or an agent of the physician, of her intent to seek a
11 judicial waiver pursuant to Section 1-740.3 of this title, the
12 physician, or an agent of the physician, shall file a notice with
13 any judge of a court of competent jurisdiction that the minor has
14 given such notice and shall provide the information the physician,
15 or the agent of the physician, would have been required to provide
16 the parent under paragraph 1 of this subsection if the unemancipated
17 minor had not given notice of her intent to seek a judicial waiver.
18 The court shall expeditiously schedule a conference with notice to
19 the minor and the physician. If the minor is able to participate in
20 the proceedings, the court shall advise the minor that she has the
21 right to court-appointed counsel and shall, upon her request,
22 provide the minor with such counsel. If the minor is unable to
23 participate, the court shall appoint counsel on behalf of the minor.
24 After an appropriate hearing, the court, taking into account the

1 medical condition of the minor, shall set a deadline by which the
2 minor must file a petition or motion pursuant to Section 1-740.3 of
3 this title. The court may subsequently extend the deadline in light
4 of the medical condition of the minor or other equitable
5 considerations. If the minor does not file a petition or motion by
6 the deadline, either in that court or in another court of competent
7 jurisdiction with a copy filed in that court, the court shall direct
8 that the court clerk provide the notice to a parent.

9 E. The State Board of Health shall adopt the forms necessary
10 for physicians to obtain the consent of one parent required for an
11 abortion to be performed on an unemancipated minor pursuant to
12 subsection A of this section. The form executed to obtain consent
13 must be retained by the physician for a period of not less than five
14 (5) years certifications required by this section.

15 SECTION 7. AMENDATORY Section 13, Chapter 200, O.S.L.
16 2005, as amended by Section 19, Chapter 185, O.S.L. 2006 (63 O.S.
17 Supp. 2006, Section 1-740.3), is amended to read as follows:

18 Section 1-740.3 A. If a pregnant unemancipated minor elects
19 not to allow the notification and request for written informed
20 consent of her parent, any judge of a court of competent
21 jurisdiction shall, upon petition or motion, and after an
22 appropriate hearing, authorize a physician to perform the abortion
23 if the judge determines, by clear and convincing evidence, that the
24 pregnant unemancipated minor is mature and capable of giving

1 informed consent to the proposed abortion. If the judge determines
2 that the pregnant unemancipated minor is not mature, or if the
3 pregnant unemancipated minor does not claim to be mature, the judge
4 shall determine, by clear and convincing evidence, whether the
5 performance of an abortion upon her without notification and written
6 informed consent of her parent would be in her best interest and
7 shall authorize a physician to perform the abortion without
8 notification and written informed consent if the judge concludes
9 that the best interests of the pregnant unemancipated minor would be
10 served thereby.

11 B. If the unemancipated minor, upon whom a medical emergency
12 abortion or an abortion to prevent her death was performed, elects
13 not to allow the notification of her parent, any judge of a court of
14 competent jurisdiction shall, upon petition or motion and after an
15 appropriate hearing, authorize the waiving of the required notice of
16 the performed abortion if the judge determines, by clear and
17 convincing evidence, that the unemancipated minor is mature and
18 capable of determining whether notification should be given, or that
19 the waiver would be in the best interest of the unemancipated minor.

20 C. A pregnant unemancipated minor may participate in
21 proceedings in the court on her own behalf, and the court may
22 appoint a guardian ad litem for her. The court shall advise the
23 pregnant unemancipated minor that she has a right to court-appointed
24 counsel and, upon her request, shall provide her with counsel.

1 ~~C.~~ D. Proceedings in the court under this section shall be
2 confidential and shall be given precedence over other pending
3 matters so that the court may reach a decision promptly and without
4 delay so as to serve the best interests of the pregnant
5 unemancipated minor. A judge of the court who conducts proceedings
6 under this section shall make, in writing, specific factual findings
7 and legal conclusions supporting the decision and shall order a
8 record of the evidence to be maintained, including the findings and
9 conclusions of the court.

10 ~~D.~~ E. An expedited confidential appeal shall be available to
11 any pregnant unemancipated minor for whom the court denies an order
12 authorizing an abortion without notification and written informed
13 consent of one parent. An order authorizing an abortion without
14 notification and written informed consent of one parent shall not be
15 subject to appeal. No filing fees shall be required of any pregnant
16 unemancipated minor at either the trial or the appellate level.
17 Access to the trial court for the purpose of a petition or motion,
18 and access to the appellate courts for the purpose of making an
19 appeal from the denial of same, shall be afforded a pregnant
20 unemancipated minor twenty-four (24) hours a day, seven (7) days a
21 week.

22 SECTION 8. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 1-740.4a of Title 63, unless
24 there is created a duplication in numbering, reads as follows:

1 A. Any physician performing an abortion upon an unemancipated
2 minor shall complete and electronically transmit to the State
3 Department of Health a report of the procedure within thirty (30)
4 days after having performed the abortion. Within ninety (90) days
5 after this act becomes law, the State Department of Health shall
6 prepare and make available on its stable Internet web site the
7 reporting forms for this purpose to all physicians required to be
8 licensed in this state and health facilities licensed in accordance
9 with Section 1-702 of Title 63 of the Oklahoma Statutes. The
10 reporting form regarding the minor receiving the abortion shall
11 include, but not be limited to:

- 12 1. Age;
- 13 2. Educational level;
- 14 3. Number of previous pregnancies;
- 15 4. Number of previous live births;
- 16 5. Number of previous abortions;
- 17 6. Complications, if any, of the abortion being reported;
- 18 7. The city and county in which the abortion was performed;
- 19 8. Whether a parent gave consent to the physician, or an agent
20 of the physician, pursuant to Section 1-740.2 of Title 63 of the
21 Oklahoma Statutes; or
- 22 9. Whether the physician performed the abortion without first
23 obtaining the consent of the parent of the minor as described in
24 Section 1-740.2 of Title 63 of the Oklahoma Statutes; if so:

- a. whether the minor was emancipated,
- b. whether the abortion was performed because of a medical emergency,
- c. whether the abortion was performed to prevent the death of the minor,
- d. whether the parent was notified after the performance of a medical emergency abortion, and
- e. whether the parent was notified after the performance of an abortion to prevent the death of the minor;

10. Whether a judicial waiver was obtained after the performance of a medical emergency abortion; and

11. Whether a judicial waiver was obtained after the performance of an abortion to prevent the death of the minor.

B. The State Department of Health shall ensure that the reporting forms described in this section, together with a reprint of this act, are posted on its stable Internet web site, within one hundred twenty (120) days after the effective date of this act. The State Department of Health shall notify:

1. Each physician who subsequently becomes newly licensed to practice in this state, simultaneously with the receipt of official notification to that physician that the physician is so licensed, of the requirements of this act; and

1 2. By December 1 of every year, other than the calendar year in
2 which forms are made available in accordance with subsection A of
3 this section, all physicians licensed to practice in this state.

4 C. By February 28 of each year following a calendar year in any
5 part of which this act was in effect, each physician, or agent of a
6 physician, who obtained the consent described in Section 1-740.2 of
7 Title 63 of the Oklahoma Statutes, and any physician who knowingly
8 performed an abortion upon a pregnant minor or upon a female for
9 whom a guardian or conservator had been appointed pursuant to
10 applicable federal law or as provided by Section 1-113 of Title 30
11 of the Oklahoma Statutes because of incompetency during the previous
12 calendar year shall complete and electronically submit to the State
13 Department of Health the form described in subsection A of this
14 section, with the requested data entered accurately and completely.
15 Any such report shall not contain the name, address, or other
16 information by which the minor receiving the abortion may be
17 identified.

18 D. Reports that are not submitted by the end of a grace period
19 of thirty (30) days following the due date shall be subject to a
20 late fee of Five Hundred Dollars (\$500.00) for each additional
21 thirty-day period or portion of a thirty-day period the reports are
22 overdue. Any physician required to report in accordance with this
23 section who has not electronically submitted a report, or has
24 electronically submitted only an incomplete report, more than one

1 (1) year following the due date, may, in an action brought by the
2 State Department of Health, be directed by a court of competent
3 jurisdiction to submit a complete report within a period stated by
4 court order or be subject to sanctions for civil contempt.

5 E. By June 30 of each year, the State Department of Health
6 shall post, on its stable Internet web site, a public report
7 providing statistics for the previous calendar year compiled from
8 all of the reports covering that year submitted in accordance with
9 this section for each of the items listed in subsection A of this
10 section. The report shall also include statistics giving the total
11 number of petitions or motions filed under Section 1-740.3 of Title
12 63 of the Oklahoma Statutes and of that number:

13 1. The number in which the court appointed a guardian ad litem;
14 2. The number in which the court appointed counsel;
15 3. The number in which the judge issued an order authorizing an
16 abortion without notification; and

17 4. The number in which the judge denied such an order, and of
18 this:

- 19 a. the number of denials from which an appeal was filed,
20 b. the number of the appeals that resulted in the denial
21 being affirmed, and
22 c. the number of appeals that resulted in reversals of
23 the denials.
24

1 Each report shall also provide the statistics for all previous
2 calendar years for which the public statistical report was required
3 to be issued, adjusted to reflect any additional information from
4 late or corrected reports. The State Department of Health shall
5 take care to ensure that none of the information included in the
6 public reports could reasonably lead to the identification of any
7 individual female.

8 F. The State Department of Health may promulgate rules in
9 accordance with the Administrative Procedures Act to alter the dates
10 established by this section or consolidate the forms or reports to
11 achieve administrative convenience, fiscal savings, or to reduce the
12 burden of reporting requirements, as long as reporting forms are
13 made available on its web site, to all licensed physicians in the
14 state at least once every year and the report described in
15 subsection E of this section is posted at least once every year.

16 G. If the State Department of Health fails to post the public
17 report required by subsection E of this section, an action may be
18 initiated pursuant to Title 12 of the Oklahoma Statutes.

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

1 judgment for a reasonable attorney fee in favor of the defendant
2 against the plaintiff.

3 SECTION 9. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1-740.4b of Title 63, unless
5 there is created a duplication in numbering, reads as follows:

6 A. A person who knowingly or recklessly uses a false
7 governmental record or makes a fraudulent representation or
8 statement in order to obtain an abortion for a minor in violation of
9 this act commits a felony.

10 B. A physician who intentionally or knowingly performs an
11 abortion on a pregnant unemancipated minor in violation of this act
12 commits a felony.

13 C. 1. It is a defense to prosecution under subsection B of
14 this section if the person falsely representing himself or herself
15 as the parent or guardian of the minor displayed an apparently valid
16 governmental record of identification such that a reasonable person,
17 under similar circumstances, would have relied on the
18 representation.

19 2. The defense does not apply if the physician, or agent of the
20 physician, failed to use due diligence in determining the age of the
21 minor or the identity of the person represented as the parent or
22 guardian of the minor.

23 D. An unemancipated minor, or the parent of the minor, upon
24 whom an abortion has been performed, or attempted to be performed,

1 without complying with this act may maintain a cause of action
2 against the person who performed, or attempted to perform, the
3 abortion.

4 E. It is not a defense to a claim brought pursuant to this
5 section that the minor gave informed and voluntary consent.

6 F. An unemancipated minor does not have the capacity to consent
7 to any action that violates this act.

8 SECTION 10. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 1-740.6 of Title 63, unless
10 there is created a duplication in numbering, reads as follows:

11 If any court of law enjoins, suspends, or delays the
12 implementation of the provisions of this act, the provisions of
13 Sections 1-730, 1-738.1, 1-738.7, 1-740.1, 1-740.2 and 1-740.3 of
14 Title 63 of the Oklahoma Statutes, as of December 31, 2006, are
15 effective during the injunction, suspension, or delayed
16 implementation.

17 SECTION 11. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 1-741.1 of Title 63, unless
19 there is created a duplication in numbering, reads as follows:

20 A. It shall be unlawful for any person employed by this state
21 or any agency or political subdivision thereof, within the scope of
22 the person's employment, to perform or assist an abortion not
23 necessary to save the life of the mother except when the pregnancy
24 resulted from an act of forcible rape which was reported to the

1 proper law enforcement authorities or when the pregnancy resulted
2 from an act of incest committed against a minor and the perpetrator
3 has been reported to the proper law enforcement authorities. It
4 shall be unlawful for any public institution, public facility,
5 public equipment, or other physical asset owned, leased or
6 controlled by this state or any agency or political subdivisions
7 thereof to be used for the purpose of performing or assisting an
8 abortion not necessary to save the life of the mother except when
9 the pregnancy resulted from an act of forcible rape which was
10 reported to the proper law enforcement authorities or when the
11 pregnancy resulted from an act of incest committed against a minor
12 and the perpetrator has been reported to the proper law enforcement
13 authorities. This subsection shall not be construed to prohibit use
14 by private entities of public utilities or the services of
15 firefighters or police.

16 B. It shall be unlawful for any funds received or controlled by
17 this state or any agency or political subdivision thereof,
18 including, but not limited to, funds derived from federal, state or
19 local taxes, gifts or grants, federal grants or payments, or
20 intergovernmental transfers, to be used to encourage a woman to have
21 an abortion not necessary to save her life, except to the extent
22 required for continued participation in a federal program. Nothing
23 in this subsection shall be construed to prohibit a physician from
24 discussing options with a patient through nondirective counseling.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-741.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. For purposes of this section, an "elective abortion" means an abortion for any reason other than a spontaneous miscarriage or to prevent the death of the female upon whom the abortion is performed or when the pregnancy resulted from an act of forcible rape which was reported to the proper law enforcement authorities or when the pregnancy resulted from an act of incest committed against a minor and the perpetrator has been reported to the proper law enforcement authorities. No health insurance contracts, plans, or policies delivered or issued for delivery in this state shall provide coverage for elective abortions except by an optional rider for which there shall be paid an additional premium.

B. This section shall be applicable to all contracts, plans, or policies of:

1. All nonprofit hospital, medical, surgical, dental, and health service corporations;
2. All health insurers subject to the laws of this state; and
3. All health maintenance organizations.

C. This section shall be applicable only to contracts, plans, or policies written, issued, renewed, or revised after November 1, 2007. For the purposes of this subsection, if new premiums are

1 charged for a contract, plan, or policy, it shall be determined to
2 be a new contract, plan, or policy.

3 SECTION 13. This act shall become effective November 1, 2007.
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