

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1409

By: Billy, Ritze, Hall,
Christian, Faught,
Brumbaugh, Kern and Vaughan
of the House

and

Treat and Jolley of the
Senate

COMMITTEE SUBSTITUTE

An Act relating to public health and safety; amending
63 O.S. 2011, Sections 1-738.2, 1-738.3, 1-738.3a, 1-
738.8, 1-738.13, 1-738m, as amended by Section 2,
Chapter 303, O.S.L. 2013, Section 2, Chapter 175,
O.S.L. 2014 and Section 6, Chapter 175, O.S.L. 2014
(63 O.S. Supp. 2014, Sections 1-738m, 1-746.2 and 1-
746.6), which relate to abortion; increasing time
period of voluntary and informed consent prior to
abortion; requiring certain facilities to publish
link on website to State Board of Medical Licensure
and Supervision's website; requiring certain
information on link; providing savings clause;
updating references; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 2011, Section 1-738.2, is
amended to read as follows:

1 Section 1-738.2 A. No abortion shall be performed in this
2 state except with the voluntary and informed consent of the woman
3 upon whom the abortion is to be performed.

4 B. Except in the case of a medical emergency, consent to an
5 abortion is voluntary and informed if and only if:

6 1. a. not less than ~~twenty-four (24)~~ seventy-two (72) hours
7 prior to the performance of the abortion, the woman is
8 told the following, by telephone or in person, by the
9 physician who is to perform the abortion, or by a
10 referring physician, or by an agent of either
11 physician:

12 (1) the name of the physician who will perform the
13 abortion,

14 (2) the medical risks associated with the particular
15 abortion procedure to be employed,

16 (3) the probable gestational age of the unborn child
17 at the time the abortion is to be performed,

18 (4) the medical risks associated with carrying her
19 child to term, and

20 (5) that ultrasound imaging and heart tone monitoring
21 that enable the pregnant woman to view her unborn
22 child or listen to the heartbeat of the unborn
23 child are available to the pregnant woman. The
24 physician or agent of the physician shall inform

1 the pregnant woman that the ~~web site~~ website and
2 printed materials described in Section 1-738.3 of
3 this title, contain phone numbers and addresses
4 for facilities that offer such services at no
5 cost,

6 b. the information required by this paragraph may be
7 provided by telephone without conducting a physical
8 examination or tests of the woman. If the information
9 is supplied by telephone, the information shall be
10 based on facts supplied to the physician,

11 c. the information required by this paragraph shall not
12 be provided by a tape recording, but shall be provided
13 during a consultation in which the physician is able
14 to ask questions of the woman and the woman is able to
15 ask questions of the physician,

16 d. if a physical examination, tests, or other new
17 information subsequently indicates, in the medical
18 judgment of the physician, the need for a revision of
19 the information previously supplied to the woman, that
20 revised information may be communicated to the woman
21 at any time prior to the performance of the abortion,
22 and

23 e. nothing in subparagraph a of this paragraph may be
24 construed to preclude provision of the required

1 information in a language understood by the woman
2 through a translator;

3 2. Not less than ~~twenty-four (24)~~ seventy-two (72) hours prior
4 to the abortion, the woman is informed, by telephone or in person,
5 by the physician who is to perform the abortion, by a referring
6 physician, or by an agent of either physician:

7 a. that medical assistance benefits may be available for
8 prenatal care, childbirth, and neonatal care,

9 b. that the father is liable to assist in the support of
10 her child, even in instances in which the father has
11 offered to pay for the abortion,

12 c. that:

13 (1) she has the option to review the printed
14 materials described in Section 1-738.3 of this
15 title,

16 (2) those materials have been provided by the State
17 Board of Medical Licensure and Supervision, and

18 (3) they describe the unborn child and list agencies
19 that offer alternatives to abortion, and

20 d. (1) if the woman chooses to exercise her option to
21 view the materials in a printed form, they shall
22 be mailed to her, by a method chosen by the
23 woman, or
24

1 (2) if the woman chooses to exercise her option to
2 view the materials via the Internet, the woman
3 shall be informed at least ~~twenty-four (24)~~
4 seventy-two (72) hours before the abortion of the
5 specific address of the Internet ~~web site~~ website
6 where the material can be accessed.

7 The information required by this paragraph may be provided by a
8 tape recording if provision is made to record or otherwise register
9 specifically whether the woman does or does not choose to review the
10 printed materials;

11 3. The woman certifies in writing, prior to the abortion, that
12 she has been told the information described in subparagraph a of
13 paragraph 1 of this subsection and in subparagraphs a, b and c of
14 paragraph 2 of this subsection and that she has been informed of her
15 option to review or reject the printed information described in
16 Section 1-738.3 of this title; and

17 4. Prior to the abortion, the physician who is to perform the
18 abortion or the agent of the physician receives a copy of the
19 written certification prescribed by paragraph 3 of this subsection.

20 C. The State Board of Medical Licensure and Supervision and the
21 State Board of Osteopathic Examiners shall promulgate rules to
22 ensure that physicians who perform abortions and referring
23 physicians or agents of either physician comply with all the
24 requirements of this section.

1 D. Before the abortion procedure is performed, the physician
2 shall confirm with the patient that she has received information
3 regarding:

4 1. The medical risks associated with the particular abortion
5 procedure to be employed;

6 2. The probable gestational age of the unborn child at the time
7 the abortion is to be performed; and

8 3. The medical risks associated with carrying the unborn child
9 to term.

10 SECTION 2. AMENDATORY 63 O.S. 2011, Section 1-738.3, is
11 amended to read as follows:

12 Section 1-738.3 A. Within one hundred twenty (120) days of the
13 effective date of this act, the State Board of Medical Licensure and
14 Supervision shall cause to be published, in English and in Spanish,
15 and shall update on an annual basis, the following printed materials
16 in such a way as to ensure that the information is easily
17 comprehensible:

18 1. a. geographically indexed materials designed to inform
19 the woman of public and private agencies, including
20 adoption agencies and services that are available to
21 assist a woman through pregnancy, upon childbirth, and
22 while the child is dependent, including:

23 (1) a comprehensive list of the agencies available,
24

1 (2) a description of the services they offer,
2 including which agencies offer, at no cost to the
3 pregnant woman, ultrasound imaging that enables a
4 pregnant woman to view the unborn child or heart
5 tone monitoring that enables the pregnant woman
6 to listen to the heartbeat of the unborn child,
7 and

8 (3) a description of the manner, including telephone
9 numbers, in which they might be contacted, or

10 b. at the option of the Board a toll-free, twenty-four-
11 hour-a-day telephone number which may be called to
12 obtain, in a mechanical, automated, or auditory
13 format, a list and description of agencies in the
14 locality of the caller and of the services they offer;
15 and

16 2. a. materials designed to inform the woman of the probable
17 anatomical and physiological characteristics of the
18 unborn child at two-week gestational increments from
19 the time when a woman can be known to be pregnant to
20 full term, including:

21 (1) any relevant information on the possibility of
22 the survival of the unborn child, and

23 (2) pictures or drawings representing the development
24 of unborn children at two-week gestational

1 increments, provided that the pictures or
2 drawings shall describe the dimensions of the
3 unborn child and shall be realistic and
4 appropriate for the stage of pregnancy depicted,

5 b. the materials shall be objective, nonjudgmental, and
6 designed to convey only accurate scientific
7 information about the unborn child at the various
8 gestational ages, and

9 c. the material shall also contain objective information
10 describing:

11 (1) the methods of abortion procedures commonly
12 employed,

13 (2) the medical risks commonly associated with each
14 of those procedures,

15 (3) the possible detrimental psychological effects of
16 abortion and of carrying a child to term, and

17 (4) the medical risks commonly associated with
18 carrying a child to term, and

19 d. the material shall contain the statement "Abortion
20 shall terminate the life of a whole, separate, unique,
21 living human being."

22 B. 1. The materials referred to in subsection A of this
23 section shall be printed in a typeface large enough to be clearly
24 legible.

1 2. The materials required under this section shall be available
2 at no cost from the State Board of Medical Licensure and Supervision
3 and shall be distributed upon request in appropriate numbers to any
4 person, facility, or hospital.

5 C. 1. The Board shall provide on its stable Internet ~~web site~~
6 website the information described under subsection A of this
7 section.

8 2. The ~~web site~~ website provided for in this subsection shall
9 be maintained at a minimum resolution of 72 PPI.

10 D. Any facility performing abortions that has a website shall
11 publish an easily identifiable link on the homepage of such website
12 that directly links to the Board's website, www.awomansright.org,
13 that provides informed consent materials under the Woman's Right-to-
14 Know Act. Such link shall read: "The State Board of Medical
15 Licensure and Supervision maintains a website containing information
16 about the development of the unborn child, as well as video of
17 ultrasound images of the unborn child at various stages of
18 development. The Board's website can be reached by clicking here:
19 www.awomansright.org."

20 SECTION 3. AMENDATORY 63 O.S. 2011, Section 1-738.3a, is
21 amended to read as follows:

22 Section 1-738.3a A. By February 1, 2008, the State Department
23 of Health shall prepare and make available on its stable Internet
24 ~~web site~~ website the form described in subsection B of this section.

1 A copy of this act shall be posted on the ~~web-site~~ website.

2 Physicians performing abortions shall complete and electronically
3 submit the required forms to the Department no later than April 1
4 for the previous calendar year. Nothing in the report shall contain
5 the name, address, or any other identifying information of any
6 patient.

7 B. The form for physicians shall contain a listing for the
8 following information:

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

19 2. The number of females who availed themselves of the
20 opportunity to obtain a copy of the printed information described in
21 Section 1-738.3 of Title 63 of the Oklahoma Statutes other than on
22 the ~~web-site~~ website, and the number who did not; and of each of
23 those numbers, the number who, to the best of the information and
24

1 belief of the reporting physician, went on to obtain the abortion;
2 and

3 3. The number of abortions performed by the physician in which
4 information otherwise required to be provided at least ~~twenty-four~~
5 ~~(24)~~ seventy-two (72) hours before the abortion was not so provided
6 because an immediate abortion was necessary to avert the death of
7 the female, and the number of abortions in which the information was
8 not so provided because a delay would cause substantial and
9 irreversible impairment of a major bodily function.

10 C. The State Department of Health shall ensure that the
11 reporting forms described in subsection B of this section are
12 posted, on its stable Internet ~~web-site~~ website, within one hundred
13 twenty (120) days after the effective date of this act. The State
14 Department of Health shall notify the following of the requirements
15 of this act:

16 1. By March 1, 2008, all physicians licensed to practice in
17 this state;

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

21 3. By December 1 of each year, other than the calendar year in
22 which forms are first made available to all physicians licensed to
23 practice in this state.
24

1 D. By February 28 of each year following a calendar year in any
2 part of which this section was in effect, each physician who
3 provided, or whose agent provided, information to one or more
4 females in accordance with Section 1-738.2 of Title 63 of the
5 Oklahoma Statutes during the previous calendar year shall
6 electronically submit to the State Department of Health the form
7 described in subsection B of this section, with the requested data
8 entered accurately and completely.

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

21 F. By June 30 of each year, the State Department of Health
22 shall prepare and make available on its stable Internet ~~web site~~
23 website a public report providing statistics for the previous
24 calendar year compiled from all items listed in subsection B of this

1 section. Each report shall also provide statistics for all previous
2 calendar years, adjusted to reflect any additional information from
3 late or corrected reports. The State Department of Health shall
4 take care to ensure that none of the information included in the
5 public reports could reasonably lead to the identification of any
6 individual providing or provided information in accordance with
7 subsection B of this section.

8 G. 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 form or report
11 described in this section with other forms or reports to achieve
12 administrative convenience, fiscal savings or to reduce the burden
13 of reporting requirements, as long as reporting forms are made
14 available, on its stable Internet ~~web-site~~ website to all licensed
15 physicians in the state, and the report described in this section is
16 issued at least once every year.

17 SECTION 4. AMENDATORY 63 O.S. 2011, Section 1-738.8, is
18 amended to read as follows:

19 Section 1-738.8 A. Except in the case of a medical emergency,
20 at least ~~twenty-four (24)~~ seventy-two (72) hours prior to an
21 abortion being performed on an unborn child whose probable
22 gestational age is twenty (20) weeks or more, the physician
23 performing the abortion or the agent of the physician shall inform
24 the pregnant female, by telephone or in person, of the right to

1 review the printed materials described in Section ~~40~~ 1-738.10 of
2 this ~~act~~ title, that these materials are available on a state-
3 sponsored ~~web-site~~ website, and the web address of that ~~web-site~~
4 website. The physician or the agent of the physician shall orally
5 inform the female that the materials have been provided by the State
6 of Oklahoma and that the materials contain information on pain and
7 the unborn child. If the female chooses to view the materials other
8 than on the ~~web-site~~ website, the materials shall either be given to
9 the female at least ~~twenty-four (24)~~ seventy-two (72) hours before
10 the abortion, or ~~mailed to~~ received by the female at least seventy-
11 two (72) hours before the abortion by certified mail, restricted
12 delivery to the addressee. The information required by this
13 subsection may be provided by a tape recording if provision is made
14 to record or otherwise register specifically whether the female does
15 or does not choose to receive the printed materials given or mailed.

16 B. The female shall certify in writing, prior to the abortion,
17 that the information described in subsection A of this section has
18 been furnished to the female and that the female has been informed
19 of the opportunity to review the printed materials described in
20 Section ~~40~~ 1-738.10 of this ~~act~~ title. Prior to the performance of
21 the abortion, the physician who is to perform the abortion or the
22 agent of the physician shall obtain a copy of the written
23 certification and retain the copy on file with the medical record of
24

1 the female for at least three (3) years following the date of
2 receipt.

3 SECTION 5. AMENDATORY 63 O.S. 2011, Section 1-738.13, is
4 amended to read as follows:

5 Section 1-738.13 A. Within ninety (90) days after the Unborn
6 Child Pain Awareness/Prevention Act becomes law, the State
7 Department of Health shall prepare a reporting form for physicians
8 containing a reprint of the Unborn Child Pain Awareness/Prevention
9 Act and listing:

10 1. The number of females to whom the physician or an agent of
11 the physician provided the information described in subsection A of
12 Section ~~8~~ 1-738.8 of this ~~act~~ title; of that number, the number
13 provided by telephone and the number provided in person; and of each
14 of those numbers, the number provided in the capacity of a referring
15 physician and the number provided in the capacity of a physician who
16 is to perform the abortion or agent of such a physician;

17 2. The number of females who availed themselves of the
18 opportunity to obtain a copy of the printed information described in
19 Section ~~10~~ 1-738.10 of this ~~act~~ title other than on the ~~web-site~~
20 website, and the number who did not; and of each of those numbers,
21 the number who, to the best of the information and belief of the
22 reporting physician, went on to obtain the abortion; and

23 3. The number of abortions performed by the physician in which
24 information otherwise required to be provided at least ~~twenty-four~~

1 ~~(24)~~ seventy-two (72) hours before the abortion was not so provided
2 because an immediate abortion was necessary to avert the death of
3 the female, and the number of abortions in which such information
4 was not so provided because a delay would create serious risk of
5 substantial and irreversible impairment of a major bodily function.

6 B. The Department shall ensure that copies of the reporting
7 forms described in subsection A of this section are provided:

8 1. Within one hundred twenty ~~days~~ (120) days after the Unborn
9 Child Pain Awareness/Prevention Act becomes law, to all physicians
10 licensed to practice in this state;

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

14 3. By December 1 of each year, other than the calendar year in
15 which forms are distributed in accordance with paragraph 1 of this
16 subsection, to all physicians licensed to practice in this state.

17 C. By February 28 of each year following a calendar year in any
18 part of which the Unborn Child Pain Awareness/Prevention Act was in
19 effect, each physician who provided, or whose agent provided,
20 information to one or more females in accordance with Section ~~§~~ 1-
21 738.8 of this ~~act~~ title during the previous calendar year shall
22 submit to the Department a copy of the form described in subsection
23 A of this section, with the requested data entered accurately and
24 completely.

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

12 E. By June 30 of each year, the Department shall issue a public
13 report providing statistics for the previous calendar year compiled
14 from all of the reports covering that year submitted in accordance
15 with this section for each of the items listed in subsection A of
16 this section. Each such report shall also provide the statistics
17 for all previous calendar years, adjusted to reflect any additional
18 information from late or corrected reports. The Department shall
19 take care to ensure that none of the information included in the
20 public reports could reasonably lead to the identification of any
21 individual providing or provided information in accordance with
22 subsection A or B of Section & 1-738.8 of this ~~act~~ title.

23 F. The Department, by rule promulgated in accordance with the
24 Administrative Procedures Act, may alter the dates established by

1 paragraph 3 of subsection B, subsection C, or subsection E of this
2 section or consolidate the forms or reports described in this
3 section with other forms or reports to achieve administrative
4 convenience or fiscal savings or to reduce the burden of reporting
5 requirements, so long as reporting forms are sent to all licensed
6 physicians in the state at least once every year and the report
7 described in subsection E of this section is issued at least once
8 every year.

9 SECTION 6. AMENDATORY 63 O.S. 2011, Section 1-738m, as
10 amended by Section 2, Chapter 303, O.S.L. 2013 (63 O.S. Supp. 2014,
11 Section 1-738m), is amended to read as follows:

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

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

21 C. The Annual Abortion Report shall include, but not be limited
22 to, the following information:
23
24

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

4 2. The number of abortions classified by:

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

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

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

9 3. The number of abortions classified by:

10 a. the number of previous pregnancies of the mother,

11 b. previous live births to the mother,

12 c. previous miscarriages, and

13 d. previous induced abortions;

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

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

16 6. The number of abortions resulting in an infant born alive;

17 of these, the number of cases in which life-sustaining measures were
18 taken; and a statistical summary of the length of survival of such
19 infants;

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

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

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

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

4 11. The number of abortions paid for by:

- 5 a. private insurance,
- 6 b. public health plan,
- 7 c. Medicaid,
- 8 d. private pay, or
- 9 e. other;

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

- 12 a. a fee-for-service insurance company,
- 13 b. a managed care company, or
- 14 c. other;

15 13. A statistical summary of the fees collected;

16 14. Specialty area of medicine of the physician;

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

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

- 23 a. the physician performing the abortion,
- 24

- 1 b. a physician other than the physician performing the
2 abortion, or
3 c. other;

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

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

14 19. The number of females to whom the physician provided the
15 information in subparagraph a of paragraph 1 of subsection B of
16 Section 1-738.2 of this title; of that number, the number provided
17 by telephone and the number provided in person; and of each of those
18 numbers, the number provided in the capacity of a referring
19 physician and the number provided in the capacity of a physician who
20 is to perform the abortion;

21 20. The number of females to whom physicians or agents of
22 physicians provided the information in paragraph 2 of subsection B
23 of Section 1-738.2 of this title; of that number, the number
24 provided by telephone and the number provided in person; of each of

1 those numbers, the number provided in the capacity of a referring
2 physician and the number provided in the capacity of a physician who
3 is to perform the abortion; and of each of those numbers, the number
4 provided by the physician and the number provided by an agent of the
5 physician;

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

11 22. The number of abortions performed by the physician in which
12 information otherwise required to be provided at least ~~twenty-four~~
13 ~~(24)~~ seventy-two (72) hours before the abortion was not so provided
14 because an immediate abortion was necessary to avert the death of
15 the female, and the number of abortions in which such information
16 was not so provided because a delay would create serious risk of
17 substantial and irreversible impairment of a major bodily function;

18 23. The number of females to whom physicians or their agents
19 provided the information described in subsection A of Section 1-
20 738.8 of this title; of that number:

21 a. the number provided by telephone and the number
22 provided in person; and of each of those numbers, the
23 number provided in the capacity of a referring
24 physician and the number provided in the capacity of a

1 physician who is to perform the abortion, or by the
2 agent of such physician, and

- 3 b. the number of females who availed themselves of the
4 opportunity to be given or mailed the materials
5 described in Section 1-738.10 of this title, and the
6 number who did not; and of each of those numbers, the
7 number who, to the best of the information and belief
8 of the reporting physician, went on to obtain the
9 abortion;

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

17 25. The number of abortions performed within the scope of
18 employment of Oklahoma state employees and employees of an agency or
19 political subdivision of the state, the number of abortions
20 performed with the use of public institutions, facilities,
21 equipment, or other physical assets owned, leased, or controlled by
22 this state, its agencies, or political subdivisions, and for each
23 category:
24

- 1 a. the number of abortions reported as necessary to save
2 the life of the mother, the life-endangering
3 conditions identified, and the number of each such
4 condition reported,
- 5 b. the number of abortions reported from pregnancies
6 resulting from forcible rape, the number of such rapes
7 reported to law enforcement authorities, general
8 categories of law enforcement authorities to whom
9 reports were made and the number made to each
10 category, and a statistical summary of the length of
11 time between the dates of reporting to law enforcement
12 authorities and the dates of the abortions, and
- 13 c. the number of abortions reported from pregnancies
14 resulting from incest committed against a minor, the
15 number of perpetrators of incest in such cases
16 reported to law enforcement authorities, general
17 categories of law enforcement authorities to whom
18 reports were made and the number made to each
19 category, and a statistical summary of the length of
20 time between the dates of reporting to law enforcement
21 authorities and the dates of the abortions;

22 26. The number of females to a parent of whom the physician
23 provided notice as required by Section 1-740.2 of this title; of
24 that number, the number provided personally as described in that

1 section, and the number provided by mail as described in that
2 section, and of each of those numbers, the number of females who, to
3 the best of the information and belief of the reporting physician,
4 went on to obtain the abortion;

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

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

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

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

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

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

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

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

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

14 36. The number of abortions performed as reported in paragraph
15 35 of this subsection, in which the physician was present in the
16 same room as the woman to whom the chemicals were administered at
17 the time any such chemicals were first administered;

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

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

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

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

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

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

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

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

16 45. The number of abortions for which no determination of
17 probable postfertilization age was made as required by Section 1-
18 745.5 of this title; and

19 46. The number of abortions in which the pregnant woman was
20 told that it may be possible to make the embryonic or fetal
21 heartbeat of the unborn child audible for the pregnant woman to
22 hear; the number of abortions in which the pregnant woman was asked
23 if she would like to hear the heartbeat; and the number of abortions
24 in which the embryonic or fetal heartbeat of the unborn child was

1 made audible for the pregnant woman to hear, using a Doppler fetal
2 heart rate monitor.

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

10 1. The court appointed a guardian ad litem;

11 2. The court appointed counsel;

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

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

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

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

21 a. denials from which an appeal was filed,

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

24 c. appeals that resulted in reversals of the denials.

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

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

16 SECTION 7. AMENDATORY Section 2, Chapter 175, O.S.L.
17 2014 (63 O.S. Supp. 2014, Section 1-746.2), is amended to read as
18 follows:

19 Section 1-746.2 No abortion shall be performed or induced or
20 attempted to be performed or induced without the voluntary and
21 informed consent of the female upon whom the abortion is to be
22 performed or induced or attempted to be performed or induced.
23 Except in the case of a medical emergency, consent to an abortion is
24

1 voluntary and informed if and only if, at least ~~twenty-four (24)~~
2 seventy-two (72) hours before the abortion:

3 1. In the case of a female seeking an abortion of her unborn
4 child diagnosed with a fetal anomaly incompatible with life, the
5 female is informed, by telephone or in person, by the physician who
6 is to perform the abortion or the physician's agent:

- 7 a. that perinatal hospice services are available,
- 8 b. this service is an alternative to abortion,
- 9 c. that she has the right to review the printed materials
10 described in this section,
- 11 d. that these materials are available on a state-
12 sponsored website, and
- 13 e. what the website address is where she can access this
14 information.

15 The information required by this paragraph may be provided by a tape
16 recording if provision is made to record or otherwise register
17 specifically whether the female does or does not choose to have the
18 printed materials given or mailed to her;

19 2. The physician or the physician's agent shall orally inform
20 the female that the materials have been provided by the State of
21 Oklahoma and that they list the places which offer perinatal hospice
22 services both in her state and nationally. If the female chooses to
23 view the materials other than on the website, they shall either be
24 given to her at least ~~twenty-four (24)~~ seventy-two (72) hours before

1 the abortion, or ~~mailed to~~ received by her at least seventy-two (72)
2 hours before the abortion by certified mail, restricted delivery to
3 addressee, which means the postal employee can only deliver the mail
4 to the addressee;

5 3. The female certifies in writing, prior to the abortion, that
6 the information described in paragraphs 1 and 2 of this section has
7 been furnished her, and that she has been informed of her
8 opportunity to review the information referred to in paragraph 2 of
9 this section; and

10 4. Prior to the performance of the abortion, the physician who
11 is to perform the abortion or the physician's agent receives a copy
12 of the written certification prescribed by paragraph 3 of this
13 section. This certification shall be maintained in the female
14 patient's file for not less than five (5) years.

15 SECTION 8. AMENDATORY Section 6, Chapter 175, O.S.L.
16 2014 (63 O.S. Supp. 2014, Section 1-746.6), is amended to read as
17 follows:

18 Section 1-746.6 A. Within ninety (90) days after this act is
19 enacted, the State Board of Medical Licensure and Supervision shall
20 prepare a reporting form for physicians containing a reprint of this
21 act and listing:

22 1. The number of females to whom the physician or an agent of
23 the physician provided the information described in paragraph 1 of
24 Section 2 of this act; of that number, the number provided by

1 telephone and the number provided in person; of each of those
2 numbers, the number provided in the capacity of a referring
3 physician and the number provided in the capacity of a physician who
4 is to perform the abortion; and of each of those numbers, the number
5 provided by the physician and the number provided by an agent of the
6 physician;

7 2. The number of females who availed themselves of the
8 opportunity to obtain a copy of the printed information described in
9 Section 3 of this act other than on the website, and the number who
10 did not; and of each of those numbers, the number who, to the best
11 of the reporting physician's information and belief, went on to
12 obtain the abortion; and

13 3. The number of abortions performed by the physician in which
14 information otherwise required to be provided at least ~~twenty-four~~
15 ~~(24)~~ seventy-two (72) hours before the abortion was not so provided
16 because an immediate abortion was necessary to avert the female's
17 death, and the number of abortions in which such information was not
18 so provided because a delay would create serious risk of substantial
19 and irreversible impairment of a major bodily function.

20 B. The Board shall ensure that copies of the reporting forms
21 described in subsection A of this section are provided:

22 1. Within one hundred twenty (120) days after this act is
23 enacted, to all physicians licensed to practice in this state;
24

1 2. To each physician who subsequently becomes newly licensed to
2 practice in this state, at the same time as official notification to
3 that physician that the physician is so licensed; and

4 3. By December 1 of each year, other than the calendar year in
5 which forms are distributed in accordance with paragraph 1 of this
6 subsection, to all physicians licensed to practice in this state.

7 C. By February 28 of each year following a calendar year in any
8 part of which this act was in effect, each physician who provided,
9 or whose agent provided, information to one or more females in
10 accordance with Section 2 of this act during the previous calendar
11 year shall submit to the Board a copy of the form described in
12 subsection A of this section, with the requested data entered
13 accurately and completely.

14 D. Reports that are not submitted by the end of a grace period
15 of thirty (30) days following the due date shall be subject to a
16 late fee of Five Hundred Dollars (\$500.00) for each additional
17 thirty-day period or portion of a thirty-day period they are
18 overdue. Any physician required to report in accordance with this
19 section who has not submitted a report, or has submitted only an
20 incomplete report, more than one (1) year following the due date,
21 may, in an action brought by the Board, be directed by a court of
22 competent jurisdiction to submit a complete report within a period
23 stated by court order or be subject to sanctions for civil contempt.
24

1 E. By June 30 of each year the State Board of Medical Licensure
2 and Supervision shall issue a public report providing statistics for
3 the previous calendar year compiled from all of the reports covering
4 that year submitted in accordance with this section for each of the
5 items listed in subsection A of this section. Each such report
6 shall also provide the statistics for all previous calendar years,
7 adjusted to reflect any additional information from late or
8 corrected reports. The Board shall take care to ensure that none of
9 the information included in the public reports could reasonably lead
10 to the identification of any individual provided information in
11 accordance with paragraph 1 of Section 2 of this act.

12 F. The Board may by rule alter the dates established by
13 paragraph 3 of subsection B or subsection C or E of this section or
14 consolidate the forms or reports described in this section with
15 other forms or reports to achieve administrative convenience or
16 fiscal savings or to reduce the burden of reporting requirements, so
17 long as reporting forms are sent to all licensed physicians in the
18 state at least once every year and the report described in
19 subsection E of this section is issued at least once every year.

20 SECTION 9. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 1-738.5a of Title 63, unless
22 there is created a duplication in numbering, reads as follows:

23 If some or all of the newly amended provisions of 63 O.S. 2011,
24 Section 1-738.2, 63 O.S. 2011, Section 1-738.3; 63 O.S. 2011,

1 Section 1-738.3a; 63 O.S. 2011, Section 1-738.8; 63 O.S. 2011,
2 Section 1-738.13; 63 O.S. 2011, Section 1-738m, as amended by
3 Section 2, Chapter 303, O.S.L. 2013 (63 O.S. Supp. 2014, Section 1-
4 738m); Section 2, Chapter 175, O.S.L. 2014 (63 O.S. Supp. 2014,
5 Section 1-746.2); or Section 6, Chapter 175, O.S.L. 2013 (63 O.S.
6 Supp. 2014, Section 1-746.6), resulting from the actions taken by
7 the 2015 session of the Oklahoma legislature are ever temporarily or
8 permanently restrained or enjoined by judicial order, these sections
9 shall be enforced as though such restrained or enjoined provisions
10 had not been adopted; provided, however, that whenever such
11 temporary or permanent restraining order or injunction is stayed or
12 dissolved, or otherwise ceases to have effect, such provisions shall
13 have full force and effect.

14 SECTION 10. This act shall become effective November 1, 2015.
15

16 55-1-1636 AM 2/18/2016 3:54:00 PM
17
18
19
20
21
22
23
24