

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

☐ FLOOR AMENDMENT

No. _____

☐ COMMITTEE AMENDMENT

(Date)

Mr./Madame President:

I move to amend Senate Bill No. 1118, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

Senator Silk

Silk-AM-FS-Req#3195
3/2/2016 4:38 PM

(Floor Amendments Only) Date and Time Filed: _____

☐ Untimely

☐ Amendment Cycle Extended

☐ Secondary Amendment

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

FLOOR SUBSTITUTE
FOR

SENATE BILL NO. 1118

By: Silk of the Senate

and

Moore of the House

FLOOR SUBSTITUTE

[abortion - unlawful acts - effective date]

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

SECTION 1. AMENDATORY 21 O.S. 2011, Section 701.7, as last amended by Section 1, Chapter 208, O.S.L. 2012 (21 O.S. Supp. 2015, Section 701.7), is amended to read as follows:

Section 701.7. A. A person commits murder in the first degree when that person unlawfully and with malice aforethought causes the death of another human being. Malice is that deliberate intention unlawfully to take away the life of a human being, which is manifested by external circumstances capable of proof.

B. A person also commits the crime of murder in the first degree, regardless of malice, when that person or any other person takes the life of a human being during, or if the death of a human

1 being results from, the commission or attempted commission of murder
2 of another person, shooting or discharge of a firearm or crossbow
3 with intent to kill, intentional discharge of a firearm or other
4 deadly weapon into any dwelling or building as provided in Section
5 1289.17A of this title, forcible rape, robbery with a dangerous
6 weapon, kidnapping, escape from lawful custody, eluding an officer,
7 first degree burglary, first degree arson, unlawful distributing or
8 dispensing of controlled dangerous substances or synthetic
9 controlled substances, trafficking in illegal drugs, or
10 manufacturing or attempting to manufacture a controlled dangerous
11 substance.

12 1. Except as provided in paragraph 3 of this subsection, the
13 term "synthetic controlled substance" means a substance:

- 14 a. the chemical structure of which is substantially
15 similar to the chemical structure of a controlled
16 substance in Schedule I or II,
- 17 b. which has a stimulant, depressant, or hallucinogenic
18 effect on the central nervous system that is
19 substantially similar to or greater than the
20 stimulant, depressant, or hallucinogenic effect on the
21 central nervous system of a controlled substance in
22 Schedule I or II, or
- 23 c. with respect to a particular person, which such person
24 represents or intends to have a stimulant, depressant,

1 or hallucinogenic effect on the central nervous system
2 that is substantially similar to or greater than the
3 stimulant, depressant, or hallucinogenic effect on the
4 central nervous system of a controlled substance in
5 Schedule I or II.

6 2. The designation of gamma butyrolactone does not preclude a
7 finding pursuant to paragraph 1 of this subsection that the chemical
8 is a synthetic controlled substance.

9 3. Such term does not include:

- 10 a. a controlled substance,
- 11 b. any substance for which there is an approved new drug
12 application,
- 13 c. with respect to a particular person any substance, if
14 an exemption is in effect for investigational use, for
15 that person, under Section 505 of the Federal Food,
16 Drug, and Cosmetic Act (21 U.S.C. 355) to the extent
17 conduct with respect to such substance is pursuant to
18 such exemption, or
- 19 d. any substance to the extent not intended for human
20 consumption before such an exemption takes effect with
21 respect to that substance.

22 C. A person commits murder in the first degree when the death
23 of a child results from the willful or malicious injuring,
24 torturing, maiming or using of unreasonable force by said person or

1 who shall willfully cause, procure or permit any of said acts to be
2 done upon the child pursuant to Section 843.5 of this title. It is
3 sufficient for the crime of murder in the first degree that the
4 person either willfully tortured or used unreasonable force upon the
5 child or maliciously injured or maimed the child.

6 D. A person commits murder in the first degree when that person
7 unlawfully and with malice aforethought solicits another person or
8 persons to cause the death of a human being in furtherance of
9 unlawfully manufacturing, distributing or dispensing controlled
10 dangerous substances, as defined in the Uniform Controlled Dangerous
11 Substances Act, unlawfully possessing with intent to distribute or
12 dispense controlled dangerous substances, or trafficking in illegal
13 drugs.

14 E. A person commits murder in the first degree when that person
15 intentionally causes the death of a law enforcement officer,
16 correctional officer, or corrections employee while the officer or
17 employee is in the performance of official duties.

18 F. A person commits murder in the first degree when that person
19 performs an abortion as defined by Section 1-745.5 of Title 63 of
20 the Oklahoma Statutes.

21 SECTION 2. AMENDATORY 63 O.S. 2011, Section 1-745.5, is
22 amended to read as follows:

23 Section 1-745.5. A. As used in this section:
24

1 1. "Abortion" means the use or prescription of any instrument,
2 medicine, drug or any other substance or device to intentionally
3 kill an unborn human being;

4 2. "Unborn human being" means the offspring of human beings
5 from the moment of conception until either live birth or death,
6 including the human conceptus, zygote, morula, blastocyst, embryo
7 and fetus, whether conceived or located inside or outside the body
8 of a human female; and

9 3. "Conception" means the fertilization of the ovum of a female
10 individual by the sperm of a male individual.

11 B. No person shall perform or induce or attempt to perform or
12 induce an abortion ~~upon a woman when it has been determined, by the~~
13 ~~physician performing or inducing or attempting to perform or induce~~
14 ~~the abortion or by another physician upon whose determination that~~
15 ~~physician relies, that the probable postfertilization age of the~~
16 ~~woman's unborn child is twenty (20) or more weeks, unless, in~~
17 ~~reasonable medical judgment, she has a condition which so~~
18 ~~complicates her medical condition as to necessitate the abortion of~~
19 ~~her pregnancy to avert her death or to avert serious risk of~~
20 ~~substantial and irreversible physical impairment of a major bodily~~
21 ~~function, not including psychological or emotional conditions. No~~
22 ~~such condition shall be deemed to exist if it is based on a claim or~~
23 ~~diagnosis that the woman will engage in conduct which she intends to~~
24

1 ~~result in her death or in substantial and irreversible physical~~
2 ~~impairment of a major bodily function after conception.~~

3 ~~B. When an abortion upon a woman whose unborn child has been~~
4 ~~determined to have a probable postfertilization age of twenty (20)~~
5 ~~or more weeks is not prohibited by this section, the physician shall~~
6 ~~terminate the pregnancy in the manner which, in reasonable medical~~
7 ~~judgment, provides the best opportunity for the unborn child to~~
8 ~~survive, unless, in reasonable medical judgment, termination of the~~
9 ~~pregnancy in that manner would pose a greater risk either of the~~
10 ~~death of the pregnant woman or of the substantial and irreversible~~
11 ~~physical impairment of a major bodily function, not including~~
12 ~~psychological or emotional conditions, of the woman than would other~~
13 ~~available methods. No such greater risk shall be deemed to exist if~~
14 ~~it is based on a claim or diagnosis that the woman will engage in~~
15 ~~conduct which she intends to result in her death or in substantial~~
16 ~~and irreversible physical impairment of a major bodily function.~~

17 C. A person commits murder in the first degree when that person
18 performs an abortion in violation of the provisions of this section.

19 SECTION 3. The provisions of this act are severable and if any
20 part or provision shall be held void the decision of the court so
21 holding shall not affect or impair any of the remaining parts or
22 provisions of this act.

23 SECTION 4. It being immediately necessary for the preservation
24 of the public peace, health and safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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