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February 21, 2017

By: Treat

An Act relating to abortion; amending 63 O.S. 2011, Section 1-740.4b, which relates to unlawful acts; broadening grounds for certain unlawful acts; providing for civil liability; permitting awarding of damages for certain violations; specifying grounds for violations; authorizing certain awards for costs and damages; providing certain exclusion; permitting courts to enjoin certain conduct; specifying grounds for certain injunction; clarifying language; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 2011, Section 1-740.4b, is amended to read as follows:

Section 1-740.4b. A. A person who knowingly or recklessly uses a false governmental record or makes a fraudulent representation or statement in order to obtain an abortion for a minor in violation of this ~~act~~ title or intentionally causes, aids, abets or assists an unemancipated minor to obtain an abortion without the consent required by Section 1-740.2 of this title commits a felony.

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

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

7 2. The defense does not apply if the physician, or agent of the
8 physician, failed to use due diligence in determining the age of the
9 minor or the identity of the person represented as the parent or
10 guardian of the minor.

11 D. ~~An unemancipated minor, or the parent of the minor, upon~~
12 ~~whom an abortion has been performed, or attempted to be performed,~~
13 ~~without complying with this act may maintain a cause of action~~
14 ~~against the person who performed, or attempted to perform, the~~
15 ~~abortion~~ A person who knowingly or recklessly uses a false
16 governmental record or makes a fraudulent representation or
17 statement in order to obtain an abortion for a minor in violation of
18 this title or intentionally causes, aids, abets or assists an
19 unemancipated minor to obtain an abortion without the consent
20 required by Section 1-740.2 of this title or any physician who
21 intentionally or knowingly performs an abortion on a pregnant
22 unemancipated minor in violation of this title shall be civilly
23 liable to the minor and to the person or persons required to give
24 consent pursuant to the provisions of Section 1-740.2 of this title.

1 A court may award damages to the person or persons adversely
2 affected by a violation of this section including compensation for
3 emotional injury without the need for personal presence at the act
4 or event, and the court may further award attorney fees, litigation
5 costs, and punitive damages. Any adult who engages in or consents
6 to another person engaging in a sexual act with a minor, which
7 results in the minor's pregnancy, shall not be awarded damages under
8 this section.

9 E. A court of competent jurisdiction may enjoin conduct that
10 would be in violation of this section upon petition by the Attorney
11 General, a district attorney or any person adversely affected or who
12 reasonably may be adversely affected by such conduct, upon a showing
13 that such conduct:

- 14 1. Is reasonably anticipated to occur in the future; or
15 2. Has occurred in the past, whether with the same minor or
16 others, and that it is reasonably expected to be repeated.

17 ~~E.~~ F. It is not a defense to a claim brought pursuant to this
18 section that the minor gave informed and voluntary consent.

19 ~~F.~~ G. An unemancipated minor does not have the capacity to
20 consent to any action that violates this ~~act~~ title.

21 SECTION 2. This act shall become effective November 1, 2017.

22 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
23 February 21, 2017 - DO PASS
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