

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

SENATE BILL 764

By: Treat

AS INTRODUCED

An Act relating to abortion; establishing certain felony; providing exemption for certain persons; providing civil penalty; providing that each day of violation constitutes a separate violation; providing certain standards for use by courts in determining imposition of fines; permitting Attorney General and district attorneys to institute legal action for certain purposes; providing for civil liability; stating types of damages that may be awarded; directing promulgation of rules; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-750.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. A person who intentionally, knowingly or recklessly violates any provision or requirement of Section 1-729a et seq. of Title 63 of the Oklahoma Statutes or any rule or regulation adopted under Section 1-729a et seq. of Title 63 of the Oklahoma Statutes is guilty of a felony.

1 B. No criminal penalty may be assessed against the pregnant  
2 woman upon whom the abortion is performed for a violation of any  
3 provision or requirement of Section 1-729a et seq. of Title 63 of  
4 the Oklahoma Statutes or any rule or regulation adopted under  
5 Section 1-729a et seq. of Title 63 of the Oklahoma Statutes.

6 C. Any violation of Section 1-729a et seq. of Title 63 of the  
7 Oklahoma Statutes or any rule or regulation adopted under Section 1-  
8 729a et seq. of Title 63 of the Oklahoma Statutes may be subject to  
9 a civil penalty or a fine up to One Hundred Thousand Dollars  
10 (\$100,000.00).

11 D. Each day of violation shall constitute a separate violation  
12 for purposes of assessing civil penalties or fines.

13 E. In deciding whether and to what extent to impose fines, a  
14 court shall consider the:

15 1. Gravity of the violation or violations including the  
16 probability that death or serious physical harm to a patient or  
17 individual will result or has resulted;

18 2. Size of the population at risk as a consequence of the  
19 violation or violations;

20 3. Severity and scope of the actual or potential harm;

21 4. Extent to which the provisions of the applicable statutes or  
22 regulations were violated;

23 5. Indications of good faith exercised by the licensee,  
24 abortion facility or the person performing the abortion;

1       6. Duration, frequency and relevance of any previous violations  
2 committed by the licensee, abortion facility or person performing  
3 the abortion; and

4       7. Financial benefit to the abortion facility or person  
5 performing the abortion from committing or continuing the violation  
6 or violations.

7       F. The Office of the Attorney General and a district attorney  
8 for the county in which the violation or violations occurred may  
9 institute a legal action to enforce collection of civil penalties or  
10 fines.

11       G. Any person who violates this act, Section 1-729a et seq. of  
12 Title 63 of the Oklahoma Statutes or any rule or regulation adopted  
13 under Section 1-729a et seq. of Title 63 of the Oklahoma Statutes  
14 shall be civilly liable to the person or persons adversely affected  
15 by the violation or violations. A court may award damages to the  
16 person or persons adversely affected by any violation of this act,  
17 Section 1-729a et seq. of Title 63 of the Oklahoma Statutes or any  
18 rule or regulation adopted under Section 1-729a et seq. of Title 63  
19 of the Oklahoma Statutes including compensation for emotional,  
20 physical and psychological harm; attorney fees, litigation costs and  
21 punitive damages.

22       H. The State Board of Health shall promulgate rules to  
23 implement the provisions of this act.  
24

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

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