

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

COMMITTEE SUBSTITUTE
FOR

SENATE BILL NO. 614

By: Daniels

COMMITTEE SUBSTITUTE

An Act relating to abortion; defining terms; requiring certain signage; requiring certain informed consent; providing procedure in case of emergency; requiring State Board of Medical Licensure and Supervision to maintain certain website; providing criminal and administrative penalties; providing civil remedies; requiring certain protection of privacy in court hearings; providing severability; 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 1-756 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Abortion" means the use or prescription of any instrument, medicine, drug or any other substance or device:

(a) to intentionally kill the unborn child of a woman known to be pregnant; or

1 (b) to intentionally terminate the pregnancy of a woman
2 known to be pregnant, with an intention other than to
3 remove a dead unborn child or, after viability, to
4 produce a live birth and preserve the life and health
5 of the child born alive;

6 2. "Medical emergency" means a condition which, in reasonable
7 medical judgment, so complicates the medical condition of the
8 pregnant woman as to necessitate the immediate abortion of her
9 pregnancy to avert her death or for which a delay will create
10 serious risk of substantial and irreversible physical impairment of
11 a major bodily function, not including psychological or emotional
12 conditions. No condition shall be deemed a medical emergency if
13 based on a claim or diagnosis that the woman will engage in conduct
14 which she intends to result in her death or in substantial and
15 irreversible physical impairment of a major bodily function; and

16 3. "Medication abortion" means the use or prescription of an
17 abortion-inducing drug or drugs dispensed with the intent to cause
18 the death of the unborn child.

19 B. 1. Any private office, freestanding outpatient clinic,
20 hospital or other facility or clinic in which medication abortions
21 that use mifepristone are provided shall conspicuously post a sign
22 in a location defined in paragraph 3 of this subsection so as to be
23 clearly visible to patients, which reads:

1 "NOTICE TO PATIENTS HAVING MEDICATION ABORTIONS WHICH USE
2 MIFEPRISTONE: Mifepristone, also known as RU-486 or Mifeprex, alone
3 is not always effective in ending a pregnancy. It may be possible
4 to reverse its intended effect if the second pill or tablet has not
5 been taken or administered. If you change your mind and wish to try
6 to continue the pregnancy, you can get immediate help by calling the
7 Abortion Pill Reversal 24-hour Hotline at 877-558-0333 or going to
8 website <https://www.abortionpillreversal.com/>. Additional
9 information is available on the State Board of Medical Licensure and
10 Supervision's website, www.awomansright.org, which provides informed
11 consent materials under the Woman's Right-to-Know Act, including
12 information about the development of the unborn child and video of
13 ultrasound images of the unborn child at various stages of
14 development."

15 2. The sign required pursuant to paragraph 1 of this subsection
16 shall be printed with lettering that is legible and shall be at
17 least three-fourths (3/4) of an inch boldfaced type.

18 3. A facility in which medication abortions that use
19 mifepristone are provided that is a private office or a freestanding
20 outpatient clinic shall post the required sign in each patient
21 waiting room and patient consultation room used by patients to whom
22 such medication abortions are provided. A hospital or any other
23 facility in which medication abortions are performed that is not a
24 private office or freestanding outpatient clinic shall post the

1 required sign in each patient admission area used by patients on
2 whom abortions are performed.

3 C. 1. Except in the case of a medical emergency, a medication
4 abortion that uses mifepristone shall not be provided or induced or
5 attempted to be provided or induced without informing the female, by
6 telephone or in person, by the physician who is to dispense or
7 provide the abortion drug or drugs, by a referring physician or by
8 an agent of either physician at least seventy-two (72) hours before
9 the abortion:

10 a. that it may be possible to reverse the intended
11 effects of a medication abortion that uses
12 mifepristone if the woman changes her mind but that
13 time is of the essence, and

14 b. of information on reversing the effects of a
15 medication abortion that uses mifepristone, which is
16 available on the website of the State Board of Medical
17 Licensure and Supervision, and included in such
18 information is the Abortion Pill Reversal 24-hour
19 Hotline number: 877-558-0333 and website address:
20 <https://www.abortionpillreversal.com>.

21 2. After the first drug, mifepristone, is dispensed or provided
22 to the patient, the physician or an agent of the physician shall
23 provide written instructions to the pregnant woman which shall
24 include the statement:

1 "NOTICE TO PATIENTS HAVING MEDICATION ABORTIONS WHICH USE
2 MIFEPRISTONE: Mifepristone, also known as RU-486 or Mifeprex, alone
3 is not always effective in ending a pregnancy. It may be possible
4 to reverse its intended effect if the second pill or tablet has not
5 been taken or administered. If you change your mind and wish to try
6 to continue the pregnancy, you can get immediate help by calling the
7 Abortion Pill Reversal 24-hour Hotline at 877-558-0333 or going to
8 Abortion Pill Reversal website
9 <https://www.abortionpillreversal.com/>. Additional information is
10 available on the State Board of Medical Licensure and Supervision's
11 website, www.awomansright.org, which provides informed consent
12 materials under the Woman's Right-to-Know Act, including information
13 about the development of the unborn child and video of ultrasound
14 images of the unborn child at various stages of development."

15 D. When a medical emergency compels the performance of an
16 abortion, the physician shall inform the female, prior to the
17 abortion if possible, of the medical indications supporting the
18 physician's judgment that an abortion is necessary to avert her
19 death or that a seventy-two-hour delay will create serious risk of
20 substantial and irreversible physical impairment of a major bodily
21 function, not including psychological or emotional conditions.

22 E. Within ninety (90) days after this act is enacted, the State
23 Board of Medical Licensure and Supervision shall cause to be
24 published, in English and in each language which is the primary

1 language of two percent (2%) or more of the state's population, in
2 print and on the website required to be developed and maintained
3 under Section 1-738.11 of Title 63 of the Oklahoma Statutes,
4 comprehensible materials designed to inform the female of the
5 possibility of reversing the effects of a medication abortion that
6 uses mifepristone, also known as RU-486 or Mifeprex, and information
7 on resources that may be available to help her reverse its effects.
8 The website shall include the Abortion Pill Reversal 24-hour Hotline
9 number 877-558-0333 and the Abortion Pill Reversal website address
10 <https://www.abortionpillreversal.com>.

11 F. Any person who knowingly or recklessly provides or induces
12 or attempts to provide or induce an abortion in violation of this
13 section shall be guilty of a felony. No penalty may be assessed
14 against the female to whom the medication abortion is provided or
15 induced or attempted to be provided or induced. No penalty or civil
16 liability may be assessed for failure to comply with subsection C of
17 this section unless the State Board of Medical Licensure and
18 Supervision has made the information available on the website at the
19 time the physician or the physician's agent is required to inform
20 the female.

21 G. Any private office, freestanding outpatient clinic or other
22 facility or clinic that fails to post a sign required in subsection
23 B of this section in knowing, reckless or negligent violation of
24 this act shall be assessed a fine of Ten Thousand Dollars

1 (\$10,000.00) by the State Board of Medical Licensure and
2 Supervision. Each day on which a medication abortion that uses
3 mifepristone, other than a medication abortion that is necessary to
4 prevent the death of the pregnant female, is provided in any private
5 office, freestanding outpatient clinic or other facility or clinic
6 during which the required sign is not posted during a portion of
7 business hours when patients or perspective patients are present is
8 a separate violation.

9 H. 1. Any person upon whom an abortion has been performed
10 without this section having been complied with, the father of the
11 unborn child who was the subject of such an abortion, or, if the
12 female had not attained the age of eighteen (18) years at the time
13 of the medication abortion or has died as a result of the medication
14 abortion, the grandparent of such an unborn child may maintain an
15 action against the person who provided the medication abortion in
16 knowing or reckless violation of this section for actual and
17 punitive damages. Any person upon whom an abortion has been
18 attempted without this section having been complied with may
19 maintain an action against the person who attempted to provide the
20 abortion in knowing or reckless violation of this section for actual
21 and punitive damages. No damages may be awarded a plaintiff if the
22 pregnancy resulted from the plaintiff's criminal conduct.

23 2. If judgment is rendered in favor of the plaintiff in any
24 action described in this subsection, the court shall also render

1 judgment for a reasonable attorney's fee in favor of the plaintiff
2 against the defendant. If judgment is rendered in favor of the
3 defendant and the court finds that the plaintiff's suit was
4 frivolous and brought in bad faith, the court shall also render
5 judgment for a reasonable attorney's fee in favor of the defendant
6 against the plaintiff.

7 I. In every civil or criminal proceeding or action brought
8 under this section, the court shall rule whether the anonymity of
9 any female to whom a medication abortion has been provided or
10 attempted shall be preserved from public disclosure if she does not
11 give her consent to such disclosure. The court, upon motion or sua
12 sponte, shall make such a ruling and, upon determining that her
13 anonymity should be preserved, shall issue orders to the parties,
14 witnesses and counsel and shall direct the sealing of the record and
15 exclusion of individuals from courtrooms or hearing rooms to the
16 extent necessary to safeguard her identity from public disclosure.
17 Each such order shall be accompanied by specific written findings
18 explaining why the anonymity of the female should be preserved from
19 public disclosure, why the order is essential to that end, how the
20 order is narrowly tailored to serve that interest and why no
21 reasonable less restrictive alternative exists. In the absence of
22 written consent of the female to whom an abortion drug or drugs has
23 been provided or attempted to be provided, anyone, other than a
24 public official, who brings an action under subsection D of this

1 section shall do so under a pseudonym. This section may not be
2 construed to conceal the identity of the plaintiff or of witnesses
3 from the defendant.

4 J. If any one or more provision, section, subsection, sentence,
5 clause, phrase or word of this act or the application thereof to any
6 person or circumstance is found to be unconstitutional, the same is
7 hereby declared to be severable and the balance of this act shall
8 remain effective notwithstanding such unconstitutionality. The
9 Legislature hereby declares that it would have passed this act, and
10 each provision, section, subsection, sentence, clause, phrase or
11 word thereof, irrespective of the fact that any one or more
12 provision, section, subsection, sentence, clause, phrase or word be
13 declared unconstitutional.

14 SECTION 2. This act shall become effective November 1, 2019.

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