

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

SENATE BILL NO.614

By: Daniels

AS INTRODUCED

An Act relating to abortion; defining terms; requiring certain signage; requiring certain informed consent; providing procedure in case of emergency; requiring State Department of Health 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

(b) to intentionally terminate the pregnancy of a woman known to be pregnant, with an intention other than to

1 remove a dead unborn child or, after viability, to
2 produce a live birth and preserve the life and health
3 of the child born alive;

4 2. "Chemical abortion" means the use or prescription of an
5 abortion-inducing drug dispensed with the intent to cause the death
6 of the unborn child.

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

17 4. "Stable Internet website" means a website that, to the
18 extent reasonably practicable, is safeguarded from having its
19 content altered other than by the State Department of Health.

20 B. 1. Any private office, freestanding surgical outpatient
21 clinic or other facility, or clinic in which abortions, other than
22 abortions necessary to prevent the death of the pregnant female, are
23 performed shall conspicuously post a sign in a location defined in
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1 paragraph 3 of this subsection so as to be clearly visible to
2 patients, which reads:

3 "Recent developing research has indicated that mifepristone
4 alone is not always effective in ending a pregnancy. It may be
5 possible to avoid, cease or even to reverse the intended effects of
6 a chemical abortion utilizing mifepristone if the second pill has
7 not been taken. Please consult with a health care professional
8 immediately."

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

12 3. A facility in which abortions are performed that is a
13 private office or a freestanding surgical outpatient clinic shall
14 post the required sign in each patient waiting room and patient
15 consultation room used by patients on whom abortions are performed.
16 A hospital or any other facility in which abortions are performed
17 that is not a private office or freestanding surgical outpatient
18 clinic shall post the required sign in each patient admission area
19 used by patients on whom abortions are performed.

20 C. 1. Except in the case of a medical emergency, a chemical
21 abortion involving the two drug process of dispensing mifepristone
22 first and then misoprostol shall not be performed or induced or
23 attempted to be performed or induced without informing the female,
24 by telephone or in person, by the physician who is to perform the
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1 abortion, by a referring physician or by an agent of either
2 physician at least twenty-four (24) hours before the abortion:

- 3 a. that it may be possible to reverse the intended
4 effects of a chemical abortion utilizing mifepristone
5 if the woman changes her mind but that time is of the
6 essence, and
- 7 b. of information on and assistance with reversing the
8 effects of a chemical abortion utilizing mifepristone
9 is available on the Department's website.

10 2. After the first drug involved in the two drug process is
11 dispensed in a chemical abortion utilizing mifepristone the
12 physician or an agent of the physician shall provide written medical
13 discharge instructions to the pregnant woman which must include the
14 statement:

15 "Recent developing research has indicated that mifepristone
16 alone is not always effective in ending a pregnancy. It may be
17 possible to avoid, cease or even to reverse the intended effects of
18 a chemical abortion utilizing mifepristone if the second pill has
19 not been taken. Please consult with a health care professional
20 immediately."

21 D. When a medical emergency compels the performance of an
22 abortion, the physician shall inform the female, prior to the
23 abortion if possible, of the medical indications supporting the
24 physician's judgment that an abortion is necessary to avert her

1 death or that a twenty-four-hour delay will create serious risk of
2 substantial and irreversible physical impairment of a major bodily
3 function, not including psychological or emotional conditions.

4 E. 1. Within ninety (90) days after this act is enacted, the
5 State Department of Health shall cause to be published, in English
6 and in each language which is the primary language of two percent
7 (2%) or more of the state's population, and shall cause to be
8 available on the state website provided for in paragraph 2 of this
9 subsection, comprehensible materials designed to inform the female
10 of the possibility of reversing the effects of a chemical abortion
11 utilizing mifepristone if she changes her mind and information on
12 and assistance with the resources that may be available to help
13 reverse the effects of a chemical abortion.

14 2. The Department shall develop and maintain a stable Internet
15 website to provide the information described under subsection C. No
16 information regarding who uses the website shall be collected or
17 maintained. The Department shall monitor the website on a daily
18 basis to prevent and correct tampering. The website shall be
19 maintained at a minimum resolution of seventy (70) DPI (dots per
20 inch). All pictures appearing on this website shall be a minimum of
21 200x300 pixels. All letters on the website shall be a minimum of
22 twelve (12) point font. All information and pictures shall be
23 accessible with an industry standard browser, requiring no
24 additional plug-ins.

1 F. Any person who knowingly or recklessly performs or induces
2 or attempts to perform or induce an abortion in violation of this
3 section shall be guilty of a felony. No penalty may be assessed
4 against the female upon whom the abortion is performed or induced or
5 attempted to be performed or induced. No penalty or civil liability
6 may be assessed for failure to comply with subsection C of this
7 section unless the Department has made the information available on
8 the website at the time the physician or the physician's agent is
9 required to inform the female.

10 G. Any private office, freestanding surgical outpatient clinic
11 or other facility, or clinic that fails to post a required sign in
12 Section 2 of this act in knowing, reckless or negligent violation of
13 this act shall be assessed a fine of Ten Thousand Dollars
14 (\$10,000.00). Each day on which an abortion, other than an abortion
15 necessary to prevent the death of the pregnant female, is performed
16 in any private office, freestanding surgical outpatient clinic or
17 other facility, or clinic during which the required sign is not
18 posted during a portion of business hours when patients or
19 perspective patients are present is a separate violation.

20 H. 1. Any person upon whom an abortion has been performed
21 without this section having been complied with, the father of the
22 unborn child who was the subject of such an abortion, or, if the
23 female had not attained the age of eighteen (18) years at the time
24 of the chemical abortion or has died as a result of the chemical

1 abortion, the grandparent of such an unborn child may maintain an
2 action against the person who performed the abortion in knowing or
3 reckless violation of this section for actual and punitive damages.
4 Any person upon whom an abortion has been attempted without this
5 section having been complied with may maintain an action against the
6 person who attempted to perform the abortion in knowing or reckless
7 violation of this article for actual and punitive damages. No
8 damages may be awarded a plaintiff if the pregnancy resulted from
9 the plaintiff's criminal conduct.

10 2. If judgment is rendered in favor of the plaintiff in any
11 action described in this subsection, the court shall also render
12 judgment for a reasonable attorney's fee in favor of the plaintiff
13 against the defendant. If judgment is rendered in favor of the
14 defendant and the court finds that the plaintiff's suit was
15 frivolous and brought in bad faith, the court shall also render
16 judgment for a reasonable attorney's fee in favor of the defendant
17 against the plaintiff.

18 I. In every civil or criminal proceeding or action brought
19 under this subsection, the court shall rule whether the anonymity of
20 any female upon whom an abortion has been performed or attempted
21 shall be preserved from public disclosure if she does not give her
22 consent to such disclosure. The court, upon motion or sua sponte,
23 shall make such a ruling and, upon determining that her anonymity
24 should be preserved, shall issue orders to the parties, witnesses

1 and counsel and shall direct the sealing of the record and exclusion
2 of individuals from courtrooms or hearing rooms to the extent
3 necessary to safeguard her identity from public disclosure. Each
4 such order shall be accompanied by specific written findings
5 explaining why the anonymity of the female should be preserved from
6 public disclosure, why the order is essential to that end, how the
7 order is narrowly tailored to serve that interest and why no
8 reasonable less restrictive alternative exists. In the absence of
9 written consent of the female upon whom an abortion has been
10 performed or attempted, anyone, other than a public official, who
11 brings an action under subsection D of this section shall do so
12 under a pseudonym. This section may not be construed to conceal the
13 identity of the plaintiff or of witnesses from the defendant.

14 J. If any one or more provision, section, subsection, sentence,
15 clause, phrase or word of this act or the application thereof to any
16 person or circumstance is found to be unconstitutional, the same is
17 hereby declared to be severable and the balance of this act shall
18 remain effective notwithstanding such unconstitutionality. The
19 Legislature hereby declares that it would have passed this act, and
20 each provision, section, subsection, sentence, clause, phrase or
21 word thereof, irrespective of the fact that any one or more
22 provision, section, subsection, sentence, clause, phrase or word be
23 declared unconstitutional.

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

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