

STATE OF OKLAHOMA

2nd Session of the 60th Legislature (2026)

HOUSE BILL 3038

By: Woolley

AS INTRODUCED

An Act relating to abortion; creating the Abolition of Abortion Act; stating purpose; specifying applicability and construction of certain provisions; making enforcement of certain violations subject to specified factors; amending 12 O.S. 2021, Section 1053, which relates to wrongful death; modifying applicability of certain provisions; amending 21 O.S. 2021, Section 691, which relates to homicide; removing exceptions; providing for noncodification; providing for codification; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Abolition of Abortion Act".

SECTION 2. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

Acknowledging the sanctity of innocent human life, created in the image of God, the purpose of this act is to:

1        1. Follow the United States Constitution, which requires that  
2 "no state...shall deny to any person within its jurisdiction the  
3 equal protection of the laws";

4        2. Fulfill such constitutional requirement by protecting the  
5 lives of preborn persons with the same criminal and civil laws  
6 protecting the lives of born persons by repealing provisions that  
7 permit willful prenatal homicide or assault;

8        3. Protect pregnant mothers from being pressured to abort by  
9 repealing provisions that may otherwise allow a person to direct,  
10 advise, encourage, or solicit a mother to abort her child; and

11       4. Ensure that all persons potentially subject to such laws are  
12 entitled to due process protections.

13       SECTION 3.       NEW LAW       A new section of law to be codified  
14 in the Oklahoma Statutes as Section 696 of Title 21, unless there is  
15 created a duplication in numbering, reads as follows:

16       A. This section applies even where the victim is an unborn  
17 child.

18       B. Enforcement of sections 642 through 650.11 and sections 691  
19 through 695 of this title of the Oklahoma Statutes where the victim  
20 is an unborn child is subject to the same presumptions, defenses,  
21 justifications, laws of parties, immunities, and clemencies as would  
22 apply when the victim is a person who had been born alive.

23       C. This section shall not apply to:  
24

1        1. The undertaking of life-saving procedures to save the life  
2 of the mother when accompanied by reasonable steps to save the life  
3 of the unborn child; or

4        2. A spontaneous miscarriage.

5        D. This section prevails over other law to the extent of any  
6 conflict.

7        SECTION 4.        AMENDATORY        12 O.S. 2021, Section 1053, is  
8 amended to read as follows:

9        Section 1053. A. When the death of one is caused by the  
10 wrongful act or omission of another, the personal representative of  
11 the former may maintain an action therefor against the latter, or  
12 his or her personal representative if he or she is also deceased, if  
13 the former might have maintained an action, had he or she lived,  
14 against the latter, or his or her representative, for an injury for  
15 the same act or omission. The action must be commenced within two  
16 (2) years.

17        B. The damages recoverable in actions for wrongful death as  
18 provided in this section shall include the following:

19        1. Medical and burial expenses, which shall be distributed to  
20 the person or governmental agency as defined in Section 5051.1 of  
21 Title 63 of the Oklahoma Statutes who paid these expenses, or to the  
22 decedent's estate if paid by the estate. The provisions of this  
23 paragraph shall not apply to the cost of an abortion in actions  
24 maintained pursuant to subsection F of this section;

1        2. The loss of consortium and the grief of the surviving  
2 spouse, which shall be distributed to the surviving spouse;

3        3. The mental pain and anguish suffered by the decedent, which  
4 shall be distributed to the surviving spouse and children, if any,  
5 or next of kin in the same proportion as personal property of the  
6 decedent. For the purposes of actions maintained pursuant to  
7 subsection F of this section, ~~"next of kin"~~ next of kin as used in  
8 this paragraph shall mean the parent or grandparent who maintained  
9 the action as provided for in paragraph 3 of subsection F of this  
10 section;

11       4. The pecuniary loss to the survivors based upon properly  
12 admissible evidence with regard thereto including, but not limited  
13 to, the age, occupation, earning capacity, health habits, and  
14 probable duration of the decedent's life, which must inure to the  
15 exclusive benefit of the surviving spouse and children, if any, or  
16 next of kin, and shall be distributed to them according to their  
17 pecuniary loss. For the purposes of actions maintained pursuant to  
18 subsection F of this section, ~~"next of kin"~~ next of kin as used in  
19 this paragraph shall mean the parent or grandparent who maintained  
20 the action as provided for in paragraph 3 of subsection F of this  
21 section; and

22       5. The grief and loss of companionship of the children and  
23 parents of the decedent, which shall be distributed to them  
24 according to their grief and loss of companionship.

1 C. In proper cases, as provided by Section 9.1 of Title 23 of  
2 the Oklahoma Statutes, punitive or exemplary damages may also be  
3 recovered against the person proximately causing the wrongful death  
4 or the person's representative if such person is deceased. Such  
5 damages, if recovered, shall be distributed to the surviving spouse  
6 and children, if any, or next of kin in the same proportion as  
7 personal property of the decedent. For the purposes of actions  
8 maintained pursuant to subsection F of this section, ~~"next of kin"~~  
9 next of kin as used in this paragraph shall mean the parent or  
10 grandparent who maintained the action as provided for in paragraph 3  
11 of subsection F of this section.

12 D. Where the recovery is to be distributed according to a  
13 person's pecuniary loss or loss of companionship, the judge shall  
14 determine the proper division.

15 E. The above-mentioned distributions shall be made after the  
16 payment of legal expenses and costs of the action.

17 F. 1. The provisions of this section shall also be available  
18 for the death of an unborn person as defined in Section 1-730 of  
19 Title 63 of the Oklahoma Statutes.

20 2. The provisions of this subsection shall apply to acts which  
21 cause the death of an unborn person ~~in utero if:~~

22 a. ~~the physician who performed the abortion or the~~  
23 ~~referring physician fails to obtain and document the~~  
24 ~~voluntary and informed consent of the pregnant woman~~

~~pursuant to Section 1-738.2 of Title 63 of the  
Oklahoma Statutes,~~

~~b. the pregnant woman withdraws her consent to the  
abortion prior to performance of the abortion,~~

~~c. the pregnant woman undergoes the abortion due to  
coercion from a third party,~~

~~d. the physician fails to obtain and document proof of  
age demonstrating that the pregnant woman is not a  
minor, or, in the case of a minor, fails to obtain:~~

~~(1) parental consent to the abortion pursuant to  
Section 1-740.2 of Title 63 of the Oklahoma  
Statutes,~~

~~(2) proof that the pregnant woman, although a minor,  
is emancipated, or~~

~~(3) judicial authorization of the abortion without  
parental notification pursuant to Section 1-740.3  
of Title 63 of the Oklahoma Statutes,~~

~~e. the physician who performed the abortion causes the  
woman physical or psychological harm, the possibility  
of which she did not foresee or was not informed of at  
the time of her consent,~~

~~f. the physician who performed the abortion fails to  
screen the pregnant woman and document such screening  
for risk factors associated with a heightened risk of~~

~~adverse consequences from abortion which a reasonably prudent physician would screen for,~~  
~~g. the physician fails to screen the pregnant woman and document such screening for physical or psychological impairment of judgment due to factors including, but not limited to, drugs, alcohol, illness or fatigue,~~  
~~h. the physician fraudulently induces the pregnant woman to obtain the abortion or gives misleading or false information in response to a pregnant woman's inquiry,~~  
~~or~~  
~~i. there exist any other circumstances which violate state law.~~

The provisions of this paragraph shall not be construed to apply to cases in which a physician licensed to practice medicine in this state attempts, in a reasonably prudent manner, to prevent the death of an unborn person or a pregnant woman.

3. A parent or grandparent of the deceased unborn person is entitled to maintain an action against the physician person who caused the death of an unborn person ~~under the conditions provided by subparagraphs a through i of paragraph 2 of this subsection;~~ provided, however, the parent or grandparent may not maintain such action if the parent or grandparent coerced the mother of the unborn person to abort the unborn person.

1        4. Liability for wrongful death by the physician under this  
2 section shall not be waived by the pregnant woman prior to  
3 performance of the abortion. A physician shall not request, orally,  
4 on a written form or in any other manner, that the pregnant woman  
5 waive the liability of the physician for wrongful death related to  
6 the abortion as a condition of performing an abortion.

7        ~~5. Under no circumstances shall the mother of the unborn person~~  
8 ~~be found liable for causing the death of the unborn person unless~~  
9 ~~the mother has committed a crime that caused the death of the unborn~~  
10 ~~person.~~

11        SECTION 5.        AMENDATORY        21 O.S. 2021, Section 691, is  
12 amended to read as follows:

13        Section 691. A. Homicide is the killing of one human being by  
14 another.

15        B. As used in this section, "human being" includes an unborn  
16 child, as defined in Section 1-730 of Title 63 of the Oklahoma  
17 Statutes.

18        C. Homicide shall not include:

19        ~~1. Acts which cause the death of an unborn child if those acts~~  
20 ~~were committed during a legal abortion to which the pregnant woman~~  
21 ~~consented; or~~

22        ~~2. Acts~~ acts which are committed pursuant to the usual and  
23 customary standards of medical practice during diagnostic testing or  
24 therapeutic treatment.



1       ~~D. Under no circumstances shall the mother of the unborn child~~  
2 ~~be prosecuted for causing the death of the unborn child unless the~~  
3 ~~mother has committed a crime that caused the death of the unborn~~  
4 ~~child.~~

5       SECTION 6. It being immediately necessary for the preservation  
6 of the public peace, health or safety, an emergency is hereby  
7 declared to exist, by reason whereof this act shall take effect and  
8 be in full force from and after its passage and approval.

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