

ENROLLED HOUSE  
BILL NO. 1595

By: Sullivan, Peterson, Denney,  
Terrill, Ritze, Ownbey, Billy,  
Osborn, Faught, Reynolds,  
Thompson, Cooksey, Kern, Dank,  
Wright (Harold), Ortega, Enns,  
Sanders, Liebmann, Derby, Nelson,  
Christian, Moore, Walker, Coody,  
Duncan, Tibbs, McCullough and  
Joyner of the House

and

Lamb, Brown, Mazzei, Crain,  
Newberry, Sykes, Brogdon,  
Aldridge, Russell, Schulz and  
Marlatt of the Senate

An Act relating to public health and safety; amending 63 O.S. 2001, Section 1-730, as amended by Section 1, Chapter 161, O.S.L. 2007 (63 O.S. Supp. 2008, Section 1-730), which relates to abortion; modifying definitions; prohibiting the performance of an abortion solely on account of the sex of the unborn child; specifying liability; authorizing injunctive relief; specifying those persons authorized to bring an action; specifying penalties; providing for civil action; providing for the suspension or revocation of a license; providing for certain privacy; creating the Statistical Reporting of Abortion Act; providing short title; defining terms; providing for the State Department of Health to make an Individual Abortion Form and a Complications of Induced Abortion Report on its website; specifying content of forms; providing for electronic submission; specifying time in which reports are due; requiring certain public reports; specifying time in which public reports shall be filed; providing for enforcement of reporting requirements; requiring notification of all newly licensed physicians of reporting requirements;

stating penalties for late submission, no submission and incomplete submission of forms or reports; requiring periodic inspections of certain facilities; authorizing the promulgation of rules; authorizing certain action for failure to issue public reports; providing for certain intervention in litigation; providing for certain laws to be of nonbinding force in certain circumstance; repealing 63 O.S. 2001, Section 1-738, which relates to abortion reporting; providing for severability; providing for codification; providing for noncodification; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 2001, Section 1-730, as amended by Section 1, Chapter 161, O.S.L. 2007 (63 O.S. Supp. 2008, Section 1-730), is amended to read as follows:

Section 1-730. A. As used in this article:

1. "Abortion" means the use or prescription of any instrument, medicine, drug, or any other substance or device intentionally to terminate the pregnancy of a female known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, to remove an ectopic pregnancy, or to remove a dead unborn child who died as the result of a spontaneous miscarriage, accidental trauma, or a criminal assault on the pregnant female or her unborn child;

2. "Attempt to perform an abortion" means an act, or an omission of a statutorily required act, that under the circumstances as the actor believes them to be constitutes a substantial step in a course of conduct planned to culminate in the performance of an abortion;

3. "Certified technician" means a Registered Diagnostic Medical Sonographer who is certified in obstetrics and gynecology by the American Registry for Diagnostic Medical Sonography (ARDMS) or a Nurse Midwife or Advance Practice Nurse Practitioner in Obstetrics with certification in obstetrical ultrasonography;

~~4.~~ 4. "Unborn child" means the unborn offspring of human beings from the moment of conception, through pregnancy, and until live birth including the human conceptus, zygote, morula, blastocyst, embryo and fetus;

~~3- 5.~~ 5. "Unemancipated minor" means any person less than eighteen (18) years of age who is not or has not been married or who is under the care, custody, and control of the person's parent or parents, guardian, or juvenile court of competent jurisdiction;

~~6.~~ 6. "Viable" means potentially able to live outside of the womb of the mother upon premature birth, whether resulting from natural causes or an abortion;

~~4- 7.~~ 7. "Conception" means the fertilization of the ovum of a female individual by the sperm of a male individual;

~~5- 8.~~ 8. "Health" means physical or mental health;

~~6- 9.~~ 9. "Department" means the State Department of Health; and

~~7- 10.~~ 10. "Inducing an abortion" means the administration by any person, including the pregnant woman, of any substance designed or intended to cause an expulsion of the unborn child, effecting an abortion as defined above; ~~and~~ .

~~8- B.~~ B. Nothing contained herein shall be construed in any manner to include any birth control device or medication or sterilization procedure.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-731.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. No person shall knowingly or recklessly perform or attempt to perform an abortion with knowledge that the pregnant female is seeking the abortion solely on account of the sex of the unborn child. Nothing in this section shall be construed to proscribe the performance of an abortion because the unborn child has a genetic disorder that is sex-linked.

B. Any person who knowingly or recklessly violates a provision of this section shall be liable for damages as provided in this subsection and may be enjoined from such acts in accordance with this section in an appropriate court.

1. A cause of action for injunctive relief against any person who has knowingly or recklessly violated a provision of this section may be maintained by:

- a. the female upon whom an abortion was performed or attempted to be performed in violation of this section,
- b. any person who is the spouse, parent, sibling, or guardian of, or a current or former licensed health care provider of, the female upon whom an abortion has been performed or attempted to be performed in violation of this section,
- c. a district attorney with appropriate jurisdiction, or
- d. the Attorney General.

2. The injunction shall prevent the abortion provider from performing further abortions in violation of this section in this state.

3. Any person who knowingly violates the terms of an injunction issued in accordance with this section shall be subject to civil contempt and shall be fined Ten Thousand Dollars (\$10,000.00) for the first violation, Fifty Thousand Dollars (\$50,000.00) for the second violation, and One Hundred Thousand Dollars (\$100,000.00) for the third violation and for each succeeding violation. The fines shall be the exclusive penalties for civil contempt pursuant to this paragraph. Each performance or attempted performance of an abortion in violation of the terms of an injunction is a separate violation. These fines shall be cumulative. No fine shall be assessed against the female upon whom an abortion is performed or attempted.

4. A pregnant female upon whom an abortion has been performed in violation of this section, or the parent or legal guardian of the female if she is an unemancipated minor, may commence a civil action against the abortion provider for any knowing or reckless violation of this section for actual and punitive damages.

C. An abortion provider who performed an abortion in violation of this section shall be considered to have engaged in unprofessional conduct for which the certificate or license of the provider to provide health care services in this state shall be

suspended or revoked by the State Board of Medical Licensure and Supervision or the State Board of Osteopathic Examiners.

D. In every proceeding or action brought under this section, the anonymity of any female upon whom an abortion is performed or attempted shall be preserved unless she gives her consent to such disclosure. The court, upon motion or sua sponte, shall issue orders to the parties, witnesses, and counsel, and shall direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms, to the extent necessary to safeguard her identity from public disclosure. In the absence of written consent of the female upon whom an abortion has been performed or attempted, anyone who brings an action under subsection B of this section shall do so under a pseudonym.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-738a of Title 63, unless there is created a duplication in numbering, reads as follows:

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

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-738b of Title 63, unless there is created a duplication in numbering, reads as follows:

A. As used in the Statistical Reporting of Abortion Act:

1. "Abortion" means the term as defined in Section 1-730 of Title 63 of the Oklahoma Statutes;

2. "Complication" means any adverse physical or psychological condition arising from the performance of an abortion, which includes but is not limited to: uterine perforation, cervical perforation, infection, bleeding, hemorrhage, blood clots, failure to actually terminate the pregnancy, incomplete abortion (retained tissue), pelvic inflammatory disease, endometritis, missed ectopic pregnancy, cardiac arrest, respiratory arrest, renal failure, metabolic disorder, shock, embolism, coma, placenta previa, preterm delivery in subsequent pregnancies, free fluid in abdomen, adverse reaction to anesthesia and other drugs, and mental and psychological complications such as depression, anxiety, sleeping disorders, psychiatric hospitalization, and emotional problems; and

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

B. By March 1, 2011, the State Department of Health shall make available, on its stable Internet website, an Individual Abortion Form as required by Section 5 of this act, and a form for a Complications of Induced Abortion Report as required by Section 6 of this act.

C. By March 1, 2011, the State Department of Health shall, on its stable Internet website, provide the language of all Oklahoma Statutes and regulations directly relating to abortion, and shall promptly update its website to reflect subsequent statutory and regulatory changes. The Department shall also, by March 1, 2011, provide, on its stable Internet website, the means by which physicians may electronically submit the reports required by the Statistical Reporting of Abortion Act. The Department shall include instructions on its stable Internet website regarding electronic submission. The Department shall take all necessary precautions to ensure the security of the electronically submitted reports so that the data they include is able to be accessed only by specially authorized departmental personnel during and following the process of transmission.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-738c of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Subsections B and C of this section shall become operative on the later of:

1. April 1, 2011; or

2. Thirty (30) calendar days following the date on which the State Department of Health posts on its website the Individual Abortion Form and instructions concerning its electronic submission referenced in this section.

B. Any physician performing abortions shall fully complete and submit, electronically, an Individual Abortion Form to the State Department of Health by the last business day of the calendar month following the month in which the physician performs an abortion, for each abortion the physician performs.

C. In cases in which a physician or the agent of a physician:

1. Mails the printed materials described in Section 1-738.3 of Title 63 of the Oklahoma Statutes to a female specifically to comply with division (1) of subparagraph d of paragraph 2 of subsection B of Section 1-738.2 of Title 63 of the Oklahoma Statutes;

2. Gives or mails the printed materials described in Section 1-738.10 of Title 63 of the Oklahoma Statutes to a female specifically to comply with subsection A of Section 1-738.8 of Title 63 of the Oklahoma Statutes; or

3. Provides notice to a parent in compliance with Section 1-740.2 of Title 63 of the Oklahoma Statutes,

but does not subsequently perform an abortion on the female or minor, the physician shall electronically submit an Individual Abortion Form to the State Department of Health, and shall mark as "not applicable" those items of information that may accurately be provided only when an abortion is performed. The physician shall not submit such a form if the physician knows that an abortion was subsequently performed on the female or minor by another physician. Individual Abortion Forms required by this subsection shall be submitted by the last business day of the second calendar month following the calendar month in which the physician mails the printed materials or provides notice to a parent.

D. The Department shall post the required Individual Abortion Form on its stable Internet website. Nothing in the Individual Abortion Form shall contain the name, address, or information specifically identifying any patient. The Department's Individual Abortion Form shall be substantially similar to, but need not be in the specific format, provided in subsection F of this section.

E. The Individual Abortion Form shall contain a notice containing an assurance that, in accordance with subsection F of Section 7 of this act, public reports based on the form submitted will not contain the name, address, or any other identifying information of any individual female, that the State Department of Health will take care to ensure that none of the information included in its public reports could reasonably lead to the identification of any individual female about whom information is reported in accordance with the Statistical Reporting of Abortion Act or of any physician providing information in accordance with the

Statistical Reporting of Abortion Act, and that such information is not subject to the Oklahoma Open Records Act.

F. Individual Abortion Form. The Department's Individual Abortion Form shall be substantially similar to, but need not be in the specific format of, the following form:

Individual Abortion Form

(TO BE COMPLETED FOR EACH ABORTION PERFORMED)

1. Date of abortion \_\_\_\_\_
2. County in which abortion performed \_\_\_\_\_
3. Age of mother \_\_\_\_\_
4. Marital status of mother \_\_\_\_\_  
(married, divorced, separated, widowed, or never married)
5. Race of mother \_\_\_\_\_
6. Years of education of mother \_\_\_\_\_  
(specify highest year completed)
7. State or foreign country of residence of mother \_\_\_\_\_
8. Total number of previous pregnancies of the mother  
\_\_\_\_\_  
Live Births \_\_\_\_\_  
Miscarriages \_\_\_\_\_  
Induced Abortions \_\_\_\_\_
9. Approximate gestational age in weeks, as measured from the last menstrual period of the mother, of the unborn child subject to abortion \_\_\_\_\_
10. Method of abortion used:  
Suction Aspiration \_\_\_\_\_

Dilation and Curettage \_\_\_\_\_

RU 486 \_\_\_\_\_

Methotrexate \_\_\_\_\_

Other drug/chemical/medicine (specify) \_\_\_\_\_

Dilation and Evacuation \_\_\_\_\_

Saline \_\_\_\_\_

Urea \_\_\_\_\_

Prostaglandins \_\_\_\_\_

Partial Birth Abortion \_\_\_\_\_

Hysterotomy \_\_\_\_\_

Other (specify) \_\_\_\_\_

11. Was there an infant born alive as a result of the abortion?

\_\_\_\_\_

If yes:

Were life-sustaining measures undertaken? \_\_\_\_\_

How long did the infant survive? \_\_\_\_\_

12. Was anesthesia administered to mother? \_\_\_\_\_

If yes, what type? \_\_\_\_\_

13. Was anesthesia administered to the fetus? \_\_\_\_\_

If yes:

What type? \_\_\_\_\_

How was it administered? \_\_\_\_\_

14. Method of fetal tissue disposal \_\_\_\_\_

15. The abortion provider or agent shall ask the pregnant female to provide, orally or in writing, the reason(s) she is seeking the abortion.

REASON GIVEN FOR ABORTION (check all applicable):

Having a baby:

Would dramatically change the life of the mother \_\_\_\_\_

Would interfere with the education of the mother \_\_\_\_\_

Would interfere with the job/employment/career of the mother \_\_\_\_\_

Mother has other children or dependents \_\_\_\_\_

Mother cannot afford the child \_\_\_\_\_

Mother is unmarried \_\_\_\_\_

Mother is a student or planning to be a student \_\_\_\_\_

Mother cannot afford child care \_\_\_\_\_

Mother cannot afford the basic needs of life \_\_\_\_\_

Mother is unemployed \_\_\_\_\_

Mother cannot leave job to care for a baby \_\_\_\_\_

Mother would have to find a new place to live \_\_\_\_\_

Mother does not have enough support from a husband or partner \_\_\_\_\_

Husband or partner is unemployed \_\_\_\_\_

Mother is currently or temporarily on welfare or public assistance \_\_\_\_\_

Mother does not want to be a single mother \_\_\_\_\_

Mother is having relationship problems \_\_\_\_\_

Mother is not certain of relationship with the father of the child \_\_\_\_\_

Partner and mother are unable to or do not want to get married \_\_\_\_\_

Mother is not currently in a relationship \_\_\_\_\_

The relationship or marriage of the mother may soon break up \_\_\_\_\_

Husband or partner is abusive to the mother or her children \_\_\_\_\_

Mother has completed her childbearing \_\_\_\_\_

Mother is not ready for a, or another, child \_\_\_\_\_

Mother does not want people to know that she had sex or became pregnant \_\_\_\_\_

Mother does not feel mature enough to raise a, or another, child \_\_\_\_\_

Husband or partner wants mother to have an abortion \_\_\_\_\_

There may be possible problem affecting the health of the fetus \_\_\_\_\_

Physical health of the mother is at risk \_\_\_\_\_

Parents want mother to have an abortion \_\_\_\_\_

Emotional health of the mother is at risk \_\_\_\_\_

Mother suffered from a medical emergency as defined in Section 1-738.1 of Title 63 of the Oklahoma Statutes \_\_\_\_\_

Mother wanted a child of a different sex \_\_\_\_\_

Abortion is necessary to avert the death of the mother \_\_\_\_\_

Pregnancy was a result of forcible rape \_\_\_\_\_

Pregnancy was a result of incest \_\_\_\_\_

Other (specify) \_\_\_\_\_

Patient was asked why she is seeking an abortion, but she declined to give a reason \_\_\_\_\_

16. Method of payment (check one):

Private insurance \_\_\_\_\_

Public health plan \_\_\_\_\_

Medicaid \_\_\_\_\_

Private pay \_\_\_\_\_

Other (specify) \_\_\_\_\_

17. Type of medical health insurance coverage, if any (check one):

Fee-for-service insurance company \_\_\_\_\_

Managed care company \_\_\_\_\_

Other (specify) \_\_\_\_\_

18. Sum of fee(s) collected \_\_\_\_\_

19. Specialty area of medicine of the physician \_\_\_\_\_

\_\_\_\_\_

20. Was ultrasound equipment used before, during, or after the performance of this abortion?

Before? \_\_\_\_\_ Vaginal, abdominal, or both? \_\_\_\_\_

During? \_\_\_\_\_ Vaginal, abdominal, or both? \_\_\_\_\_

After? \_\_\_\_\_ Vaginal, abdominal, or both? \_\_\_\_\_

21. If ultrasound equipment was used, was the ultrasound, as required by Section 1-738.3b of Title 63 of the Oklahoma Statutes, performed by a:

Physician \_\_\_\_\_

Certified Technician as defined in Section 1-730 of Title 63 of the Oklahoma Statutes \_\_\_\_\_

22. Was the information required by paragraph 1 of subsection B of Section 1-738.2 of Title 63 of the Oklahoma Statutes provided to the mother? \_\_\_\_\_

a. If yes, was it provided:

In person \_\_\_\_\_

By telephone \_\_\_\_\_

b. Was it provided by:

A referring physician \_\_\_\_\_

The physician performing the abortion \_\_\_\_\_

An agent of a referring physician \_\_\_\_\_

An agent of the physician performing the abortion  
\_\_\_\_\_

23. Was the information required by paragraph 2 of subsection B of Section 1-738.2 of Title 63 of the Oklahoma Statutes provided to the mother? \_\_\_\_\_

a. If yes, was it provided:

In person \_\_\_\_\_

By telephone \_\_\_\_\_

b. Was it provided by:

A referring physician \_\_\_\_\_

An agent of a referring physician \_\_\_\_\_

The physician performing the abortion \_\_\_\_\_

An agent of the physician performing the abortion  
\_\_\_\_\_

24. Did the mother avail herself of the opportunity to have the printed materials described in Section 1-738.3 of Title 63 of the Oklahoma Statutes mailed to her? \_\_\_\_\_

25. Were the informed consent requirements of subsection B of Section 1-738.2 of Title 63 of the Oklahoma Statutes dispensed with because of a medical emergency necessitating an immediate abortion:

To avert death \_\_\_\_\_

To avert substantial and irreversible impairment of a major bodily function arising from continued pregnancy \_\_\_\_\_

26. Was the probable gestational age of the unborn child twenty (20) weeks or more? \_\_\_\_\_

a. If yes, was the mother provided the information described in subsection A of Section 1-738.8 of Title 63 of the Oklahoma Statutes? \_\_\_\_\_

(1) If yes, was the information provided:

In person \_\_\_\_\_

By telephone \_\_\_\_\_

(2) If yes, was the information provided by:

A referring physician \_\_\_\_\_

An agent of a referring physician \_\_\_\_\_

The physician performing the abortion \_\_\_\_\_

An agent of the physician performing the abortion  
\_\_\_\_\_

b. Did the mother choose to be given or mailed the materials described in Section 1-738.10 of Title 63 of the Oklahoma Statutes? \_\_\_\_\_

c. To the best of the information and belief of the reporting physician, did the mother go on to obtain the abortion? \_\_\_\_\_

27. Was the abortion performed within the scope of employment of an Oklahoma state employee or an employee of an agency or political subdivision of the state? \_\_\_\_\_

28. Was the abortion performed with the use of any public institution, public facility, public equipment, or other physical asset owned, leased, or controlled by this state, its agencies, or political subdivisions? \_\_\_\_\_

29. If the answer to question 27 or 28 is yes:

a. Was the abortion necessary to save the life of the mother? \_\_\_\_\_

If yes, what was the life-endangering condition?  
\_\_\_\_\_

b. Did the pregnancy result from an act of forcible rape?  
\_\_\_\_\_

If yes, list the law enforcement authority to which the rape was reported \_\_\_\_\_

List the date of the report \_\_\_\_\_

c. Did the pregnancy result from an act of incest committed against a minor? \_\_\_\_\_

If yes, list the law enforcement authority to which the perpetrator was reported \_\_\_\_\_

List the date of the report \_\_\_\_\_

THIS PORTION TO BE COMPLETED IN CASE OF MINOR

30. Minor's age \_\_\_\_\_

31. Was a parent of the minor provided notice prior to the abortion as described in Section 1-740.2 of Title 63 of the Oklahoma Statutes? \_\_\_\_\_

a. If yes, how was the notice provided?

In person \_\_\_\_\_

By mail \_\_\_\_\_

- b. If yes, to the best of the reporting physician's knowledge and belief, did the minor go on to obtain the abortion? \_\_\_\_\_

32. Was informed written consent of one parent obtained as described in Section 1-740.2 of Title 63 of the Oklahoma Statutes? \_\_\_\_\_

If yes, how was it secured?

In person \_\_\_\_\_

Other (specify) \_\_\_\_\_

33. If no notice was provided nor consent obtained, please indicate which of the following apply:

Minor was emancipated \_\_\_\_\_

Abortion was necessary to prevent the death of the minor \_\_\_\_\_

Medical emergency, as defined in Section 1-738.1 of Title 63 of the Oklahoma Statutes, existed \_\_\_\_\_

Minor received judicial authorization to obtain abortion without parental notice or consent \_\_\_\_\_

34. If no notice was provided nor consent obtained because a medical emergency existed, please indicate:

Whether parent was subsequently notified (state period of time elapsed before notice was given) \_\_\_\_\_

Whether judicial waiver of notice requirement was obtained \_\_\_\_\_

35. If the minor received judicial authorization to obtain an abortion without parental notice or consent, please indicate which of the following applies:

Judge ruled that minor was mature enough to give informed consent on her own \_\_\_\_\_

Judge ruled that abortion was in the best interest of the minor  
\_\_\_\_\_

36. If the female was a minor at the time of conception, please indicate the age of the father of the unborn child at the time of conception \_\_\_\_\_
37. If at the time of conception the ages of the mother and father were such that a violation of Section 1111, 1112, 1114, or 1123 of Title 21 or Section 7115 of Title 10 of the Oklahoma Statutes occurred, was the rape or abuse reported to the proper authorities \_\_\_\_\_

Filed this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by:

\_\_\_\_\_  
(Name of physician)

\_\_\_\_\_  
(Physician's license number)

NOTICE: In accordance with subsection F of Section 6 of this act, public reports based on this form will not contain the name, address, or any other identifying information of any individual female. The State Department of Health shall take care to ensure that none of the information included in its public reports could reasonably lead to the identification of any individual female about whom information is reported or of any physician providing information in accordance with the Statistical Reporting of Abortion Act. Such information is not subject to the Oklahoma Open Records Act.

Please be advised that any complication(s) shall be detailed in a "Complications of Induced Abortion Report" and submitted to the Department as soon as is practicable after the encounter with the induced-abortion-related illness or injury, but in no case more than sixty (60) days after such an encounter. In addition, there is a specific requirement promptly to provide a written report of specified complications associated with RU-486, mifepristone, to the State Board of Medical Licensure and Supervision or the State Board of Osteopathic Examiners, in accordance with paragraph 1 of subsection D of Section 1-729 of Title 63 of the Oklahoma Statutes.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-738d of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Complications of Induced Abortion Report. By March 1, 2011, the State Department of Health shall prepare and make available, on its stable Internet website, a Complications of Induced Abortion Report for all physicians licensed and practicing in the State of Oklahoma.

B. Subsection C of this section shall become operative on the later of:

1. April 1, 2011; or

2. Thirty (30) calendar days following the date on which the State Department of Health posts on its website the Individual Abortion Form and instructions concerning its electronic submission referenced in Section 5 of this act.

C. Any physician practicing in Oklahoma who encounters an illness or injury that a reasonably knowledgeable physician would judge is related to an induced abortion shall complete and submit, electronically or by regular mail, a Complications of Induced Abortion Report to the Department as soon as is practicable after the encounter with the induced-abortion-related illness or injury, but in no case more than sixty (60) days after such an encounter. Nothing in the Complications of Induced Abortion Report shall contain the name, address, or any other information specifically identifying any patient. Knowing or reckless unreasonable delay or failure to submit a Complications of Induced Abortion Report shall be sanctioned according to the provisions of the Statistical Reporting of Abortion Act.

D. The Complications of Induced Abortion Report shall contain a notice containing an assurance that in accordance with subsection F of Section 5 of this act, public reports based on the form submitted will not contain the name, address, or any other identifying information of any individual female, that the State Department of Health will take care to ensure that none of the information included in its public reports could reasonably lead to the identification of any individual female about whom information is reported in accordance with the Statistical Reporting of Abortion Act, and that such information is not subject to the Oklahoma Open Records Act.

E. Complication(s) of Induced Abortion Report. The Complications of Induced Abortion Report shall be substantially similar to, but need not be in the specific format of, the following form:

Complications of Induced Abortion Report

1. Name and specialty field of medical practice of the physician filing the report: \_\_\_\_\_;

2. Did the physician filing the report perform or induce the abortion: \_\_\_\_\_;

3. Name, address, and telephone number of the health care facility where the induced abortion complication was discovered or treated: \_\_\_\_\_;

4. Date on which the complication was discovered: \_\_\_\_\_;

5. Date on which, and location of the facility where, the abortion was performed, if known: \_\_\_\_\_;

6. Age of the patient experiencing the complication: \_\_\_\_\_;

7. Describe the complication(s) resulting from the induced abortion: \_\_\_\_\_;

8. Circle all that apply:

- a. Death
- b. Cervical laceration requiring suture or repair
- c. Heavy bleeding/hemorrhage with estimated blood loss of greater than or equal to 500cc
- d. Uterine Perforation
- e. Infection requiring inpatient transfusion
- f. Failed termination of pregnancy (continued viable pregnancy)
- g. Incomplete termination of pregnancy (Retained parts of fetus requiring re-evacuation)

h. Other (May include psychological complications, future reproductive complications, or other illnesses or injuries that in the physician's medical judgment occurred as a result of an induced abortion. Please specify Diagnosis.) \_\_\_\_\_;

9. Type of follow-up care, if any, recommended:

\_\_\_\_\_;

10. Will the physician filing the Complications of Induced Abortion Report be providing such follow-up care (if not, the name of the medical professional who will, if known):

\_\_\_\_\_;

11. Name and license number of physician filing the Complications of Induced Abortion Report: \_\_\_\_\_.

F. The Complications of Induced Abortion Report shall contain information advising physicians of their independent duty promptly to provide a written report of specified complications associated with RU-486, mifepristone, to the State Board of Medical Licensure and Supervision or the State Board of Osteopathic Examiners, in accordance with paragraph 1 of subsection D of Section 1-729 of Title 63 of the Oklahoma Statutes.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-738e of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Beginning in 2012, by June 1 of each year, the Department shall issue, on its stable Internet website, a public Annual Abortion Report providing statistics for the previous calendar year compiled from all of the reports covering that year submitted in accordance with the Statistical Reporting of Abortion Act.

B. The Department's public report shall also provide statistics for all previous calendar years for which abortion reporting requirements have been in effect, adjusted to reflect any additional information from late or corrected reports.

C. The Annual Abortion Report shall include, but not be limited to, the following information:

1. The number of induced abortions performed in the previous calendar year, broken down by month and county in which the abortion was performed;
2. The number of abortions classified by:
  - a. the state or foreign country of residence of the mother,
  - b. the age, marital status, and race of the mother, and
  - c. the number of years of education of the mother;
3. The number of abortions classified by:
  - a. the number of previous pregnancies of the mother,
  - b. previous live births to the mother,
  - c. previous miscarriages, and
  - d. previous induced abortions;
4. The number of abortions by week of gestational age;
5. The number of abortions performed by each reported method;
6. The number of abortions resulting in an infant born alive; of these, the number of cases in which life-sustaining measures were taken; and a statistical summary of the length of survival of such infants;
7. The number of cases in which anesthesia was administered to the mother and the number of each type of anesthesia;
8. The number of cases in which anesthesia was administered to the unborn child, and the number of each type of anesthesia and of each method of administration;
9. The number of each reported method of fetal disposal;
10. The reasons reported for the abortions, and the number of times each reported reason was cited;
11. The number of abortions paid for by:

- a. private insurance,
- b. public health plan,
- c. Medicaid,
- d. private pay, or
- e. other (please specify);

12. The number of abortions in which medical health insurance coverage was under:

- a. a fee-for-service insurance company,
- b. a managed care company, or
- c. other (please specify);

13. A statistical summary of the fees collected;

14. Specialty area of medicine of the physician;

15. The number of abortions in which ultrasound equipment was used before, during, or after the abortion, and the number of times vaginal ultrasound, abdominal ultrasound, or both were used in each of the three circumstances;

16. The number of abortions before which an ultrasound was performed, as required by Section 1-738.3b of Title 63 of the Oklahoma Statutes, by:

- a. the physician, or
- b. a certified technician as defined by Section 1-730 of Title 63 of the Oklahoma Statutes;

17. The number of abortions performed without first explaining, displaying, and describing ultrasound images as provided under paragraphs 2 through 4 of subsection B of Section 1-738.3b of Title 63 of the Oklahoma Statutes because of a medical emergency determination;

18. The number of abortions resulting in reported complications, and of those, how many were reported by the physician

who performed the abortion, and how many were reported by another physician, the types of reported complications, and the number of each type, including, based on data which shall be compiled and transmitted to the State Department of Health by the State Boards of Medical Licensure and Supervision and of Osteopathic Examiners, the complications related to RU-486, mifepristone, reported under paragraph 1 of subsection D of Section 1-729 of Title 63 of the Oklahoma Statutes;

19. The number of abortions resulting in the reported death of the mother;

20. The number of females to whom the physician provided the information in subparagraph a of paragraph 1 of subsection B of Section 1-738.2 of Title 63 of the Oklahoma Statutes; of that number, the number provided by telephone and the number provided in person; and of each of those numbers, the number provided in the capacity of a referring physician and the number provided in the capacity of a physician who is to perform the abortion;

21. The number of females to whom physicians or agents of physicians provided the information in paragraph 2 of subsection B of Section 1-738.2 of Title 63 of the Oklahoma Statutes; of that number, the number provided by telephone and the number provided in person; of each of those numbers, the number provided in the capacity of a referring physician and the number provided in the capacity of a physician who is to perform the abortion; and of each of those numbers, the number provided by the physician and the number provided by an agent of the physician;

22. The number of females who availed themselves of the opportunity to have a copy of the printed information described in Section 1-738.3 of Title 63 of the Oklahoma Statutes mailed to them; and of that number, the number who, based on the submitted reports, did and did not obtain an abortion;

23. The number of abortions performed by the physician in which information otherwise required to be provided at least twenty-four (24) hours before the abortion was not so provided because an immediate abortion was necessary to avert the death of the female, and the number of abortions in which such information was not so provided because a delay would create serious risk of substantial and irreversible impairment of a major bodily function;

24. The number of females to whom physicians or their agents provided the information described in subsection A of Section 1-738.8 of Title 63 of the Oklahoma Statutes; of that number:

- a. the number provided by telephone and the number provided in person; and of each of those numbers, the number provided in the capacity of a referring physician and the number provided in the capacity of a physician who is to perform the abortion, or by the agent of such physician, and
- b. the number of females who availed themselves of the opportunity to be given or mailed the materials described in Section 1-738.10 of Title 63 of the Oklahoma Statutes, and the number who did not; and of each of those numbers, the number who, to the best of the information and belief of the reporting physician, went on to obtain the abortion;

25. The number of females to whom the information described in subsection A of Section 1-738.8 of Title 63 of the Oklahoma Statutes would have had to be provided but for a medical emergency determination; of that number, the number for whom an immediate abortion was necessary to avert the death of the female, and the number for whom a delay would have created serious risk of substantial and irreversible impairment of a major bodily function;

26. The number of abortions performed within the scope of employment of Oklahoma state employees and employees of an agency or political subdivision of the state, the number of abortions performed with the use of public institutions, facilities, equipment, or other physical assets owned, leased, or controlled by this state, its agencies, or political subdivisions, and for each category:

- a. the number of abortions reported as necessary to save the life of the mother, the life-endangering conditions identified, and the number of each such condition reported,
- b. the number of abortions reported from pregnancies resulting from forcible rape, the number of such rapes reported to law enforcement authorities, general categories of law enforcement authorities to whom reports were made and the number made to each

category, and a statistical summary of the length of time between the dates of reporting to law enforcement authorities and the dates of the abortions, and

- c. the number of abortions reported from pregnancies resulting from incest committed against a minor, the number of perpetrators of incest in such cases reported to law enforcement authorities, general categories of law enforcement authorities to whom reports were made and the number made to each category, and a statistical summary of the length of time between the dates of reporting to law enforcement authorities and the dates of the abortions;

27. The number of females to a parent of whom the physician provided notice as required by Section 1-740.2 of Title 63 of the Oklahoma Statutes; of that number, the number provided personally as described in that section, and the number provided by mail as described in that section, and of each of those numbers, the number of females who, to the best of the information and belief of the reporting physician, went on to obtain the abortion;

28. The number of females upon whom the physician performed an abortion without the notice to or consent of the parent of the minor required by Section 1-740.2 of Title 63 of the Oklahoma Statutes; of that number, the number who were emancipated minors and the number who suffered from a medical emergency, and of the latter, the number of cases in which a parent was notified subsequently and the number of cases in which a judicial waiver was obtained. In the case of medical emergencies in which a parent was informed subsequently, a statistical summary of the period of time elapsed before notification;

29. The number of abortions performed after receiving judicial authorization to do so without parental notice and consent;

30. The number of abortions performed on minors after judicial authorizations granted because of a finding the minor girl was mature and capable of giving informed consent; and

31. The number of abortions performed on minors after judicial authorizations granted because of a finding that the performance of the abortion without parental notification and consent was in the best interest of the minor.

D. Beginning in 2012, by June 1 of each year, the State Department of Health shall post, on its stable Internet website, a public Annual Judicial Bypass of Abortion Parental Consent Summary Report providing statistics which shall be compiled and supplied to the Department by the Administrative Office of the Courts giving the total number of petitions or motions filed under Section 1-740.3 of Title 63 of the Oklahoma Statutes and of that number, the number in which:

1. The court appointed a guardian ad litem;
2. The court appointed counsel;
3. The judge issued an order authorizing an abortion without parental notification or consent, and of those:
  - a. the number authorized due to a determination by the judge that the minor was mature and capable of giving consent to the proposed abortion, and
  - b. the number authorized due to a determination by the judge that an abortion was in the best interest of the minor; and
4. The judge denied such an order, and of this, the number of:
  - a. denials from which an appeal was filed,
  - b. the appeals that resulted in the denial being affirmed, and
  - c. appeals that resulted in reversals of the denials.

E. Each Annual Judicial Bypass of Abortion Parental Consent Summary Report shall also provide the statistics for all previous calendar years for which the public statistical report was required to be issued, adjusted to reflect any additional information from late or corrected reports.

F. The Department's public reports shall not contain the name, address, or any other identifying information of any individual female, and shall take care to ensure that none of the information included in its public reports could reasonably lead to the identification of any individual female about whom information is reported in accordance with the Statistical Reporting of Abortion

Act or of any physician providing information in accordance with the Statistical Reporting of Abortion Act. Nor shall the information described in the preceding sentence be subject to the Oklahoma Open Records Act.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-738f of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The State Board of Medical Licensure and Supervision or the State Board of Osteopathic Examiners shall notify the following of the requirements of the Statistical Reporting of Abortion Act and of the addresses of the pages on the State Department of Health website providing access to the forms it requires and instructions for their electronic submission:

1. By March 1, 2011, all physicians licensed to practice in this state; and

2. Each physician who subsequently becomes newly licensed to practice in this state, at the same time as an official notification to that physician that the physician is so licensed.

B. Individual Abortion Forms or Complications of Induced Abortion Reports that are not submitted by the end of a grace period of thirty (30) days following the due date shall be subject to a late fee of Five Hundred Dollars (\$500.00) for each additional thirty-day period the forms or reports are overdue. Any monies collected under this subsection shall be deposited into an account created within the Department, which shall be used for the administration of the Statistical Reporting of Abortion Act. Any physician required to report in accordance with the Statistical Reporting of Abortion Act who has not completed and electronically submitted a form or report, or has submitted only an incomplete form or report, more than one (1) year following the due date shall be precluded from renewing his or her license until such fines are paid in full and outstanding forms or reports are submitted, and may, in an action brought by the State Department of Health, be directed by a court of competent jurisdiction to electronically submit completed forms or reports within a period stated by court order or be subject to sanctions for civil contempt.

C. Anyone who knowingly or recklessly fails to submit an Individual Abortion Form or Complications of Induced Abortion

Report, or submits false information under the Statistical Reporting of Abortion Act, shall be guilty of a misdemeanor.

D. The Department shall ensure compliance with the Statistical Reporting of Abortion Act and shall verify the data provided by periodic inspections of places where abortions are performed.

E. The Department may promulgate rules in accordance with the Administrative Procedures Act to alter the dates established by the Statistical Reporting of Abortion Act to achieve administrative convenience, fiscal savings, or to reduce the burden of reporting requirements, so long as the forms and reports are made available, on its stable Internet website, to all licensed physicians in this state, and the public reports described in Section 7 of this act are issued at least once every year.

F. If the Department fails to issue the public reports described in Section 7 of this act, an action pursuant to Chapter 26 of Title 12 of the Oklahoma Statutes may be initiated. If judgment is rendered in favor of the plaintiff in any action described in this subsection, the court shall also render judgment for a reasonable attorney fee in favor of the plaintiff against the defendant. If judgment is rendered in favor of the defendant and the court finds that the plaintiff's suit was frivolous and brought in bad faith, the court shall also render judgment for a reasonable attorney fee in favor of the defendant against the plaintiff.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-738g of Title 63, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Legislature, by joint resolution, may appoint one or more of its members, who sponsored or cosponsored this act, in his or her official capacity, to intervene as a matter of right in any case in which the constitutionality of this law is challenged.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-738h of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Sections 1-738.3a, 1-738.13 and 1-740.4a of Title 63 of the Oklahoma Statutes shall become ineffective and of no binding force on the date specified in subsection B of this section, but if the Statistical Reporting of Abortion Act is ever temporarily or permanently restrained or enjoined by judicial order, these sections

shall become effective and enforceable; provided, however, that if such temporary or permanent restraining order or injunction is ever stayed or dissolved, or otherwise ceases to have effect, these sections shall again become ineffective and of no binding force until or unless an injunction or restraining order against the Statistical Reporting of Abortion Act is again in effect. If and to the extent the Statistical Reporting of Abortion Act is restrained or enjoined in part, then only those provisions of these sections that neither conflict with nor substantively duplicate the provisions of the Statistical Reporting of Abortion Act that are not enjoined shall have effect. As promptly as feasible following the issuance of any restraining order or injunction that enjoins part but not all of the Statistical Reporting of Abortion Act, the Attorney General shall issue an opinion specifically identifying those provisions of these sections that are effective and enforceable in accordance with the preceding sentence.

B. The date specified in this subsection is the later of:

1. April 1, 2011; or

2. Thirty (30) calendar days following the date on which the State Department of Health posts on its website the Individual Abortion Form and instructions concerning its electronic submission referenced in Section 5 of this act.

SECTION 11. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

If any one or more provision, section, subsection, sentence, clause, phrase or word of this act or the application thereof to any person or circumstance is found to be unconstitutional, the same is declared to be severable and the balance of this act shall remain effective notwithstanding the unconstitutionality. The Legislature declares that it would have passed this act, and each provision, section, subsection, sentence, clause, phrase or word thereof, irrespective of the fact that any one or more provision, section, subsection, sentence, clause, phrase, or word be declared unconstitutional.

SECTION 12. REPEALER 63 O.S. 2001, Section 1-738, is hereby repealed.

SECTION 13. This act shall become effective November 1, 2009.

Passed the House of Representatives the 13th day of May, 2009.

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Presiding Officer of the House of  
Representatives

Passed the Senate the 15th day of May, 2009.

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Presiding Officer of the Senate