

1 ENGROSSED SENATE
2 BILL NO. 614

By: Daniels of the Senate

3 and

4 Lepak of the House

5
6 An Act relating to abortion; defining terms;
7 requiring certain signage; requiring certain informed
8 consent; providing procedure in case of emergency;
9 requiring State Board of Medical Licensure and
10 Supervision to maintain certain website; providing
11 criminal and administrative penalties; providing
12 civil remedies; requiring certain protection of
13 privacy in court hearings; providing severability;
14 providing for codification; and providing an
15 effective date.

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

17 SECTION 1. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 1-756 of Title 63, unless there
19 is created a duplication in numbering, reads as follows:

20 A. As used in this section:

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

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

(b) to intentionally terminate the pregnancy of a woman
known to be pregnant, with an intention other than to
remove a dead unborn child or, after viability, to

1 produce a live birth and preserve the life and health
2 of the child born alive;

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

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

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

21 "NOTICE TO PATIENTS HAVING MEDICATION ABORTIONS WHICH USE
22 MIFEPRISTONE: Mifepristone, also known as RU-486 or Mifeprex, alone
23 is not always effective in ending a pregnancy. It may be possible
24 to reverse its intended effect if the second pill or tablet has not

1 | been taken or administered. If you change your mind and wish to try
2 | to continue the pregnancy, you can get immediate help by calling the
3 | Abortion Pill Reversal 24-hour Hotline at 877-558-0333 or going to
4 | website <https://www.abortionpillreversal.com/>. Additional
5 | information is available on the State Board of Medical Licensure and
6 | Supervision's website, www.awomansright.org, which provides informed
7 | consent materials under the Woman's Right-to-Know Act, including
8 | information about the development of the unborn child and video of
9 | ultrasound images of the unborn child at various stages of
10 | development."

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

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

23 | C. 1. Except in the case of a medical emergency, a medication
24 | abortion that uses mifepristone shall not be provided or induced or

1 attempted to be provided or induced without informing the female, by
2 telephone or in person, by the physician who is to dispense or
3 provide the abortion drug or drugs, by a referring physician or by
4 an agent of either physician at least seventy-two (72) hours before
5 the abortion:

6 a. that it may be possible to reverse the intended
7 effects of a medication abortion that uses
8 mifepristone if the woman changes her mind but that
9 time is of the essence, and

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

17 2. After the first drug, mifepristone, is dispensed or provided
18 to the patient, the physician or an agent of the physician shall
19 provide written instructions to the pregnant woman which shall
20 include the statement:

21 "NOTICE TO PATIENTS HAVING MEDICATION ABORTIONS WHICH USE
22 MIFEPRISTONE: Mifepristone, also known as RU-486 or Mifeprex, alone
23 is not always effective in ending a pregnancy. It may be possible
24 to reverse its intended effect if the second pill or tablet has not

1 | been taken or administered. If you change your mind and wish to try
2 | to continue the pregnancy, you can get immediate help by calling the
3 | Abortion Pill Reversal 24-hour Hotline at 877-558-0333 or going to
4 | Abortion Pill Reversal website
5 | <https://www.abortionpillreversal.com/>. Additional information is
6 | available on the State Board of Medical Licensure and Supervision's
7 | website, www.awomansright.org, which provides informed consent
8 | materials under the Woman's Right-to-Know Act, including information
9 | about the development of the unborn child and video of ultrasound
10 | images of the unborn child at various stages of development."

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

18 | E. Within ninety (90) days after this act is enacted, the State
19 | Board of Medical Licensure and Supervision shall cause to be
20 | published, in English and in each language which is the primary
21 | language of two percent (2%) or more of the state's population, in
22 | print and on the website required to be developed and maintained
23 | under Section 1-738.11 of Title 63 of the Oklahoma Statutes,
24 | comprehensible materials designed to inform the female of the

1 possibility of reversing the effects of a medication abortion that
2 uses mifepristone, also known as RU-486 or Mifeprex, and information
3 on resources that may be available to help her reverse its effects.
4 The website shall include the Abortion Pill Reversal 24-hour Hotline
5 number 877-558-0333 and the Abortion Pill Reversal website address
6 <https://www.abortionpillreversal.com>.

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

17 G. Any private office, freestanding outpatient clinic or other
18 facility or clinic that fails to post a sign required in subsection
19 B of this section in knowing, reckless or negligent violation of
20 this act shall be assessed a fine of Ten Thousand Dollars
21 (\$10,000.00) by the State Board of Medical Licensure and
22 Supervision. Each day on which a medication abortion that uses
23 mifepristone, other than a medication abortion that is necessary to
24 prevent the death of the pregnant female, is provided in any private

1 office, freestanding outpatient clinic or other facility or clinic
2 during which the required sign is not posted during a portion of
3 business hours when patients or perspective patients are present is
4 a separate violation.

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

19 2. If judgment is rendered in favor of the plaintiff in any
20 action described in this subsection, the court shall also render
21 judgment for a reasonable attorney's fee in favor of the plaintiff
22 against the defendant. If judgment is rendered in favor of the
23 defendant and the court finds that the plaintiff's suit was
24 frivolous and brought in bad faith, the court shall also render

1 judgment for a reasonable attorney's fee in favor of the defendant
2 against the plaintiff.

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

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

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

12 Passed the Senate the 5th day of March, 2019.

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Presiding Officer of the Senate

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16 Passed the House of Representatives the ____ day of _____,
17 2019.

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Presiding Officer of the House
of Representatives

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