

COMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB4111 _____ Of the printed Bill

Page _____ Section _____ Lines _____ Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Mark Vancuren

Adopted: _____

Reading Clerk

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

PROPOSED COMMITTEE
SUBSTITUTE
FOR
HOUSE BILL NO. 4111

By: Vancuren

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to abortion; amending 21 O.S. 2021, Section 652, which relates to penalties for shooting with intent to kill; deleting certain exceptions; amending 21 O.S. 2021, Section 684, which relates to penalties for performing partial-birth abortions; modifying penalties; deleting certain exceptions and the option to file civil actions for relief; deleting review by the State Board of Medical Licensure and Supervision and hearing procedures; amending 21 O.S. 2021, Section 691, which relates to the definition of homicide; deleting certain exceptions; amending 21 O.S. 2021, Section 701.7, which relates to murder in the first degree; expanding scope of crime to include persons who perform abortion procedures and persons who receive abortions; defining term; repealing 63 O.S. 2021, Sections 1-730, 1-731, 1-731.2, 1-731.3, 1-732, 1-733, 1-734, 1-735, 1-736, 1-737, 1-737.4, 1-737.5, 1-737.6, 1-737.7, 1-737.8, 1-737.9, 1-737.10, 1-737.11, 1-737.12, 1-737.13, 1-737.14, 1-737.15, 1-737.16, 1-738i, 1-738j, 1-738k, 1-738l, 1-738m, 1-738n, 1-738o, 1-738p, 1-738q, 1-738.1A, 1-738.2, 1-738.3, 1-738.3a, 1-738.3d, 1-738.3e, 1-738.3f, 1-738.3g, 1-738.3h, 1-738.3i, 1-738.3j, 1-738.3k, 1-738.4, 1-738.5, 1-738.5a, 1-738.6, 1-738.7, 1-738.8, 1-738.9, 1-738.10, 1-738.11, 1-738.12, 1-738.13, 1-738.14, 1-738.15, 1-738.16, 1-738.17, 1-739, 1-740, 1-740.1, 1-740.2, 1-740.2A, 1-740.3, 1-740.4, 1-740.4a, 1-740.4b, 1-740.5, 1-740.6, 1-741.3, 1-744, 1-744.1, 1-744.2, 1-744.3, 1-744.4, 1-744.5, 1-744.6, 1-745.1, 1-745.2, 1-745.3, 1-745.4, 1-745.5, 1-745.6, 1-745.7, 1-745.8, 1-745.9, 1-745.10, 1-745.11, 1-745.12, 1-745.13, 1-745.14, 1-745.15, 1-745.16, 1-745.17, 1-745.18, 1-745.19, 1-746.1, 1-746.2, 1-

1 746.3, 1-746.4, 1-746.5, 1-746.6, 1-746.7, 1-746.8,
2 1-746.9, 1-746.10, 1-748, 1-749, 1-749.1, 1-750, 1-
3 753, 1-756.1, 1-756.2, 1-756.3, 1-756.4, 1-756.5, 1-
4 756.6, 1-756.7, 1-756.8, 1-756.9, 1-756.10, 1-756.11,
5 1-756.12, 1-756.13, 1-756.14, 1-757.1, 1-757.2, 1-
6 757.3, 1-757.4, 1-757.5, 1-757.6, 1-757.7, 1-757.8,
7 1-757.9, 1-757.10, 1-757.11, 1-757.12, 1-757.13, 1-
8 757.14, 1-757.15, and 1-757.16, which relate to
9 abortion; and declaring an emergency.

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

11 SECTION 1. AMENDATORY 21 O.S. 2021, Section 652,
12 is amended to read as follows:

13 Section 652. A. Every person who intentionally and
14 wrongfully shoots another with or discharges any kind of
15 firearm, with intent to kill any person, including an unborn
16 child as defined in Section 1-730 of Title 63 of the Oklahoma
17 Statutes, shall upon conviction be guilty of a felony
18 punishable by imprisonment in the State Penitentiary not
19 exceeding life.

20 B. Every person who uses any vehicle to facilitate the
21 intentional discharge of any kind of firearm, crossbow or other
22 weapon in conscious disregard for the safety of any other person or
23 persons, including an unborn child as defined in Section 1-730 of
24 Title 63 of the Oklahoma Statutes, shall upon conviction be guilty
of a felony punishable by imprisonment in the custody of the
Department of Corrections for a term not less than two (2) years nor
exceeding life.

1 C. Any person who commits any assault and battery upon another,
2 including an unborn child as defined in Section 1-730 of Title 63 of
3 the Oklahoma Statutes, by means of any deadly weapon, or by such
4 other means or force as is likely to produce death, or in any manner
5 attempts to kill another, including an unborn child as defined in
6 Section 1-730 of Title 63 of the Oklahoma Statutes, or in resisting
7 the execution of any legal process, shall upon conviction be guilty
8 of a felony punishable by imprisonment in the State Penitentiary not
9 exceeding life.

10 D. The provisions of this section shall not apply to:

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

14 ~~2. Acts~~ acts which are committed pursuant to usual and
15 customary standards of medical practice during diagnostic testing or
16 therapeutic treatment.

17 ~~E. Under no circumstances shall the mother of the unborn child~~
18 ~~be prosecuted for causing the death of the unborn child unless the~~
19 ~~mother has committed a crime that caused the death of the unborn~~
20 ~~child.~~

21 SECTION 2. AMENDATORY 21 O.S. 2021, Section 684, is
22 amended to read as follows:

23 Section 684. A. Any physician who knowingly performs a
24 partial-birth abortion and thereby kills a human fetus commits

1 murder in the first degree and shall be fined Ten Thousand Dollars
2 ~~(\$10,000.00), or imprisoned in the State Penitentiary for a period~~
3 ~~of not more than two (2) years, or by both such fine and~~
4 imprisonment punished in accordance with the provisions of Section
5 701.9 of this title. ~~This subsection shall not apply to a partial-~~
6 ~~birth abortion that is necessary to save the life of a mother whose~~
7 ~~life is endangered by a physical disorder, illness or injury.~~

8 B. Definitions. As used in this section:

9 1. "Partial-birth abortion" means an abortion in which the
10 person performing the abortion partially vaginally delivers a living
11 fetus before killing the fetus and completing the delivery.

12 2. "Physician" means a doctor of medicine or osteopathy legally
13 authorized to practice medicine and surgery by the state, or any
14 other individual legally authorized by the state to perform
15 abortions; provided, however, that any individual who is not a
16 physician or not otherwise legally authorized by the state to
17 perform abortions, but who nevertheless directly performs a partial-
18 birth abortion, shall be subject to the provisions of this section.

19 3. "Vaginally delivers a living fetus before killing the fetus"
20 means deliberately and intentionally delivers into the vagina a
21 living fetus or a substantial portion thereof, for the purpose of
22 performing a procedure the physician knows will kill the fetus, and
23 kills the fetus.

24 C. ~~Civil Action:~~

1 ~~1. The father, if married to the mother at the time she~~
2 ~~receives a partial-birth abortion procedure, and if the mother has~~
3 ~~not attained the age of eighteen (18) years at the time of the~~
4 ~~abortion, the maternal grandparents of the fetus, may in a civil~~
5 ~~action obtain appropriate relief, unless the pregnancy resulted from~~
6 ~~the plaintiff's criminal conduct or the plaintiff consented to the~~
7 ~~abortion.~~

8 ~~2. Such relief shall include money damages for all injuries,~~
9 ~~psychological and physical, occasioned by the violation of this~~
10 ~~section, and statutory damages equal to three times the cost of the~~
11 ~~partial-birth abortion.~~

12 ~~D. Review by State Board of Medical Licensure and Supervision:~~

13 ~~1. A defendant accused of an offense under this section may~~
14 ~~seek a hearing before the State Board of Medical Licensure and~~
15 ~~Supervision on whether the physician's conduct was necessary to save~~
16 ~~the life of the mother whose life was endangered by a physical~~
17 ~~disorder, illness or injury.~~

18 ~~2. The findings on that issue are admissible at the trial of~~
19 ~~the defendant. Upon a motion of the defendant, the court shall~~
20 ~~delay the beginning of the trial for not more than thirty (30) days~~
21 ~~to permit such a hearing to take place.~~

22 ~~E. A woman upon whom a partial-birth abortion is performed may~~
23 ~~not be prosecuted under this section or for a conspiracy to violate~~
24 ~~this section.~~

1 SECTION 3. AMENDATORY 21 O.S. 2021, Section 691, is
2 amended to read as follows:

3 Section 691. A. Homicide is the killing of one human being by
4 another.

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

8 C. Homicide shall not include:

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

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

15 ~~D. Under no circumstances shall the mother of the unborn child~~
16 ~~be prosecuted for causing the death of the unborn child unless the~~
17 ~~mother has committed a crime that caused the death of the unborn~~
18 ~~child.~~

19 SECTION 4. AMENDATORY 21 O.S. 2021, Section 701.7, is
20 amended to read as follows:

21 Section 701.7 A. A person commits murder in the first degree
22 when that person unlawfully and with malice aforethought causes the
23 death of another human being. Malice is that deliberate intention
24

1 unlawfully to take away the life of a human being, which is
2 manifested by external circumstances capable of proof.

3 B. A person also commits the crime of murder in the first
4 degree, regardless of malice, when that person or any other person
5 takes the life of a human being during, or if the death of a human
6 being results from, the commission or attempted commission of murder
7 of another person, shooting or discharge of a firearm or crossbow
8 with intent to kill, intentional discharge of a firearm or other
9 deadly weapon into any dwelling or building as provided in Section
10 1289.17A of this title, forcible rape, robbery with a dangerous
11 weapon, kidnapping, escape from lawful custody, eluding an officer,
12 first degree burglary, first degree arson, unlawful distributing or
13 dispensing of controlled dangerous substances or synthetic
14 controlled substances, trafficking in illegal drugs, or
15 manufacturing or attempting to manufacture a controlled dangerous
16 substance.

17 1. Except as provided in paragraph 3 of this subsection, the
18 term "synthetic controlled substance" means a substance:

- 19 a. the chemical structure of which is substantially
20 similar to the chemical structure of a controlled
21 substance in Schedule I or II,
22 b. which has a stimulant, depressant, or hallucinogenic
23 effect on the central nervous system that is
24 substantially similar to or greater than the

1 stimulant, depressant, or hallucinogenic effect on the
2 central nervous system of a controlled substance in
3 Schedule I or II, or

4 c. with respect to a particular person, which such person
5 represents or intends to have a stimulant, depressant,
6 or hallucinogenic effect on the central nervous system
7 that is substantially similar to or greater than the
8 stimulant, depressant, or hallucinogenic effect on the
9 central nervous system of a controlled substance in
10 Schedule I or II.

11 2. The designation of gamma butyrolactone does not preclude a
12 finding pursuant to paragraph 1 of this subsection that the chemical
13 is a synthetic controlled substance.

14 3. Such term does not include:

- 15 a. a controlled substance,
16 b. any substance for which there is an approved new drug
17 application,
18 c. with respect to a particular person any substance, if
19 an exemption is in effect for investigational use, for
20 that person, under Section 505 of the Federal Food,
21 Drug, and Cosmetic Act (21 U.S.C. 355) to the extent
22 conduct with respect to such substance is pursuant to
23 such exemption, or

1 d. any substance to the extent not intended for human
2 consumption before such an exemption takes effect with
3 respect to that substance.

4 C. A person commits murder in the first degree when the death
5 of a child results from the willful or malicious injuring,
6 torturing, maiming or using of unreasonable force by said person or
7 who shall willfully cause, procure or permit any of said acts to be
8 done upon the child pursuant to Section 843.5 of this title. It is
9 sufficient for the crime of murder in the first degree that the
10 person either willfully tortured or used unreasonable force upon the
11 child or maliciously injured or maimed the child.

12 D. A person commits murder in the first degree when that person
13 unlawfully and with malice aforethought solicits another person or
14 persons to cause the death of a human being in furtherance of
15 unlawfully manufacturing, distributing or dispensing controlled
16 dangerous substances, as defined in the Uniform Controlled Dangerous
17 Substances Act, unlawfully possessing with intent to distribute or
18 dispense controlled dangerous substances, or trafficking in illegal
19 drugs.

20 E. A person commits murder in the first degree when that person
21 intentionally causes the death of a law enforcement officer,
22 correctional officer, or corrections employee while the officer or
23 employee is in the performance of official duties.

1 F. A person commits murder in the first degree when that person
2 performs any abortion procedure or assists another person in the
3 performance of any abortion procedure and intentionally causes the
4 death of an unborn child.

5 G. The mother of an unborn child commits murder in the first
6 degree when she intentionally receives an abortion that results in
7 the death of her unborn child.

8 H. As used in section, "unborn child" means the unborn
9 offspring of human beings from the moment of conception, through
10 pregnancy, and until live birth including the human conceptus,
11 zygote, morula, blastocyst, embryo, and fetus.

12 SECTION 4. REPEALER 63 O.S. 2021, Sections 1-730, 1-
13 731, 1-731.2, 1-731.3, 1-732, 1-733, 1-734, 1-735, 1-736, 1-737, 1-
14 737.4, 1-737.5, 1-737.6, 1-737.7, 1-737.8, 1-737.9, 1-737.10, 1-
15 737.11, 1-737.12, 1-737.13, 1-737.14, 1-737.15, 1-737.16, 1-738i, 1-
16 738j, 1-738k, 1-738l, 1-738m, 1-738n, 1-738o, 1-738p, 1-738q, 1-
17 738.1A, 1-738.2, 1-738.3, 1-738.3a, 1-738.3d, 1-738.3e, 1-738.3f, 1-
18 738.3g, 1-738.3h, 1-738.3i, 1-738.3j, 1-738.3k, 1-738.4, 1-738.5, 1-
19 738.5a, 1-738.6, 1-738.7, 1-738.8, 1-738.9, 1-738.10, 1-738.11, 1-
20 738.12, 1-738.13, 1-738.14, 1-738.15, 1-738.16, 1-738.17, 1-739, 1-
21 740, 1-740.1, 1-740.2, 1-740.2A, 1-740.3, 1-740.4, 1-740.4a, 1-
22 740.4b, 1-740.5, 1-740.6, 1-741.3, 1-744, 1-744.1, 1-744.2, 1-744.3,
23 1-744.4, 1-744.5, 1-744.6, 1-745.1, 1-745.2, 1-745.3, 1-745.4, 1-
24 745.5, 1-745.6, 1-745.7, 1-745.8, 1-745.9, 1-745.10, 1-745.11, 1-

1 745.12, 1-745.13, 1-745.14, 1-745.15, 1-745.16, 1-745.17, 1-745.18,
2 1-745.19, 1-746.1, 1-746.2, 1-746.3, 1-746.4, 1-746.5, 1-746.6, 1-
3 746.7, 1-746.8, 1-746.9, 1-746.10, 1-748, 1-749, 1-749.1, 1-750, 1-
4 753, 1-756.1, 1-756.2, 1-756.3, 1-756.4, 1-756.5, 1-756.6, 1-756.7,
5 1-756.8, 1-756.9, 1-756.10, 1-756.11, 1-756.12, 1-756.13, 1-756.14,
6 1-757.1, 1-757.2, 1-757.3, 1-757.4, 1-757.5, 1-757.6, 1-757.7, 1-
7 757.8, 1-757.9, 1-757.10, 1-757.11, 1-757.12, 1-757.13, 1-757.14, 1-
8 757.15, and 1-757.16, are hereby repealed.

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

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14 58-2-10394 GRS 02/16/22

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