

1 an ectopic pregnancy, or to remove a dead unborn child who died as
2 the result of a spontaneous miscarriage, accidental trauma, or a
3 criminal assault on the pregnant female or her unborn child;

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

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

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

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

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

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

3 ~~8.~~ 7. "Health" means physical or mental health;

4 ~~9.~~ 8. "Department" means the State Department of Health; and

5 ~~10.~~ 9. "Inducing an abortion" means the administration by any
6 person, including the pregnant woman, of any substance designed or
7 intended to cause an expulsion of the unborn child, effecting an
8 abortion as defined above.

9 B. Nothing contained herein shall be construed in any manner to
10 include any contraceptive device or medication or sterilization
11 procedure.

12 SECTION 2. AMENDATORY 63 O.S. 2021, Section 1-732, is
13 amended to read as follows:

14 Section 1-732. A. No person shall perform or induce an
15 abortion upon a pregnant woman ~~after such time as her unborn child~~
16 ~~has become viable~~ if more than thirty (30) days have elapsed since
17 the probable beginning of the last menstrual period of the pregnant
18 woman, based upon either information provided by her or by an
19 examination by her attending physician, unless such abortion is
20 necessary to prevent the death of the pregnant woman or to prevent
21 impairment to her health.

22 B. ~~An unborn child shall be presumed to be viable if more than~~
23 ~~twenty-four (24) weeks have elapsed since the probable beginning of~~
24 ~~the last menstrual period of the pregnant woman, based upon either~~

1 ~~information provided by her or by an examination by her attending~~
2 ~~physician. If it is the judgment of the attending physician that a~~
3 ~~particular unborn child is not viable where the presumption of~~
4 ~~viability exists as to that particular unborn child, then he shall~~
5 ~~certify in writing the precise medical criteria upon which he has~~
6 ~~determined that the particular unborn child is not viable before an~~
7 ~~abortion may be performed or induced.~~

8 C. No abortion of a ~~viable~~ an unborn child after the time
9 period specified by subsection A of this section shall be performed
10 or induced except after written certification by the attending
11 physician that in ~~his~~ the best medical judgment of the physician the
12 abortion is necessary to prevent the death of the pregnant woman or
13 to prevent an impairment to her health. The physician shall further
14 certify in writing the medical indications for such abortion and the
15 probable health consequences if the abortion is not performed or
16 induced.

17 ~~D.~~ C. The physician who shall perform or induce an abortion
18 upon a pregnant woman after ~~such time as her unborn child has become~~
19 ~~viable~~ the time period specified by subsection A of this section
20 shall utilize the available method or technique of abortion most
21 likely to preserve the life and health of the unborn child, unless
22 ~~he shall first certify~~ the physician first certifies in writing that
23 in ~~his~~ the best medical judgment of the physician such method or
24 technique ~~shall present~~ presents a significantly greater danger to

1 the life or health of the pregnant woman than another available
2 method or technique.

3 ~~E.~~ D. An abortion of ~~a viable~~ an unborn child after the time
4 period specified by subsection A of this section shall be performed
5 or induced only when there is in attendance a physician other than
6 the physician performing or inducing the abortion who shall take
7 control of and provide immediate medical care for the child. During
8 the performance or inducing of the abortion, the physician
9 performing it, and subsequent to it, the physician required by this
10 section to be in attendance, shall take all reasonable steps in
11 keeping with good medical practice, consistent with the procedure
12 used, to preserve the life and health of the child, in the same
13 manner as if the child had been born naturally or spontaneously.
14 The requirement of the attendance of a second physician may be
15 waived when in the best judgment of the attending physician a
16 medical emergency exists and further delay would result in a serious
17 threat to the life or physical health of the pregnant woman.
18 Provided that, under such emergency circumstances and waiver, the
19 attending physician shall have the duty to take all reasonable steps
20 to preserve the life and health of the child before, during and
21 after the abortion procedure, unless such steps ~~shall~~, in the best
22 medical judgment of the physician, present a significantly greater
23 danger to the life or health of the pregnant woman.

24

1 ~~F.~~ E. Any person violating subsection A of this section shall
2 be guilty of homicide.

3 SECTION 3. AMENDATORY 63 O.S. 2021, Section 1-734, is
4 amended to read as follows:

5 Section 1-734. A. No person shall purposely take the life of a
6 child born as a result of an abortion or attempted abortion which is
7 alive when partially or totally removed from the uterus of the
8 pregnant woman.

9 B. ~~No~~ After the time period specified by subsection A of
10 Section 1-732 of this title, no person shall purposely take the life
11 of a ~~viable~~ child who is alive while inside the uterus of the
12 pregnant woman and may be removed alive therefrom without creating
13 any significant danger to her life or health.

14 C. Any person who performs, induces, or participates in the
15 performance or inducing of an abortion shall take all reasonable
16 measures to preserve the life of a child who is alive when partially
17 or totally removed from the uterus of the pregnant woman, so long as
18 the measures do not create any significant danger to her life or
19 health.

20 D. Any person violating this section shall be guilty of
21 homicide.

22 SECTION 4. AMENDATORY 63 O.S. 2021, Section 1-737.8, is
23 amended to read as follows:

24

1 Section 1-737.8. For the purposes of the Oklahoma Unborn Child
2 Protection from Dismemberment Abortion Act:

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

5 a. to purposely kill the unborn child of a woman known to
6 be pregnant, or

7 b. to purposely terminate the pregnancy of a woman known
8 to be pregnant, with a purpose other than:

9 (1) after ~~viability~~ the time period specified by
10 subsection A of Section 1-732 of this title, to
11 produce a live birth and preserve the life and
12 health of the child born alive, or

13 (2) to remove a dead unborn child;

14 2. "Attempt to perform an abortion" means to do or omit to do
15 anything that, under the circumstances as the actor believes them to
16 be, is an act or omission constituting a substantial step in a
17 course of conduct planned to culminate in the actor performing an
18 abortion. Such substantial steps include, but are not limited to:

19 a. agreeing with an individual to perform an abortion on
20 that individual or on some other person, whether or
21 not the term "abortion" is used in the agreement, and
22 whether or not the agreement is contingent on another
23 factor such as receipt of payment or a determination
24 of pregnancy, or

1 b. scheduling or planning a time to perform an abortion
2 on an individual, whether or not the term "abortion"
3 is used, and whether or not the performance is
4 contingent on another factor such as receipt of
5 payment or a determination of pregnancy.

6 This definition shall not be construed to require that an abortion
7 procedure actually must be initiated for an attempt to occur;

8 3. "Dismemberment abortion" means, with the purpose of causing
9 the death of an unborn child, purposely to dismember a living unborn
10 child and extract him or her one piece at a time from the uterus
11 through use of clamps, grasping forceps, tongs, scissors or similar
12 instruments that, through the convergence of two rigid levers,
13 slice, crush, and/or grasp a portion of the unborn child's body to
14 cut or rip it off. This definition does not include an abortion
15 which uses suction to dismember the body of the developing unborn
16 child by sucking fetal parts into a collection container;

17 4. "Physician" means a person licensed to practice medicine and
18 surgery or osteopathic medicine and surgery, or otherwise legally
19 authorized to perform an abortion;

20 5. "Purposely" means the following: A person acts purposely
21 with respect to a material element of an offense when:

22 a. if the element involves the nature of his or her
23 conduct or a result thereof, it is his or her
24

1 conscious objective to engage in conduct of that
2 nature or to cause such a result, and

3 b. if the element involves the attendant circumstances,
4 he or she is aware of the existence of such
5 circumstances or he or she believes or hopes that they
6 exist;

7 6. "Serious health risk to the unborn child's mother" means
8 that in reasonable medical judgment she has a condition that so
9 complicates her medical condition that it necessitates the abortion
10 of her pregnancy to avert her death or to avert serious risk of
11 substantial and irreversible physical impairment of a major bodily
12 function, not including psychological or emotional conditions. No
13 such condition may be determined to exist if it is based on a claim
14 or diagnosis that the woman will engage in conduct which she intends
15 to result in her death or in substantial and irreversible physical
16 impairment of a major bodily function; and

17 7. "Woman" means a female human being whether or not she has
18 reached the age of majority.

19 SECTION 5. AMENDATORY 63 O.S. 2021, Section 1-740.16, is
20 amended to read as follows:

21 Section 1-740.16. As used in the Choosing Childbirth Act:

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

1 a. kill the unborn child of a woman known to be pregnant,
2 or

3 b. terminate the pregnancy of a woman known to be
4 pregnant, with an intention other than:

5 (1) after ~~viability of the unborn child~~ the time
6 period specified by subsection A of Section 1-732
7 of this title, to produce a live birth and
8 preserve the life and health of the child born
9 alive, or

10 (2) to remove a dead unborn child;

11 2. "Unborn child" means an individual organism of the species
12 Homo sapiens from fertilization until birth; and

13 3. "Grant-supervising entity" means a private entity which
14 approves all grants provided under the Choosing Childbirth Act and
15 which:

16 a. is organized as a not-for-profit corporation in
17 Oklahoma and as a 501(c)3 entity under the federal
18 Internal Revenue Code, and

19 b. does not encourage or counsel any woman to have an
20 abortion not necessary to prevent her death, to
21 provide her such an abortion or to refer her for such
22 an abortion, and does not accept funds or services
23 knowingly from any entity which performs abortions or
24 receives money for abortions.

1 SECTION 6. AMENDATORY 63 O.S. 2021, Section 1-745.3, is
2 amended to read as follows:

3 Section 1-745.3. The Legislature ~~of the State of Oklahoma~~ finds
4 that:

5 1. Pain receptors (nociceptors) are present throughout the
6 unborn child's entire body by no later than sixteen (16) weeks after
7 fertilization and nerves link these receptors to the brain's
8 thalamus and subcortical plate by no later than twenty (20) weeks;

9 2. By eight (8) weeks after fertilization, the unborn child
10 reacts to touch. After twenty (20) weeks, the unborn child reacts
11 to stimuli that would be recognized as painful if applied to an
12 adult human, for example by recoiling;

13 3. In the unborn child, application of such painful stimuli is
14 associated with significant increases in stress hormones known as
15 the stress response;

16 4. Subjection to such painful stimuli is associated with long-
17 term harmful neurodevelopmental effects, such as altered pain
18 sensitivity and, possibly, emotional, behavioral, and learning
19 disabilities later in life;

20 5. For the purposes of surgery on unborn children, fetal
21 anesthesia is routinely administered and is associated with a
22 decrease in stress hormones compared to their level when painful
23 stimuli are applied without such anesthesia;

24

1 6. The position, asserted by some medical experts, that the
2 unborn child is incapable of experiencing pain until a point later
3 in pregnancy than twenty (20) weeks after fertilization
4 predominately rests on the assumption that the ability to experience
5 pain depends on the cerebral cortex and requires nerve connections
6 between the thalamus and the cortex. However, recent medical
7 research and analysis, especially since 2007, provides strong
8 evidence for the conclusion that a functioning cortex is not
9 necessary to experience pain;

10 7. Substantial evidence indicates that children born missing
11 the bulk of the cerebral cortex, those with hydranencephaly,
12 nevertheless experience pain;

13 8. In adults, stimulation or ablation of the cerebral cortex
14 does not alter pain perception, while stimulation or ablation of the
15 thalamus does;

16 9. Substantial evidence indicates that structures used for pain
17 processing in early development differ from those of adults, using
18 different neural elements available at specific times during
19 development, such as the subcortical plate, to fulfill the role of
20 pain processing;

21 10. The position, asserted by some, that the unborn child
22 remains in a coma-like sleep state that precludes the unborn child
23 from experiencing pain is inconsistent with the documented reaction
24 of unborn children to painful stimuli and with the experience of

1 fetal surgeons who have found it necessary to sedate the unborn
2 child with anesthesia to prevent the unborn child from thrashing
3 about in reaction to invasive surgery;

4 11. Consequently, there is substantial medical evidence that an
5 unborn child is capable of experiencing pain by twenty (20) weeks
6 after fertilization;

7 12. It is the purpose of ~~the State of Oklahoma~~ this state to
8 assert a compelling state interest in protecting the lives of unborn
9 children from the stage at which substantial medical evidence
10 indicates that they are capable of feeling pain; and

11 13. Oklahoma's compelling state interest in protecting the
12 lives of unborn children from the stage at which substantial medical
13 evidence indicates that they are capable of feeling pain is intended
14 to be separate from and independent of Oklahoma's compelling state
15 interest in protecting the lives of unborn children ~~from the stage~~
16 ~~of viability~~ after the time period specified by subsection A of
17 Section 1-732 of this title, and neither state interest is intended
18 to replace the other.

19 SECTION 7. AMENDATORY 63 O.S. 2021, Section 1-756, is
20 amended to read as follows:

21 Section 1-756. A. As used in this section:

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

24

1 (a) to intentionally kill the unborn child of a woman
2 known to be pregnant~~+~~, or

3 (b) to intentionally terminate the pregnancy of a woman
4 known to be pregnant, with an intention other than to
5 remove a dead unborn child or, after ~~viability~~ the
6 time period specified by subsection A of Section 1-732
7 of this title, to produce a live birth and preserve
8 the life and health of the child born alive;

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

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

22 B. 1. Any private office, freestanding outpatient clinic,
23 hospital or other facility or clinic in which medication abortions
24 that use mifepristone are provided shall conspicuously post a sign

1 in a location defined in paragraph 3 of this subsection so as to be
2 clearly visible to patients, which reads:

3 "NOTICE TO PATIENTS HAVING MEDICATION ABORTIONS WHICH USE
4 MIFEPRISTONE: Mifepristone, also known as RU-486 or Mifeprex, alone
5 is not always effective in ending a pregnancy. It may be possible
6 to reverse its intended effect if the second pill or tablet has not
7 been taken or administered. If you change your mind and wish to try
8 to continue the pregnancy, you can get immediate help by calling the
9 Abortion Pill Reversal 24-hour Hotline at 877-558-0333 or going to
10 website <https://www.abortionpillreversal.com/>. Additional
11 information is available on the State Board of Medical Licensure and
12 Supervision's website, www.awomansright.org, which provides informed
13 consent materials under the Woman's Right-to-Know Act, including
14 information about the development of the unborn child and video of
15 ultrasound images of the unborn child at various stages of
16 development."

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

20 3. A facility in which medication abortions that use
21 mifepristone are provided that is a private office or a freestanding
22 outpatient clinic shall post the required sign in each patient
23 waiting room and patient consultation room used by patients to whom
24 such medication abortions are provided. A hospital or any other

1 facility in which medication abortions are performed that is not a
2 private office or freestanding outpatient clinic shall post the
3 required sign in each patient admission area used by patients on
4 whom abortions are performed.

5 C. 1. Except in the case of a medical emergency, a medication
6 abortion that uses mifepristone shall not be provided or induced or
7 attempted to be provided or induced without informing the female, by
8 telephone or in person, by the physician who is to dispense or
9 provide the abortion drug or drugs, by a referring physician or by
10 an agent of either physician at least seventy-two (72) hours before
11 the abortion:

12 a. that it may be possible to reverse the intended
13 effects of a medication abortion that uses
14 mifepristone if the woman changes her mind but that
15 time is of the essence, and

16 b. of information on reversing the effects of a
17 medication abortion that uses mifepristone, which is
18 available on the website of the State Board of Medical
19 Licensure and ~~Supervision~~ Supervision, and included in
20 such information is the Abortion Pill Reversal 24-hour
21 Hotline number: 877-558-0333 and website address:
22 <https://www.abortionpillreversal.com>.

23 2. After the first drug, mifepristone, is dispensed or provided
24 to the patient, the physician or an agent of the physician shall

1 provide written instructions to the pregnant woman which shall
2 include the statement:

3 "NOTICE TO PATIENTS HAVING MEDICATION ABORTIONS WHICH USE
4 MIFEPRISTONE: Mifepristone, also known as RU-486 or Mifeprex, alone
5 is not always effective in ending a pregnancy. It may be possible
6 to reverse its intended effect if the second pill or tablet has not
7 been taken or administered. If you change your mind and wish to try
8 to continue the pregnancy, you can get immediate help by calling the
9 Abortion Pill Reversal 24-hour Hotline at 877-558-0333 or going to
10 Abortion Pill Reversal website,
11 <https://www.abortionpillreversal.com/>. Additional information is
12 available on the State Board of Medical Licensure and Supervision's
13 website, www.awomansright.org, which provides informed consent
14 materials under the Woman's Right-to-Know Act, including information
15 about the development of the unborn child and video of ultrasound
16 images of the unborn child at various stages of development."

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

24

1 E. Within ninety (90) days after ~~this act~~ Section 1-751 et seq.
2 of this title is enacted, the State Board of Medical Licensure and
3 Supervision shall cause to be published, in English and in each
4 language which is the primary language of two percent (2%) or more
5 of the state's population, in print and on the website required to
6 be developed and maintained under Section 1-738.11 of Title 63 of
7 the Oklahoma Statutes, comprehensible materials designed to inform
8 the female of the possibility of reversing the effects of a
9 medication abortion that uses mifepristone, also known as RU-486 or
10 Mifeprex, and information on resources that may be available to help
11 her reverse its effects. The website shall include the Abortion
12 Pill Reversal 24-hour Hotline number 877-558-0333 and the Abortion
13 Pill Reversal website address <https://www.abortionpillreversal.com>.

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

24

1 G. Any private office, freestanding outpatient clinic or other
2 facility or clinic that fails to post a sign required in subsection
3 B of this section in knowing, reckless or negligent violation of
4 ~~this act~~ Section 1-751 et seq. of this title shall be assessed a
5 fine of Ten Thousand Dollars (\$10,000.00) by the State Board of
6 Medical Licensure and Supervision. Each day on which a medication
7 abortion that uses mifepristone, other than a medication abortion
8 that is necessary to prevent the death of the pregnant female, is
9 provided in any private office, freestanding outpatient clinic or
10 other facility or clinic during which the required sign is not
11 posted during a portion of business hours when patients or
12 ~~perspective~~ prospective patients are present is a separate
13 violation.

14 H. 1. Any person upon whom an abortion has been performed
15 without this section having been complied with, the father of the
16 unborn child who was the subject of such an abortion, or, if the
17 female had not attained the age of eighteen (18) years at the time
18 of the medication abortion or has died as a result of the medication
19 abortion, the grandparent of such an unborn child may maintain an
20 action against the person who provided the medication abortion in
21 knowing or reckless violation of this section for actual and
22 punitive damages. Any person upon whom an abortion has been
23 attempted without this section having been complied with may
24 maintain an action against the person who attempted to provide the

1 abortion in knowing or reckless violation of this section for actual
2 and punitive damages. No damages may be awarded a plaintiff if the
3 pregnancy resulted from the plaintiff's criminal conduct.

4 2. If judgment is rendered in favor of the plaintiff in any
5 action described in this subsection, the court shall also render
6 judgment for a reasonable ~~attorney's~~ attorney fee in favor of the
7 plaintiff against the defendant. If judgment is rendered in favor
8 of the defendant and the court finds that the plaintiff's suit was
9 frivolous and brought in bad faith, the court shall also render
10 judgment for a reasonable ~~attorney's~~ attorney fee in favor of the
11 defendant against the plaintiff.

12 I. In every civil or criminal proceeding or action brought
13 under this section, the court shall rule whether the anonymity of
14 any female to whom a medication abortion has been provided or
15 attempted shall be preserved from public disclosure if she does not
16 give her consent to such disclosure. The court, upon motion or sua
17 sponte, shall make such a ruling and, upon determining that her
18 anonymity should be preserved, shall issue orders to the parties,
19 witnesses and counsel and shall direct the sealing of the record and
20 exclusion of individuals from courtrooms or hearing rooms to the
21 extent necessary to safeguard her identity from public disclosure.
22 Each such order shall be accompanied by specific written findings
23 explaining why the anonymity of the female should be preserved from
24 public disclosure, why the order is essential to that end, how the

1 order is narrowly tailored to serve that interest and why no
2 reasonable less restrictive alternative exists. In the absence of
3 written consent of the female to whom an abortion drug or drugs ~~has~~
4 have been provided or attempted to be provided, anyone, other than a
5 public official, who brings an action under subsection ~~D~~ H of this
6 section shall do so under a pseudonym. This section may not be
7 construed to conceal the identity of the plaintiff or of witnesses
8 from the defendant.

9 J. If any one or more provision, section, subsection, sentence,
10 clause, phrase or word of ~~this act~~ Section 1-751 et seq. of this
11 title or the application thereof to any person or circumstance is
12 found to be unconstitutional, the same is hereby declared to be
13 severable and the balance of ~~this act~~ Section 1-751 et seq. of this
14 title shall remain effective notwithstanding such
15 unconstitutionality. The Legislature hereby declares that it would
16 have passed ~~this act~~ Section 1-751 et seq. of this title, and each
17 provision, section, subsection, sentence, clause, phrase or word
18 thereof, irrespective of the fact that any one or more provision,
19 section, subsection, sentence, clause, phrase or word be declared
20 unconstitutional.

21 SECTION 8. This act shall become effective November 1, 2022.

22

23 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 04/12/2022 - DO PASS.

24