

STATE OF OKLAHOMA

1st Session of the 60th Legislature (2025)

SENATE BILL 989

By: Daniels

AS INTRODUCED

An Act relating to abortion; creating the Wrongful Death Protection Act of 2025; providing short title; defining terms; making certain individuals liable for wrongful death from abortion-inducing drugs; providing exception; specifying effect of certain provisions; providing certain affirmative defense; specifying certain burden of proof; establishing deadline for filing of civil action; disallowing certain defenses; voiding waiver of certain right; specifying applicability of certain provisions; prohibiting certain civil action against federal government; specifying extent of certain jurisdiction; providing certain exclusions; providing for extraterritorial effect; specifying venue for civil action; prohibiting certain transfer of venue; granting specified entities certain immunities; specifying applicability of immunities; prohibiting certain waiver of immunity; limiting jurisdiction of courts; providing certain construction; providing for severability; expressing legislative intent and declarations; providing for certain interpretation and enforcement; providing for codification; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3246.1 of Title 12, unless there is created a duplication in numbering, reads as follows:

1 This act shall be known and may be cited as the "Wrongful Death  
2 Protection Act of 2025".

3 SECTION 2. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 3246.2 of Title 12, unless there  
5 is created a duplication in numbering, reads as follows:

6 As used in the Wrongful Death Protection Act of 2025:

7 1. "Abortion" means the act of using, prescribing,  
8 administering, procuring, or selling any instrument, medicine, drug,  
9 or any other substance, device, or means with the purpose to  
10 terminate the pregnancy of a woman, with knowledge that the  
11 termination by any of those means will with reasonable likelihood  
12 cause the death of an unborn child. The term does not include:

13 a. in vitro fertilization or fertility treatments of any  
14 type,

15 b. the use, prescription, administration, procuring, or  
16 selling of Plan B, morning-after pills, intrauterine  
17 devices, or any other type of contraception or  
18 emergency contraception, or

19 c. an act performed with the purpose to:

20 (1) save the life or preserve the health of the  
21 unborn child,

22 (2) remove a dead unborn child caused by spontaneous  
23 abortion, or

24 (3) remove an ectopic pregnancy;

1           2. "Abortion-inducing drugs" includes mifepristone,  
2 misoprostol, and any drug, medication, or substance that is used to  
3 terminate the life of an unborn child. The term does not include:

4           a. Plan B, morning-after pills, intrauterine devices, or  
5 any other type of contraception or emergency  
6 contraception, or

7           b. drugs or medications that are possessed or distributed  
8 for a purpose that does not include the termination of  
9 a pregnancy, such as misoprostol that is possessed or  
10 distributed for the purpose of treating stomach  
11 ulcers;

12           3. "Fertilization" means the fusion of a human spermatozoon  
13 with a human ovum;

14           4. "Interactive computer service" means any information  
15 service, system, or access software provider that provides or  
16 enables computer access by multiple users to a computer server,  
17 including specifically a service or system that provides access to  
18 the Internet and such systems operated or services offered by  
19 libraries or educational institutions;

20           5. "Unborn child" means an individual organism of the species  
21 Homo sapiens in any stage of gestation from fertilization until live  
22 birth; and

23           6. "Woman" and "women" include any person whose biological sex  
24 is female, including any person with XX chromosomes and any person

1 with a uterus, regardless of any gender identity that the person  
2 attempts to assert or claim.

3 SECTION 3. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 3246.3 of Title 12, unless there  
5 is created a duplication in numbering, reads as follows:

6 A. Notwithstanding any other law, any person who manufactures,  
7 mails, distributes, transports, delivers, or provides abortion-  
8 inducing drugs, or who aids or abets the manufacture, mailing,  
9 distribution, transportation, delivery, or provision of abortion-  
10 inducing drugs, shall be strictly, absolutely, and jointly and  
11 severally liable for the wrongful death of any unborn child or  
12 pregnant woman who dies from the use of abortion-inducing drugs, and  
13 for any personal injuries suffered by any unborn child or pregnant  
14 woman from the use of abortion-inducing drugs; provided, that no  
15 lawsuit may be brought under this section against a provider or user  
16 of an interactive computer service if such a lawsuit would be  
17 preempted by 47 U.S.C., Section 230(c).

18 B. A person who engages in the conduct described in this  
19 section is liable if his or her conduct contributes in any way to  
20 the death or personal injuries suffered by an unborn child or a  
21 pregnant woman, regardless of whether the person's conduct is a but-  
22 for or proximate cause of the death or personal injuries suffered by  
23 an unborn child or a pregnant woman.

1 C. It is an affirmative defense if a person sued under this  
2 section:

3 1. Was unaware that the person was engaged in the conduct  
4 described in subsection A of this section; and

5 2. Took every reasonable precaution to ensure that the person  
6 would not manufacture, mail, distribute, transport, deliver,  
7 provide, or aid or abet the manufacture, mailing, distribution,  
8 transportation, delivery, or provision of abortion-inducing drugs.

9 The defendant has the burden of proving an affirmative defense  
10 under this subsection by a preponderance of the evidence.

11 D. Notwithstanding any other law, a person may bring an action  
12 under this section within six (6) years of the date the cause of  
13 action accrues.

14 E. Notwithstanding any other law, none of the following is a  
15 defense to an action brought under this section:

16 1. Ignorance or mistake of law;

17 2. A defendant's belief that the requirements or provisions of  
18 this act are unconstitutional or were unconstitutional;

19 3. A defendant's reliance on any court decision that has been  
20 overruled on appeal or by a subsequent court, even if that court  
21 decision had not been overruled when the cause of action accrued;

22 4. A defendant's reliance on any state or federal court  
23 decision that is not binding on the court in which the action has  
24 been brought;

1           5. A defendant's reliance on any federal statute, agency rule  
2 or action, or treaty that has been repealed, superseded, or declared  
3 invalid or unconstitutional, even if that federal statute, agency  
4 rule or action, or treaty had not been repealed, superseded, or  
5 declared invalid or unconstitutional when the cause of action  
6 accrued;

7           6. Non-mutual issue preclusion or non-mutual claim preclusion;

8           7. The consent of the plaintiff or the unborn child's mother to  
9 the abortion, or the consent of one or both of the parents of the  
10 unborn child's mother to the abortion, or the consent of the legal  
11 guardian of the unborn child's mother to the abortion;

12           8. Contributory or comparative negligence;

13           9. Assumption of risk; or

14           10. Lack of but-for or proximate causation.

15           F. Notwithstanding any other law, any waiver of the right to  
16 sue under this section shall be void as against public policy, and  
17 shall not be enforceable in any court.

18           G. Notwithstanding any other law, this section does not impose  
19 liability for:

20           1. Death or personal injuries resulting from an abortion  
21 performed or induced to preserve the life of a pregnant woman in  
22 accordance with Section 861 of Title 21 of the Oklahoma Statutes;

23           2. Speech or conduct protected by the First Amendment to the  
24 United States Constitution, as made applicable to the states through  
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1 the interpretation of the Fourteenth Amendment by the Supreme Court  
2 of the United States, or by Article II, Section 22 of the Oklahoma  
3 Constitution;

4 3. Conduct that the State of Oklahoma is forbidden to regulate  
5 under federal law or the United States Constitution;

6 4. Conduct taken by a pregnant woman who aborts or seeks to  
7 abort her unborn child;

8 5. The provision of basic public services, including fire and  
9 police protection and utilities, by a governmental entity or a  
10 common carrier to an abortion provider, an abortion fund, an  
11 affiliate of an abortion provider or abortion fund, or a  
12 manufacturer or distributor of abortion-inducing drugs, in the same  
13 manner as the governmental entity or common carrier provides those  
14 services to the general public; or

15 6. Conduct taken at the behest of federal agencies,  
16 contractors, or employees that are carrying out duties under federal  
17 law, if a prohibition on that conduct would violate the doctrines of  
18 preemption or intergovernmental immunity.

19 H. Notwithstanding any other law, a civil action under this  
20 section may not be brought against any person that acted at the  
21 behest of federal agencies, contractors, or employees that are  
22 carrying out duties under federal law, if the imposition of  
23 liability would violate the doctrines of preemption or  
24 intergovernmental immunity.

1 I. Notwithstanding any other law, including Section 2004 of  
2 Title 12 of the Oklahoma Statutes, the courts of this state shall  
3 have personal jurisdiction over any defendant sued under this  
4 section to the maximum extent permitted by the Fourteenth Amendment  
5 to the United States Constitution and the Oklahoma Constitution.

6 J. Notwithstanding any other law, this section shall apply to  
7 any abortion performed, induced, or attempted upon a resident of  
8 this state, regardless of where that abortion or attempted abortion  
9 occurs, and to any civil action brought under this section, to the  
10 maximum extent permitted by the United States Constitution.

11 Notwithstanding any other law, any contractual choice-of-law  
12 provision that requires or purports to require application of the  
13 laws of a different jurisdiction shall be void as against public  
14 policy, and shall not be enforceable in any court.

15 K. Notwithstanding any other law, a civil action brought under  
16 this section shall not be subject to any provision of the Oklahoma  
17 Citizens Participation Act, Section 1430 et seq. of Title 12 of the  
18 Oklahoma Statutes.

19 L. Notwithstanding any other law, including Section 2023 of  
20 Title 12 of the Oklahoma Statutes, a civil action under this section  
21 may not be litigated on behalf of a plaintiff class or a defendant  
22 class, and no court may certify a class under Section 2023 of Title  
23 12 of the Oklahoma Statutes, in any civil action brought under this  
24 section.



1 M. Notwithstanding any other law, the prohibitions of this act  
2 shall apply extraterritorially to the maximum extent permitted by  
3 the United States Constitution and the Oklahoma Constitution.

4 SECTION 4. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 3246.4 of Title 12, unless there  
6 is created a duplication in numbering, reads as follows:

7 A. Notwithstanding any other provision of law, a civil action  
8 brought under Section 3 of this act may be brought in the county:

9 1. In which all or a substantial part of the events or  
10 omissions giving rise to the claim occurred;

11 2. Of residence for any one of the natural person defendants at  
12 the time the cause of action accrued;

13 3. Of the principal office in this state of any one of the  
14 defendants that is not a natural person; or

15 4. Of residence for the claimant if the claimant is a natural  
16 person residing in this state.

17 B. If a civil action is brought in any one of the venues  
18 described by subsection A of this section, then the action may not  
19 be transferred to a different venue without the written consent of  
20 all parties.

21 SECTION 5. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 3246.5 of Title 12, unless there  
23 is created a duplication in numbering, reads as follows:

1 A. Notwithstanding any other provision of law, the state shall  
2 have sovereign immunity, each of its political subdivisions shall  
3 have governmental immunity, and each officer and employee of this  
4 state or a political subdivision shall have official immunity, and  
5 sovereign or governmental immunity, as appropriate, in any action,  
6 claim, counterclaim, or any type of legal or equitable action that  
7 challenges the validity of any provision or application of this act,  
8 on constitutional grounds or otherwise, or that seeks to prevent or  
9 enjoin the state, its political subdivisions, or any officer or  
10 employee of this state or a political subdivision from enforcing any  
11 provision or application of this act, or from hearing, adjudicating,  
12 or docketing a civil action brought under Section 3 of this act,  
13 unless that immunity has been abrogated or preempted by federal law  
14 in a manner consistent with the United States Constitution. The  
15 sovereign immunity conferred by this section upon the state and each  
16 of its officers and employees includes the constitutional sovereign  
17 immunity recognized by the Supreme Court of the United States in  
18 *Seminole Tribe of Florida v. Florida*, 517 U.S. 44 (1996), and *Alden*  
19 *v. Maine*, 527 U.S. 706 (1999), which applies in both state and  
20 federal court and which may not be abrogated by Congress or by any  
21 state or federal court except pursuant to congressional legislation  
22 authorized by Section 5 of the Fourteenth Amendment to the United  
23 States Constitution, by the Bankruptcy Clause of Article I, or by  
24 Congress's powers to raise and support armies and to provide and

1 maintain a navy, or by any other ground that might be recognized by  
2 the Supreme Court of the United States.

3 B. Notwithstanding any other provision of law to the contrary,  
4 the immunities conferred by subsection A of this section shall apply  
5 in every court, both state and federal, and in every adjudicative  
6 proceeding of any type whatsoever.

7 C. Notwithstanding any other provision of law, no provision of  
8 state law may be construed to waive or abrogate an immunity  
9 described in subsection A of this section unless it expressly waives  
10 or abrogates immunity with specific reference to this section.

11 D. Notwithstanding any other provision of law, no attorney  
12 representing the state, its political subdivisions, or any officer  
13 or employee of this state or a political subdivision is authorized  
14 or permitted to waive an immunity described in subsection A of this  
15 section or take any action that would result in a waiver of that  
16 immunity, and any such action or purported waiver shall be regarded  
17 as a legal nullity and an ultra vires act.

18 E. Notwithstanding any other provision of law, no court of this  
19 state may award declaratory or injunctive relief, or any type of  
20 stay or writ, including a writ of prohibition, that would pronounce  
21 any provision or application of this act invalid or  
22 unconstitutional, or that would restrain the state, its political  
23 subdivisions, any officer, employee, or agent of this state or a  
24 political subdivision, or any person from enforcing any provision or

1 application of this act, or from hearing, adjudicating, docketing,  
2 or filing a civil action brought under Section 3 of this act, and no  
3 court of this state shall have jurisdiction to consider any action,  
4 claim, or counterclaim that seeks such relief, and no such action,  
5 claim, or counterclaim may be litigated on behalf of a plaintiff or  
6 defendant class, notwithstanding Section 2023 of Title 12 of the  
7 Oklahoma Statutes, and no court may certify a plaintiff or defendant  
8 class in any action seeking the relief described in this subsection.

9 F. Nothing in this section or act shall be construed to prevent  
10 a litigant from asserting the invalidity or unconstitutionality of  
11 any provision or application of this act as a defense to any action,  
12 claim, or counterclaim brought against that litigant.

13 SECTION 6. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 3246.6 of Title 12, unless there  
15 is created a duplication in numbering, reads as follows:

16 A. Mindful of *Leavitt v. Jane L.*, 518 U.S. 137 (1996), in which  
17 in the context of determining the severability of a state statute  
18 regulating abortion the Supreme Court of the United States held that  
19 an explicit statement of legislative intent is controlling, it is  
20 the intent of the Legislature that every provision, section,  
21 subsection, sentence, clause, phrase, or word in this act, and every  
22 application of the provisions in this act to every person, group of  
23 persons, or circumstances, are severable from each other.

1 B. If any application of any provision in this act to any  
2 person, group of persons, or circumstances is found by a court to be  
3 invalid, preempted, or unconstitutional, for any reason whatsoever,  
4 then the remaining applications of that provision to all other  
5 persons and circumstances shall be severed and preserved, and shall  
6 remain in effect. All constitutionally valid applications of the  
7 provisions in this act shall be severed from any applications that a  
8 court finds to be invalid, preempted, or unconstitutional, because  
9 it is the Legislature's intent and priority that every single valid  
10 application of every statutory provision be allowed to stand alone.

11 C. The Legislature further declares that it would have enacted  
12 this act, and each provision, section, subsection, sentence, clause,  
13 phrase, or word, and all constitutional applications of the  
14 provisions of this act, irrespective of the fact that any provision,  
15 section, subsection, sentence, clause, phrase, or word, or  
16 applications of this act were to be declared invalid, preempted, or  
17 unconstitutional.

18 D. If any provision of this act is found by any court to be  
19 unconstitutionally vague, then the applications of that provision  
20 that do not present constitutional vagueness problems shall be  
21 severed and remain in force, consistent with the severability  
22 requirements of subsections A, B, and C of this section.

23 E. No court may decline to enforce the severability  
24 requirements of subsections A, B, C, and D of this section on the

1 ground that severance would "rewrite" the statute or involve the  
2 court in legislative or lawmaking activity. A court that declines  
3 to enforce or enjoins a state official from enforcing a statutory  
4 provision does not rewrite a statute, as the statute continues to  
5 contain the same words as before the court's decision. A judicial  
6 injunction or declaration of unconstitutionality:

7 1. Is nothing more than an edict prohibiting enforcement that  
8 may subsequently be vacated by a later court if that court has a  
9 different understanding of the requirements of the Oklahoma  
10 Constitution or United States Constitution;

11 2. Is not a formal amendment of the language in a statute; and

12 3. No more rewrites a statute than a decision by the executive  
13 not to enforce a duly enacted statute in a limited and defined set  
14 of circumstances.

15 F. If any state or federal court disregards the severability  
16 requirements of subsections A, B, C, D, and E of this section, and  
17 declares or finds any provision of this act facially invalid,  
18 preempted, or unconstitutional, when there are discrete applications  
19 of that provision that can be enforced against a person, group of  
20 persons, or circumstances without violating federal law or the  
21 federal or state constitutions, then that provision shall be  
22 interpreted, as a matter of state law, as if the Legislature had  
23 enacted a provision limited to the persons, group of persons, or  
24 circumstances for which the provision's application will not violate

1 federal law or the federal or state constitutions, and every court  
2 and every state official shall adopt this saving construction of  
3 that provision until the court ruling that pronounced the provision  
4 facially invalid, preempted, or unconstitutional is vacated or  
5 overruled.

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

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