

THE HOUSE OF REPRESENTATIVES

Monday, February 23, 2009

**Committee Substitute for
House Bill No. 1595**

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1595 - By: SULLIVAN, PETERSON, DENNEY, TERRILL, RITZE AND OWNBEY of the House and LAMB, BROWN AND MAZZEI 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; requiring periodic inspections of certain facilities; providing for penalties; providing for confidentiality; providing for certain intervention in certain circumstance; 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:

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

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

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

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

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

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

20 ~~3.~~ 5. "Unemancipated minor" means any person less than eighteen (18) years of age
21 who is not or has not been married or who is under the care, custody, and control of the
22 person's parent or parents, guardian, or juvenile court of competent jurisdiction;

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

3 ~~4.~~ 7. "Conception" means the fertilization of the ovum of a female individual by the
4 sperm of a male individual;

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

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

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

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

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

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

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

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

3 a. the female upon whom an abortion was performed or attempted to be
4 performed in violation of this section,

5 b. any person who is the spouse, parent, sibling, or guardian of, or a
6 current or former licensed health care provider of, the female upon
7 whom an abortion has been performed or attempted to be performed in
8 violation of this section,

9 c. a district attorney with appropriate jurisdiction, or

10 d. the Attorney General.

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

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

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

5 C. An abortion provider who performed an abortion in violation of this section shall
6 be considered to have engaged in unprofessional conduct for which the certificate or
7 license of the provider to provide health care services in this state shall be suspended or
8 revoked by the State Board of Medical Licensure and Supervision or the State Board of
9 Osteopathic Examiners.

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

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

21 This act shall be known and may be cited as the “Statistical Reporting of Abortion
22 Act”.

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

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

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

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

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

20 B. By March 1, 2010, the State Department of Health shall make available, on its
21 stable Internet website, an Individual Abortion Form as required by Section 5 of this act,

1 and a form for a Complications of Induced Abortion Report as required by Section 6 of
2 this act.

3 C. By March 1, 2010, the State Department of Health shall, on its stable Internet
4 website, provide the language of all Oklahoma Statutes and regulations directly relating
5 to abortion, and shall promptly update its website to reflect subsequent statutory and
6 regulatory changes. The Department shall also, by March 1, 2010, provide, on its stable
7 Internet website, the means by which physicians may electronically submit the reports
8 required by the Statistical Reporting of Abortion Act. The Department shall include
9 instructions on its stable Internet website regarding electronic submission. The
10 Department shall take all necessary precautions to ensure the security of the
11 electronically submitted reports so that the data they include is able to be accessed only
12 by specially authorized departmental personnel during and following the process of
13 transmission.

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

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

18 1. April 1, 2010; or

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

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

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

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

9 2. Gives or mails the printed materials described in Section 1-738.10 of Title 63 of
10 the Oklahoma Statutes to a female specifically to comply with subsection A of Section 1-
11 738.8 of Title 63 of the Oklahoma Statutes; or

12 3. Provides notice to a parent in compliance with Section 1-740.2 of Title 63 of the
13 Oklahoma Statutes,
14 but does not subsequently perform an abortion on the female or minor, the physician
15 shall electronically submit an Individual Abortion Form to the State Department of
16 Health, and shall mark as “not applicable” those items of information that may
17 accurately be provided only when an abortion is performed. The physician shall not
18 submit such a form if the physician knows that an abortion was subsequently performed
19 on the female or minor by another physician. Individual Abortion Forms required by this
20 subsection shall be submitted by the last business day of the second calendar month
21 following the calendar month in which the physician mails the printed materials or
22 provides notice to a parent.

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

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

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

17 Individual Abortion Form

18 (TO BE COMPLETED FOR EACH ABORTION PERFORMED)

- 19 1. Date of abortion _____
20 2. County in which abortion performed _____
21 3. Age of mother _____
22 4. Marital status of mother _____

- 1 (married, divorced, separated, widowed, or never married)
- 2 5. Race of mother _____
- 3 6. Years of education of mother _____
- 4 (specify highest year completed)
- 5 7. State or foreign country of residence of mother _____
- 6 8. Total number of previous pregnancies of the mother _____
- 7 Live Births _____
- 8 Miscarriages _____
- 9 Induced Abortions _____
- 10 9. Approximate gestational age in weeks, as measured from the last menstrual period of
- 11 the mother, of the unborn child subject to abortion
- 12 _____
- 13 10. Method of abortion used:
- 14 Suction Aspiration _____
- 15 Dilation and Curettage _____
- 16 RU 486 _____
- 17 Methotrexate _____
- 18 Other drug/chemical/medicine (specify) _____
- 19 Dilation and Evacuation _____
- 20 Saline _____
- 21 Urea _____
- 22 Prostaglandins _____

1 Partial Birth Abortion _____

2 Hysterotomy _____

3 Other (specify) _____

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

5 If yes:

6 Were life-sustaining measures undertaken? _____

7 How long did the infant survive? _____

8 12. Was anesthesia administered to mother _____

9 If yes, what type? _____

10 13. Was anesthesia administered to the fetus? _____

11 If yes:

12 What type? _____

13 How was it administered? _____

14 14. Method of fetal tissue disposal _____

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

17 REASON GIVEN FOR ABORTION (check all applicable):

18 Having a baby:

19 Would dramatically change the life of the mother _____

20 Would interfere with the education of the mother _____

21 Would interfere with the job/employment/career of the mother _____

22 Mother has other children or dependents _____

- 1 Mother cannot afford the child _____
- 2 Mother is unmarried _____
- 3 Mother is a student or planning to be a student _____
- 4 Mother cannot afford child care _____
- 5 Mother cannot afford the basic needs of life _____
- 6 Mother is unemployed _____
- 7 Mother cannot leave job to care for a baby _____
- 8 Mother would have to find a new place to live _____
- 9 Mother does not have enough support from a husband or partner _____
- 10 Husband or partner is unemployed _____
- 11 Mother is currently or temporarily on welfare or public assistance _____
- 12 Mother does not want to be a single mother _____
- 13 Mother is having relationship problems _____
- 14 Mother is not certain of relationship with the father of the child _____
- 15 Partner and mother are unable to or do not want to get married _____
- 16 Mother is not currently in a relationship _____
- 17 The relationship or marriage of the mother may soon break up _____
- 18 Husband or partner is abusive to the mother or her children _____
- 19 Mother has completed her childbearing _____
- 20 Mother is not ready for a, or another, child _____
- 21 Mother does not want people to know that she had sex or became pregnant
- 22 _____

- 1 Mother does not feel mature enough to raise a, or another, child _____
- 2 Husband or partner wants mother to have an abortion _____
- 3 There may be possible problem affecting the health of the fetus _____
- 4 Physical health of the mother is at risk _____
- 5 Parents want mother to have an abortion _____
- 6 Emotional health of the mother is at risk _____
- 7 Mother suffered from a medical emergency as defined in Section 1-738.1 of Title 63
- 8 of the Oklahoma Statutes _____
- 9 Mother wanted a child of a different sex _____
- 10 Abortion is necessary to avert the death of the mother _____
- 11 Pregnancy was a result of forcible rape _____
- 12 Pregnancy was a result of incest _____
- 13 Other (specify) _____
- 14 Patient was asked why she is seeking an abortion, but she declined to give a
- 15 reason _____
- 16 16. Method of payment (check one):
- 17 Private insurance _____
- 18 Public health plan _____
- 19 Medicaid _____
- 20 Private pay _____
- 21 Other (specify) _____
- 22 17. Type of medical health insurance coverage, if any (check one):

1 Fee-for-service insurance company _____

2 Managed care company _____

3 Other (specify) _____

4 18. Sum of fee(s) collected _____

5 19. Specialty area of medicine of the physician _____

6 _____

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

9 Before? _____ Vaginal, abdominal, or both? _____

10 During? _____ Vaginal, abdominal, or both? _____

11 After? _____ Vaginal, abdominal, or both? _____

12 21. If ultrasound equipment was used, was the ultrasound, as required by Section 1-
13 738.3b of Title 63 of the Oklahoma Statutes, performed by a:

14 Physician _____

15 Certified Technician as defined in Section 1-730 of Title 63 of the Oklahoma
16 Statutes _____

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

19 a. If yes, was it provided:

20 In person _____

21 By telephone _____

22 b. Was it provided by:

- 1 A referring physician _____
- 2 The physician performing the abortion _____
- 3 An agent of a referring physician _____
- 4 An agent of the physician performing the abortion _____
- 5 23. Was the information required by paragraph 2 of subsection B of Section 1-738.2 of
- 6 Title 63 of the Oklahoma Statutes provided to the mother? _____
- 7 a. If yes, was it provided:
- 8 In person _____
- 9 By telephone _____
- 10 b. Was it provided by:
- 11 A referring physician _____
- 12 An agent of a referring physician _____
- 13 The physician performing the abortion _____
- 14 An agent of the physician performing the abortion _____
- 15 24. Did the mother avail herself of the opportunity to have the printed materials
- 16 described in Section 1-738.3 of Title 63 of the Oklahoma Statutes mailed to her?
- 17 _____
- 18 25. Were the informed consent requirements of subsection B of Section 1-738.2 of Title
- 19 63 of the Oklahoma Statutes dispensed with because of a medical emergency
- 20 necessitating an immediate abortion:
- 21 To avert death _____

1 To avert substantial and irreversible impairment of a major bodily function arising
2 from continued pregnancy _____

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

4 _____

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

7 _____

8 (1) If yes, was the information provided:

9 In person _____

10 By telephone _____

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

12 A referring physician _____

13 An agent of a referring physician _____

14 The physician performing the abortion _____

15 An agent of the physician performing the abortion _____

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

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

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

22 _____

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

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

5 a. Was the abortion necessary to save the life of the mother? _____

6 If yes, what was the life-endangering condition? _____

7 b. Did the pregnancy result from an act of forcible rape? _____

8 If yes, list the law enforcement authority to which the rape was
9 reported _____

10 List the date of the report _____

11 c. Did the pregnancy result from an act of incest committed against a
12 minor? _____

13 If yes, list the law enforcement authority to which the perpetrator was
14 reported _____

15 List the date of the report _____

16 THIS PORTION TO BE COMPLETED IN CASE OF MINOR

17 30. Minor's age _____

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

20 a. If yes, how was the notice provided?

21 In person _____

22 By mail _____

1 b. If yes, to the best of the reporting physician's knowledge and belief, did
2 the minor go on to obtain the abortion? _____

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

5 If yes, how was it secured?

6 In person _____

7 Other (specify) _____

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

10 Minor was emancipated _____

11 Abortion was necessary to prevent the death of the minor _____

12 Medical emergency, as defined in Section 1-738.1 of Title 63 of the Oklahoma
13 Statutes, existed _____

14 Minor received judicial authorization to obtain abortion without parental notice or
15 consent _____

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

18 Whether parent was subsequently notified (state period of time elapsed before
19 notice was given) _____

20 Whether judicial waiver of notice requirement was obtained _____

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

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

2 _____

3 Judge ruled that abortion was in the best interest of the minor _____

4 36. If the female was a minor at the time of conception, please indicate the age of the
5 father of the unborn child at the time of conception _____

6 37. If at the time of conception the ages of the mother and father were such that a
7 violation of Section 1111, 1112, 1114, or 1123 of Title 21 or Section 7115 of Title 10
8 of the Oklahoma Statutes occurred, was the rape or abuse reported to the proper
9 authorities _____

10 Filed this ____ day of _____, ____ by:

11 _____

12 (Name of physician)

13 _____

14 (Physician's license number)

15 NOTICE: In accordance with subsection F of Section 1-738d of Title 63 of the Oklahoma
16 Statutes, public reports based on this form will not contain the name, address, or any
17 other identifying information of any individual female. The State Department of Health
18 shall take care to ensure that none of the information included in its public reports could
19 reasonably lead to the identification of any individual female about whom information is
20 reported or of any physician providing information in accordance with the Statistical
21 Reporting of Abortion Act. Such information is not subject to the Oklahoma Open
22 Records Act.

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

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

12 A. Complications of Induced Abortion Report. By March 1, 2010, the State
13 Department of Health shall prepare and make available, on its stable Internet website, a
14 Complications of Induced Abortion Report for all physicians licensed and practicing in
15 the State of Oklahoma.

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

17 1. April 1, 2010; or

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

21 C. Any physician practicing in Oklahoma who encounters an illness or injury that a
22 reasonably knowledgeable physician would judge is related to an induced abortion shall

1 complete and submit, electronically or by regular mail, a Complications of Induced
2 Abortion Report to the Department as soon as is practicable after the encounter with the
3 induced-abortion-related illness or injury, but in no case more than sixty (60) days after
4 such an encounter. Nothing in the Complications of Induced Abortion Report shall
5 contain the name, address, or any other information specifically identifying any patient.
6 Knowing or reckless unreasonable delay or failure to submit a Complications of Induced
7 Abortion Report shall be sanctioned according to the provisions of the Statistical
8 Reporting of Abortion Act.

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

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

20 Complications of Induced Abortion Report

21 1. Name and specialty field of medical practice of the physician filing the report:

22 _____;

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)

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

5 9. Type of follow-up care, if any, recommended _____;

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

9 11. Name and license number of physician filing the Complications of Induced
10 Abortion Report: _____.

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

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

20 A. By June 1 of each year, the Department shall issue, on its stable Internet
21 website, a public Annual Abortion Report providing statistics for the previous calendar

1 year compiled from all of the reports covering that year submitted in accordance with the
2 Statistical Reporting of Abortion Act.

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

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

8 1. The number of induced abortions performed in the previous calendar year,
9 broken down by month and county;

10 2. The number of abortions classified by:

- 11 a. the state or foreign country of residence of the mother,
12 b. the age, marital status, and race of the mother, and
13 c. the number of years of education of the mother;

14 3. The number of abortions classified by:

- 15 a. the number of previous pregnancies of the mother,
16 b. previous live births to the mother,
17 c. previous miscarriages, and
18 d. previous induced abortions;

19 4. The number of abortions by week of gestational age;

20 5. The number of abortions performed by each reported method;

1 6. The number of abortions resulting in an infant born alive; of these, the number
2 of cases in which life-sustaining measures were taken; and a statistical summary of the
3 length of survival of such infants;

4 7. The number of cases in which anesthesia was administered to the mother and
5 the number of each type of anesthesia;

6 8. The number of cases in which anesthesia was administered to the unborn child,
7 and the number of each type of anesthesia and of each method of administration;

8 9. The number of each reported method of fetal disposal;

9 10. The reasons reported for the abortions, and the number of times each reported
10 reason was cited;

11 11. The number of abortions paid for by:

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

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

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

22 13. A statistical summary of the fees collected;

1 14. Specialty area of medicine of the physician;

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

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

7 a. the physician, or

8 b. a certified technician as defined by Section 1-730 of Title 63 of the
9 Oklahoma Statutes.

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

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

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

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

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

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

18 23. The number of abortions performed by the physician in which information
19 otherwise required to be provided at least twenty-four (24) hours before the abortion was
20 not so provided because an immediate abortion was necessary to avert the death of the
21 female, and the number of abortions in which such information was not so provided

1 because a delay would create serious risk of substantial and irreversible impairment of a
2 major bodily function;

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

6 a. the number provided by telephone and the number provided in person;
7 and of each of those numbers, the number provided in the capacity of a
8 referring physician and the number provided in the capacity of a
9 physician who is to perform the abortion, or by the agent of such
10 physician, and

11 b. the number of females who availed themselves of the opportunity to be
12 given or mailed the materials described in Section 1-738.10 of Title 63
13 of the Oklahoma Statutes, and the number who did not; and of each of
14 those numbers, the number who, to the best of the information and
15 belief of the reporting physician, went on to obtain the abortion;

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

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

6 a. the number of abortions reported as necessary to save the life of the
7 mother, the life-endangering conditions identified, and the number of
8 each such condition reported,

9 b. the number of abortions reported from pregnancies resulting from
10 forcible rape, the number of such rapes reported to law enforcement
11 authorities, general categories of law enforcement authorities to whom
12 reports were made and the number made to each category, and a
13 statistical summary of the length of time between the dates of
14 reporting to law enforcement authorities and the dates of the
15 abortions, and

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

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

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

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

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

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

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

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

20 E. Each Annual Judicial Bypass of Abortion Parental Consent Summary Report
21 shall also provide the statistics for all previous calendar years for which the public

1 statistical report was required to be issued, adjusted to reflect any additional information
2 from late or corrected reports.

3 F. The Department's public reports shall not contain the name, address, or any
4 other identifying information of any individual female, and shall take care to ensure that
5 none of the information included in its public reports could reasonably lead to the
6 identification of any individual female about whom information is reported in accordance
7 with the Statistical Reporting of Abortion Act or of any physician providing information
8 in accordance with the Statistical Reporting of Abortion Act. Nor shall the information
9 described in the preceding sentence be subject to the Oklahoma Open Records Act.

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

13 A. The State Department of Health shall notify the following of the requirements of
14 the Statistical Reporting of Abortion Act and of the addresses of the pages on its website
15 providing access to the forms it requires and instructions for their electronic submission:

- 16 1. By March 1, 2010, all physicians licensed to practice in this state; and
17 2. Each physician who subsequently becomes newly licensed to practice in this
18 state, at the same time as an official notification to that physician that the physician is
19 so licensed.

20 B. Individual Abortion Forms or Complications of Induced Abortion Reports that
21 are not submitted by the end of a grace period of thirty (30) days following the due date
22 shall be subject to a late fee of Five Hundred Dollars (\$500.00) for each additional thirty-

1 day period the forms or reports are overdue. Any monies collected under this subsection
2 shall be deposited into an account created within the Department, which shall be used
3 for the administration of the Statistical Reporting of Abortion Act. Any physician
4 required to report in accordance with the Statistical Reporting of Abortion Act who has
5 not completed and electronically submitted a form or report, or has submitted only an
6 incomplete form or report, more than one (1) year following the due date shall be
7 precluded from renewing his or her license until such fines are paid in full and
8 outstanding forms or reports are submitted, and may, in an action brought by the State
9 Department of Health, be directed by a court of competent jurisdiction to electronically
10 submit completed forms or reports within a period stated by court order or be subject to
11 sanctions for civil contempt.

12 C. Anyone who knowingly or recklessly fails to submit an Individual Abortion Form
13 or Complications of Induced Abortion Report, or submits false information under the
14 Statistical Reporting of Abortion Act, shall be guilty of a misdemeanor.

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

18 E. The Department may promulgate rules in accordance with the Administrative
19 Procedures Act to alter the dates established by the Statistical Reporting of Abortion Act
20 to achieve administrative convenience, fiscal savings, or to reduce the burden of
21 reporting requirements, so long as the forms and reports are made available, on its stable

1 Internet website, to all licensed physicians in this state, and the public reports described
2 in Section 7 of this act are issued at least once every year.

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

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

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

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

21 A. Sections 1-738.3a, 1-738.13 and 1-740.4a of Title 63 of the Oklahoma Statutes
22 shall become ineffective and of no binding force on the date specified in subsection B of

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

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

16 1. April 1, 2010; or

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

20 SECTION 11. REPEALER 63 O.S. 2001, Section 1-738, is hereby repealed.

21 SECTION 12. NEW LAW A new section of law not to be codified in the

22 Oklahoma Statutes reads as follows:

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

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

9 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 02-19-09 - DO
10 PASS, As Amended and Coauthored.