

1 **SENATE FLOOR VERSION**

2 February 25, 2019

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 614

6 By: Daniels

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

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

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

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

(b) to intentionally terminate the pregnancy of a woman

known to be pregnant, with an intention other than to

1 remove a dead unborn child or, after viability, to
2 produce a live birth and preserve the life and health
3 of the child born alive;

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

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

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

22 "NOTICE TO PATIENTS HAVING MEDICATION ABORTIONS WHICH USE
23 MIFEPRISTONE: Mifepristone, also known as RU-486 or Mifeprex, alone
24 is not always effective in ending a pregnancy. It may be possible

1 to reverse its intended effect if the second pill or tablet has not
2 been taken or administered. If you change your mind and wish to try
3 to continue the pregnancy, you can get immediate help by calling the
4 Abortion Pill Reversal 24-hour Hotline at 877-558-0333 or going to
5 website <https://www.abortionpillreversal.com/>. Additional
6 information is available on the State Board of Medical Licensure and
7 Supervision's website, www.awomansright.org, which provides informed
8 consent materials under the Woman's Right-to-Know Act, including
9 information about the development of the unborn child and video of
10 ultrasound images of the unborn child at various stages of
11 development."

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

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

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

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

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

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

23 "NOTICE TO PATIENTS HAVING MEDICATION ABORTIONS WHICH USE
24 MIFEPRISTONE: Mifepristone, also known as RU-486 or Mifeprex, alone

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

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

20 E. Within ninety (90) days after this act is enacted, the State
21 Board of Medical Licensure and Supervision shall cause to be
22 published, in English and in each language which is the primary
23 language of two percent (2%) or more of the state's population, in
24 print and on the website required to be developed and maintained

1 under Section 1-738.11 of Title 63 of the Oklahoma Statutes,
2 comprehensible materials designed to inform the female of the
3 possibility of reversing the effects of a medication abortion that
4 uses mifepristone, also known as RU-486 or Mifeprex, and information
5 on resources that may be available to help her reverse its effects.
6 The website shall include the Abortion Pill Reversal 24-hour Hotline
7 number 877-558-0333 and the Abortion Pill Reversal website address
8 <https://www.abortionpillreversal.com>.

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

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

1 mifepristone, other than a medication abortion that is necessary to
2 prevent the death of the pregnant female, is provided in any private
3 office, freestanding outpatient clinic or other facility or clinic
4 during which the required sign is not posted during a portion of
5 business hours when patients or perspective patients are present is
6 a separate violation.

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

21 2. If judgment is rendered in favor of the plaintiff in any
22 action described in this subsection, the court shall also render
23 judgment for a reasonable attorney's fee in favor of the plaintiff
24 against the defendant. If judgment is rendered in favor of the

1 defendant and the court finds that the plaintiff's suit was
2 frivolous and brought in bad faith, the court shall also render
3 judgment for a reasonable attorney's fee in favor of the defendant
4 against the plaintiff.

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

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1 construed to conceal the identity of the plaintiff or of witnesses
2 from the defendant.

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

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

14 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
15 February 25, 2019 - DO PASS AS AMENDED
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