

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 57th Legislature (2019)

4 HOUSE BILL 1396

                                  By: Townley

7                                   AS INTRODUCED

8                   An Act relating to public health and safety; amending  
9                   63 O.S. 2011, Section 1-731.2, which relates to  
10                  abortions on account of the sex of the unborn child;  
                  modifying restrictions; providing for procedures; and  
                  providing an effective date.

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

14           SECTION 1.           AMENDATORY           63 O.S. 2011, Section 1-731.2, is  
15 amended to read as follows:

16           Section 1-731.2 A. As used in this section:

17           1. "Attempt to perform an abortion" means an act, or an  
18 omission of a statutorily required act, that under the circumstances  
19 as the actor believes them to be constitutes a substantial step in a  
20 course of conduct planned to culminate in the performance of an  
21 abortion; and

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

3 B. No person shall knowingly or recklessly perform or attempt  
4 to perform an abortion ~~with knowledge that the pregnant female is~~  
5 ~~seeking the abortion solely on account of the sex of the unborn~~  
6 child after the sex of the unborn child has been determined unless  
7 such abortion is necessary to prevent the death of the pregnant  
8 woman or to prevent impairment to her health. Before performing an  
9 abortion, the physician or other person who is performing the  
10 abortion shall:

11 1. Ask the pregnant woman if she knows the sex of the unborn  
12 child;

13 2. Obtain a signed affidavit from the pregnant woman that:

14 a. swears to no knowledge of the sex of the unborn child,

15 or

16 b. swears to knowledge of the sex of the unborn child;

17 and

18 3. If the pregnant woman knows the sex of the unborn child, the  
19 physician or other person who is performing the abortion shall not  
20 perform nor attempt to perform an abortion and shall inform the  
21 pregnant woman of the prohibition of abortion as a method of sex  
22 selection for children.

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1 Nothing in this section shall be construed to proscribe the  
2 performance of an abortion because the unborn child has a genetic  
3 disorder that is sex-linked.

4 C. Any person who knowingly or recklessly violates a provision  
5 of this section shall be liable for damages as provided in this  
6 subsection and may be enjoined from such acts in accordance with  
7 this section in an appropriate court.

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

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

14 b. any person who is the spouse, parent, sibling, or  
15 guardian of, or current or former licensed health care  
16 provider of, the female upon whom an abortion has been  
17 performed in violation of this section,

18 c. a district attorney with appropriate jurisdiction, or

19 d. the Attorney General.

20 2. The injunction shall prevent the abortion provider from  
21 performing further abortions in violation of this section in this  
22 state.

23 3. Any person who knowingly violates the terms of an injunction  
24 issued in accordance with this section shall be subject to civil

1 contempt and shall be fined Ten Thousand Dollars (\$10,000.00) for  
2 the first violation, Fifty Thousand Dollars (\$50,000.00) for the  
3 second violation, and One Hundred Thousand Dollars (\$100,000.00) for  
4 the third violation and for each succeeding violation. The fines  
5 shall be the exclusive penalties for civil contempt pursuant to this  
6 paragraph. Each performance or attempted performance of an abortion  
7 in violation of the terms of an injunction is a separate violation.  
8 These fines shall be cumulative. No fine shall be assessed against  
9 the female upon whom an abortion is performed or attempted.

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

15 D. An abortion provider who knowingly or recklessly performed  
16 an abortion in violation of this section shall be considered to have  
17 engaged in unprofessional conduct for which the certificate or  
18 license of the provider to provide health care services in this  
19 state shall be suspended or revoked by the State Board of Medical  
20 Licensure and Supervision or the State Board of Osteopathic  
21 Examiners.

22 E. In every proceeding or action brought under this section,  
23 the anonymity of any female upon whom an abortion is performed or  
24 attempted shall be preserved unless she gives her consent to such

1 disclosure. The court, upon motion or sua sponte, shall issue  
2 orders to the parties, witnesses, and counsel and shall direct the  
3 sealing of the record and exclusion of individuals from courtrooms  
4 or hearing rooms to the extent necessary to safeguard the female's  
5 identity from public disclosure. In the absence of written consent  
6 of the female upon whom an abortion has been performed or attempted,  
7 anyone who brings an action under ~~subsection B of~~ this section shall  
8 do so under a pseudonym.

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

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11 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 02/20/2019 -  
12 DO PASS.

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