

FLOOR AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB4327 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Merleyn Bell

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 FLOOR SUBSTITUTE
4 FOR

5 HOUSE BILL NO. 4327

6 By: Stearman and Roberts (Sean)

7 FLOOR SUBSTITUTE

8 An Act relating to abortion; defining terms;
9 prohibiting certain abortions; creating an exception;
10 enabling a private cause of action against abortion
11 providers; creating requirements; creating defenses
12 to action; specifying damages; prohibiting official
13 state claims; providing for codification; and
14 providing an effective date.

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

16 SECTION 1. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 1-758 of Title 63, unless there
18 is created a duplication in numbering, reads as follows:

19 A. As used in this section:

20 1. "Gestational age" means the amount of time that has elapsed
21 from the first day of a woman's last menstrual period;

22 2. "Gestational sac" means the structure comprising the
23 extraembryonic membranes that envelop the unborn child and that is
24 typically visible by ultrasound after the fourth week of pregnancy;

1 3. "Physician" means an individual licensed to practice
2 medicine in this state, including a medical doctor and a doctor of
3 osteopathic medicine;

4 4. "Pregnancy" means the human female reproductive condition
5 that:

6 a. begins with fertilization,

7 b. occurs when the woman is carrying the developing human
8 offspring, and

9 c. is calculated from the first day of the woman's last
10 menstrual period;

11 5. "Standard medical practice" means the degree of skill, care,
12 and diligence that an obstetrician of ordinary judgment, learning,
13 and skill would employ in like circumstances; and

14 6. "Unborn child" means a human fetus or embryo in any stage of
15 gestation from fertilization until birth.

16 B. A physician may not knowingly perform or induce an abortion
17 on a pregnant woman, unless a physician believes based on his or her
18 professional opinion that the procedure is necessary due to one of
19 the following conditions: continuation of the pregnancy is likely to
20 result in the death of the woman; the woman is a victim of rape,
21 sexual offense, or incest that has been reported to a law
22 enforcement agency or a public health or social agency; the fetus is
23 affected by genetic defect or serious deformity or abnormality; the
24 termination of pregnancy is medically necessary because there is a

1 substantial risk that continuation of the pregnancy could have a
2 serious and adverse effect on the woman's present or future physical
3 health; or continuation of the pregnancy is creating a serious
4 effect on the woman's present mental health, and if carried to term
5 there is a substantial risk of a serious or long-lasting effect on
6 the woman's future mental health.

7 C. This act shall be enforced exclusively through private civil
8 actions.

9 D. Any person, other than an officer or employee of a state or
10 local governmental entity in this state, may bring a civil action
11 against any person who:

12 1. Performs or induces an abortion in violation of this act;

13 2. Knowingly engages in conduct that aids or abets the
14 performance or inducement of an abortion, including paying for or
15 reimbursing the costs of an abortion through insurance or otherwise,
16 if the abortion is performed or induced in violation of this act,
17 regardless of whether the person knew or should have known that the
18 abortion would be performed or induced in violation of this act; or

19 3. Intends to engage in the conduct described by this act.

20 E. If a claimant prevails in an action brought under this
21 section, the court shall award:

22 1. Injunctive relief sufficient to prevent the defendant from
23 violating this act or engaging in acts that aid or abet violations
24 of this act;

1 2. Statutory damages in an amount of not less than Ten Thousand
2 Dollars (\$10,000.00) for each abortion that the defendant performed
3 or induced in violation of this act, and for each abortion performed
4 or induced in violation of this act that the defendant aided or
5 abetted; and

6 3. Costs and attorney fees.

7 A court may not award relief under this section in response to a
8 violation of this act if the defendant demonstrates that the
9 defendant previously paid the full amount of statutory damages in a
10 previous action for that particular abortion performed or induced in
11 violation of this act, or for the particular conduct that aided or
12 abetted an abortion performed or induced in violation of this act.
13 Additionally, a court may not award relief under this section where
14 the abortion in question was performed to save the life of the
15 mother.

16 F. A person may bring an action under this section not later
17 than the fourth anniversary of the date the cause of action accrues.

18 G. The following are not a defense to actions brought under
19 this act:

20 1. Ignorance or mistake of law;

21 2. A defendant's belief that the requirements of this act are
22 unconstitutional or were unconstitutional;

23 3. A defendant's reliance on any court decision that has been
24 overruled on appeal or by a subsequent court, even if that court

1 decision had not been overruled when the defendant engaged in
2 conduct that violates this act;

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

6 5. Nonmutual issue preclusion or nonmutual claim preclusion;

7 6. The consent of the unborn child's mother to the abortion; or

8 7. Any claim that the enforcement of this act or the imposition
9 of civil liability against the defendant will violate the
10 constitutional rights of third parties.

11 H. It shall be an affirmative defense if:

12 1. A person sued under this act reasonably believed, after
13 conducting a reasonable investigation, that the physician performing
14 or inducing the abortion had complied or would comply with this act;
15 or

16 2. A person sued under this act reasonably believed, after
17 conducting a reasonable investigation, that the physician performing
18 or inducing the abortion will comply with this act;

19 The defendant shall have the burden of proving an affirmative
20 defense by a preponderance of the evidence.

21 I. Notwithstanding any other law, this state, a state official,
22 or a district may not intervene in an action brought under this
23 section. This subsection does not prohibit a person described by
24 this subsection from filing an amicus curiae brief in the action.

1 J. A court shall not award costs or attorney fees to a
2 defendant in an action brought under this act.

3 K. A civil action under this section may not be brought by a
4 person who impregnated the abortion patient through an act of rape,
5 sexual assault, or incest.

6 L. A defendant against whom an action is brought under this act
7 does not have standing to assert the rights of women seeking an
8 abortion as a defense to liability under that section unless:

9 1. The United States Supreme Court holds that the courts of
10 this state must confer standing on that defendant to assert the
11 third-party rights of women seeking an abortion in state court as a
12 matter of federal constitutional law; or

13 2. The defendant has standing to assert the rights of women
14 seeking an abortion under the tests for third-party standing
15 established by the United States Supreme Court.

16 The defense under this subsection of this section is not
17 available if the United States Supreme Court overrules *Roe v. Wade*
18 410 U.S. 113 (1973) or *Planned Parenthood v. Casey*, 505 U.S. 833
19 (1992), regardless of whether the conduct on which the cause of
20 action is based occurred before the Supreme Court overruled either
21 of those decisions.

22 SECTION 2. This act shall become effective November 1, 2022.

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24 58-2-11095 KN 03/14/22

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