

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 58th Legislature (2021)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 2441

By: Russ, **Crosswhite Hader,**  
**Smith, Stearman, Olsen,**  
**West (Kevin) and Burns**

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9                                   COMMITTEE SUBSTITUTE

10                   An Act relating to health; amending 63 O.S. 2011,  
11                   Section 1-732, which relates to abortion; prohibiting  
12                   abortion when a fetal heartbeat is detectable;  
13                   defining term; providing exception; amending 63 O.S.  
14                   2011, Section 1-737.4, as amended by Section 1,  
15                   Chapter 123, O.S.L. 2017 (63 O.S. Supp. 2020, Section  
16                   1-737.4), which relates to required signage in  
17                   abortion facilities; requiring certain information in  
18                   posted signage; and providing an effective date.

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

SECTION 1.           AMENDATORY           63 O.S. 2011, Section 1-732, is  
amended to read as follows:

Section 1-732. A. No person shall perform or induce an  
abortion upon a pregnant woman after such time as her unborn child  
has ~~become viable~~ been determined to have a detectable heartbeat  
unless such abortion is necessary to prevent the death of the  
pregnant woman or to prevent impairment to her health.

1 B. ~~An unborn child shall be presumed to be viable if more than~~  
2 ~~twenty-four (24) weeks have elapsed since the probable beginning of~~  
3 ~~the last menstrual period of the pregnant woman, based upon either~~  
4 ~~information provided by her or by an examination by her attending~~  
5 ~~physician.~~ "A detectable heartbeat" shall mean embryonic or fetal  
6 cardiac activity or the steady and repetitive rhythmic contraction  
7 of the heart within the gestational sac. If it is the judgment of  
8 the attending physician that a particular ~~unborn child is not viable~~  
9 ~~where the presumption of viability~~ pregnancy is medically futile  
10 when a detectable heartbeat exists as to that particular unborn  
11 child, then he or she shall certify in writing the precise medical  
12 criteria upon which he or she has determined that the particular  
13 ~~unborn child is not viable~~ pregnancy is medically futile before an  
14 abortion may be performed or induced.

15 C. No abortion of ~~a viable~~ an unborn child with a detectable  
16 heartbeat shall be performed or induced except after written  
17 certification by the attending physician that in his or her best  
18 medical judgment the abortion is necessary to prevent the death of  
19 the pregnant woman or to prevent an impairment to her health. The  
20 physician shall further certify in writing the medical indications  
21 for such abortion and the probable health consequences if the  
22 abortion is not performed or induced.

23 D. The physician who shall perform or induce an abortion upon a  
24 pregnant woman after such time as her unborn child has ~~become viable~~

1 a detectable heartbeat shall utilize the available method or  
2 technique of abortion most likely to preserve the life and health of  
3 the unborn child, unless he or she shall first certify in writing  
4 that in his or her best medical judgment such method or technique  
5 shall present a significantly greater danger to the life or health  
6 of the pregnant woman than another available method or technique.

7 E. An abortion of a ~~viable unborn~~ child with a heartbeat shall  
8 be performed or induced only when there is in attendance a physician  
9 other than the physician performing or inducing the abortion who  
10 shall take control of and provide immediate medical care for the  
11 child. During the performance or inducing of the abortion, the  
12 physician performing it, and subsequent to it, the physician  
13 required by this section to be in attendance, shall take all  
14 reasonable steps in keeping with good medical practice, consistent  
15 with the procedure used, to preserve the life and health of the  
16 child, in the same manner as if the child had been born naturally or  
17 spontaneously. The requirement of the attendance of a second  
18 physician may be waived when in the best judgment of the attending  
19 physician a medical emergency exists and further delay would result  
20 in a serious threat to the life or physical health of the pregnant  
21 woman. Provided that, under such emergency circumstances and  
22 waiver, the attending physician shall have the duty to take all  
23 reasonable steps to preserve the life and health of the child  
24 before, during and after the abortion procedure, unless such steps

1 shall, in the best medical judgment of the physician, present a  
2 significantly greater danger to the life or health of the pregnant  
3 woman.

4 F. Any person violating subsection A of this section shall be  
5 guilty of homicide.

6 SECTION 2. AMENDATORY 63 O.S. 2011, Section 1-737.4, as  
7 amended by Section 1, Chapter 123, O.S.L. 2017 (63 O.S. Supp. 2020,  
8 Section 1-737.4), is amended to read as follows:

9 Section 1-737.4 A. Any private office, freestanding outpatient  
10 clinic, or other facility or clinic in which abortions, other than  
11 abortions necessary to prevent the death of the pregnant female, are  
12 performed, induced, prescribed for, or where the means for an  
13 abortion are provided shall conspicuously post a sign in a location  
14 defined in subsection C of this section so as to be clearly visible  
15 to patients, which reads:

16 Notice: It is against the law for anyone, regardless of his or  
17 her relationship to you, to force you to have an abortion. By  
18 law, we cannot perform, induce, prescribe for, or provide you  
19 with the means for an abortion unless we have your freely given  
20 and voluntary consent. It is against the law to perform,  
21 induce, prescribe for, or provide you with the means for an  
22 abortion against your will. You have the right to contact any  
23 local or state law enforcement agency to receive protection from  
24 any actual or threatened physical abuse or violence. In certain

1 cases, abortions are induced by medication using a two-step  
2 process. Such abortions may be reversible if the second dosage  
3 has not been taken.

4 There are public and private agencies willing and able to help  
5 you carry your child to term, have a healthy pregnancy and a  
6 healthy baby and assist you and your child after your child is  
7 born, whether you choose to keep your child or place him or her  
8 for adoption. The State of Oklahoma strongly encourages you to  
9 contact them if you are pregnant.

10 B. The sign required pursuant to subsection A of this section  
11 shall be printed with lettering that is legible and shall be at  
12 least three-quarters-of-an-inch boldfaced type.

13 C. A facility in which abortions are performed, induced,  
14 prescribed for, or where the means for an abortion are provided that  
15 is a private office or a freestanding outpatient clinic shall post  
16 the required sign in each patient waiting room and patient  
17 consultation room used by patients on whom abortions are performed,  
18 induced, prescribed for, or who are provided with the means for an  
19 abortion. A hospital or any other facility in which abortions are  
20 performed, induced, prescribed for, or where the means for an  
21 abortion are provided that is not a private office or freestanding  
22 outpatient clinic shall post the required sign in each patient  
23 admission area used by patients on whom abortions are performed,  
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1 induced, prescribed for, or by patients who are provided with the  
2 means for an abortion.

3 SECTION 3. This act shall become effective November 1, 2021.  
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5 COMMITTEE REPORT BY: COMMITTEE ON STATES RIGHTS, dated 02/24/2021 -  
6 DO PASS, As Amended and Coauthored.  
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