

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 3216

By: West (Kevin)

AS INTRODUCED

An Act relating to abortion; creating the Oklahoma Life is a Human Right Act; defining terms; prohibiting the prescription or selling of medication with the intent to cause an abortion; civil liability; providing for a certain procedure; providing for informed consent from parents or guardians for refusal of treatment; requiring physician to record certain information; directing the State Department of Health to create forms; providing exception for accidental injury or death; providing for the use of contraceptives as long as the purpose is not abortion; prohibiting emergency contraception; defining certain conduct as unprofessional; requiring revocation of license or certificate; allowing certain civil action; authorizing Attorney General to bring enforcement actions; providing for the right to intervene; providing for severability; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-758.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Life is a Human Right Act".

1 SECTION 2. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 1-758.2 of Title 63, unless  
3 there is created a duplication in numbering, reads as follows:

4 As used in this section:

5 1. "Abortion" means the act of using or prescribing any  
6 instrument, medicine, drug, or any other substance, device, or means  
7 with the intent to terminate the clinically diagnosable pregnancy of  
8 a woman with knowledge that the termination by those means will,  
9 with reasonable likelihood, cause the death of the unborn child.  
10 Such use, prescription, or means is not an abortion if done with the  
11 intent to:

- 12 a. save the life or preserve the health of the unborn  
13 human being,
- 14 b. remove a dead unborn human being caused by  
15 miscarriage,
- 16 c. remove an ectopic pregnancy, or
- 17 d. perform a pre-viability separation procedure when such  
18 procedure is necessary to preserve the life of the  
19 pregnant woman;

20 2. "Born alive" means the complete expulsion or extraction from  
21 the pregnant woman of a human infant, at any stage of development,  
22 who, after such expulsion or extraction, breathes, has a beating  
23 heart, or has definite movement of voluntary muscles, regardless of  
24 whether the umbilical cord has been cut and regardless of whether  
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1 the expulsion or extraction occurs as a result of natural or induced  
2 labor, Cesarean section, pre-viability separation procedure, or  
3 other method;

4 3. "Conception" means the fusion of a human spermatozoon with a  
5 human ovum;

6 4. "Department" means the State Department of Health;

7 5. "Ectopic pregnancy" means the state of carrying an unborn  
8 human being outside of the uterine cavity;

9 6. "Health care provider" means any individual who may be asked  
10 to participate in any way in a health care service or procedure,  
11 including, but not limited to, the following: a physician,  
12 physician's assistant, nurse, nurse's aide, medical assistant,  
13 hospital employee, medical facility employee, or medical clinic  
14 employee;

15 7. "Gestational age" or "probable gestation age" means the age  
16 of an unborn human being as calculated from the first day of the  
17 last menstrual period of the pregnant woman;

18 8. "Miscarriage" means a spontaneous loss of embryo or fetal  
19 life;

20 9. "Necessary to preserve the life of a pregnant woman" means  
21 that, at any point in pregnancy, a pregnant woman's physician has  
22 determined to a reasonable degree of medical certainty or  
23 probability that the continuation of the pregnancy will endanger the  
24 woman's life due to the pregnancy itself or due to a medical  
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1 condition that the woman is either currently suffering or likely to  
2 suffer during the pregnancy. In making this determination, absolute  
3 certainty is not required; however, a mere possibility or  
4 speculation shall be insufficient;

5 10. "Pregnant" means the human female reproductive condition of  
6 having a living unborn human being within her body throughout every  
7 stage of the unborn human being's life and development, from  
8 fertilization to full gestation and childbirth;

9 11. "Unborn child" or "unborn human being" means an individual  
10 living member of the species Homo sapien from conception to full  
11 gestation and childbirth;

12 12. "Pre-viability" means before that stage of fetal  
13 development when, in the reasonable medical judgment of the  
14 physician based on the particular facts of the case before him or  
15 her and in light of the most advanced medical technology and  
16 information available to him or her, there is a reasonable  
17 likelihood of sustained survival of the unborn human being outside  
18 the body of his or her mother, with or without artificial support;

19 13. "Physician" means a person licensed to practice medicine in  
20 Oklahoma;

21 14. "Separation procedure" means a medical procedure performed  
22 by a physician to remove an unborn human being from his or her  
23 mother's uterus. The term does not include an abortion as defined  
24 by this act;

1           15. "Woman" means any person whose biological sex is female  
2 based upon the person's genetics and reproductive anatomy.

3           SECTION 3.           NEW LAW           A new section of law to be codified  
4 in the Oklahoma Statutes as Section 1-758.3 of Title 63, unless  
5 there is created a duplication in numbering, reads as follows:

6           A. No person may knowingly administer to, prescribe for, or  
7 sell to any pregnant woman any medicine, drug, or other substance  
8 with the specific intent of causing or abetting an abortion.

9           B. No person may knowingly use or employ any instrument,  
10 device, means, or procedure upon a pregnant woman with the specific  
11 intent of causing or abetting an abortion.

12           SECTION 4.           NEW LAW           A new section of law to be codified  
13 in the Oklahoma Statutes as Section 1-758.4 of Title 63, unless  
14 there is created a duplication in numbering, reads as follows:

15           A. When performing a pre-viability separation procedure as  
16 permitted under this act, the physician shall make reasonable  
17 medical efforts under the circumstances to preserve both the life of  
18 the pregnant woman and the life of her unborn child in a manner  
19 consistent with reasonable medical practice.

20           B. If the child is born alive following a pre-viability  
21 separation procedure, any health care provider present shall  
22 exercise the same degree of professional skill, care, and diligence  
23 to preserve the life and health of the child as a reasonably  
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1 diligent and conscientious health care provider would render to any  
2 other child born alive at the same gestational age.

3 C. The requirements of this section shall not be construed to  
4 prevent a child's parents or guardian from refusing to give consent  
5 to medical treatment or surgical care which is not medically  
6 necessary or reasonable, including care or treatment which:

7 1. Is not necessary to save the life of the child;

8 2. Has a potential risk to the child's life or health that  
9 outweighs the potential benefit to the child with the treatment or  
10 care; or

11 3. Will do no more than temporarily prolong the act of dying  
12 when death is imminent.

13 SECTION 5. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 1-758.5 of Title 63, unless  
15 there is created a duplication in numbering, reads as follows:

16 A. In every case in which a physician performs a pre-viability  
17 separation procedure as permitted under this act, the physician  
18 shall, within fifteen (15) days, cause to be filed with the State  
19 Department of Health, on a form supplied by the Department, a report  
20 containing the following information:

21 1. A unique patient identifier provided by the Department that  
22 would, if legally required, allow the Department to identify the  
23 woman upon whom the pre-viability separation procedure was  
24 performed;

1 2. Date the pre-viability separation procedure was performed;

2 3. The probable gestational age of the unborn human being and  
3 the method used to calculate gestational age;

4 4. A statement declaring that the pre-viability separation  
5 procedure was necessary to preserve the life of the pregnant woman;  
6 and

7 5. Specific medical indications supporting the determination  
8 that pre-viability separation procedure was necessary to preserve  
9 the life of the pregnant woman.

10 B. The physician shall sign the form as his or her attestation  
11 under oath that the information stated thereon is true and correct  
12 to the best of his or her knowledge.

13 SECTION 6. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 1-758.6 of Title 63, unless  
15 there is created a duplication in numbering, reads as follows:

16 A. The State Department of Health shall create the forms  
17 required by this act within thirty (30) days after the effective  
18 date of this act. No provision of this act requiring the reporting  
19 of information on forms published by the Department shall be  
20 applicable until ten (10) days after the requisite forms have been  
21 made available or the effective date of this act, whichever is  
22 later.

23 B. The Department shall establish a confidential system of  
24 creating and distributing unique patient identifiers to be used for  
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1 the reporting requirements of this act. It shall create this system  
2 within thirty (30) days after the effective date of this act.

3 C. Unless required by a court order, the Department shall not  
4 release personally identifiable patient or physician information  
5 obtained under this act.

6 SECTION 7. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 1-758.7 of Title 63, unless  
8 there is created a duplication in numbering, reads as follows:

9 A. Medical treatment provided to the pregnant woman by a  
10 physician which results in the accidental or unintentional injury to  
11 or the death of her unborn child is not a violation of Section 3 of  
12 this act.

13 B. Nothing in this act may be construed to prohibit the use,  
14 sale, prescription, or administration of a contraceptive measure,  
15 drug, chemical, or device if the contraceptive measure, drug,  
16 chemical, or device is used, sold, prescribed, or administered in  
17 accordance with manufacturer instructions and is not used, sold,  
18 prescribed, or administered with the specific intent to cause or  
19 induce an abortion or to prevent the implantation of a fertilized  
20 egg.

21 SECTION 8. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 1-758.8 of Title 63, unless  
23 there is created a duplication in numbering, reads as follows:

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1 A. A physician who intentionally or knowingly violates the  
2 prohibition in Section 3 of this act commits an act of  
3 unprofessional conduct and his or her license to practice medicine  
4 in Oklahoma shall be suspended or revoked for a minimum of one (1)  
5 year pursuant to Title 435 of the Oklahoma Administrative Code.

6 B. In addition to whatever remedies are available under the  
7 common or statutory law of this state, failure to comply with the  
8 requirements of this act shall provide a basis for a civil  
9 malpractice action for actual and punitive damages.

10 C. No civil penalty may be assessed against a pregnant woman.

11 SECTION 9. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 1-758.9 of Title 63, unless  
13 there is created a duplication in numbering, reads as follows:

14 The Oklahoma Attorney General shall have authority to bring an  
15 action in law or equity to enforce the provisions of this act on  
16 behalf of the State Commissioner of Health.

17 SECTION 10. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 1-758.10 of Title 63, unless  
19 there is created a duplication in numbering, reads as follows:

20 The Speaker of the Oklahoma House of Representatives may appoint  
21 one or more of its members to intervene as a matter of right in any  
22 case in which the constitutionality or enforceability of this act is  
23 challenged pursuant to Section 2024 of Title 12 of the Oklahoma  
24 Statutes.

1 SECTION 11. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 1-758.11 of Title 63, unless  
3 there is created a duplication in numbering, reads as follows:

4 It is the intent of the Oklahoma Legislature that every  
5 provision of this act shall operate with equal force and shall be  
6 severable one from the other and that, in the event that any  
7 provision of this act shall be held invalid or unenforceable by a  
8 court of competent jurisdiction, said provision shall be deemed  
9 severable and the remaining provisions of this act deemed fully  
10 enforceable.

11 SECTION 12. This act shall become effective November 1, 2024.

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