

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 55th Legislature (2015)

4 HOUSE BILL 1409

                                  By: Billy and Ritze

7                                   AS INTRODUCED

8                   An Act relating to public health and safety; amending  
9                   63 O.S. 2011, Sections 1-738.2, 1-738.3, 1-738.3a, 1-  
10                  738.8, 1-738.13, 1-738m, as amended by Section 2,  
11                  Chapter 303, O.S.L. 2013, Section 2, Chapter 175,  
12                  O.S.L. 2014 and Section 6, Chapter 175, O.S.L. 2014  
13                  (63 O.S. Supp. 2014, Sections 1-738m, 1-746.2 and 1-  
14                  746.6), which relate to abortion; increasing time  
15                  period of voluntary and informed consent prior to  
16                  abortion; requiring certain facilities to publish  
17                  link on website to State Board of Medical Licensure  
18                  and Supervision's website; requiring certain  
19                  information on link; updating references; and  
20                  providing an effective date.

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

22           SECTION 1.           AMENDATORY           63 O.S. 2011, Section 1-738.2, is  
23 amended to read as follows:

24           Section 1-738.2 A. No abortion shall be performed in this  
state except with the voluntary and informed consent of the woman  
upon whom the abortion is to be performed.

          B. Except in the case of a medical emergency, consent to an  
abortion is voluntary and informed if and only if:

1           1.    a.   not less than ~~twenty-four (24)~~ seventy-two (72) hours  
2                   prior to the performance of the abortion, the woman is  
3                   told the following, by telephone or in person, by the  
4                   physician who is to perform the abortion, or by a  
5                   referring physician, or by an agent of either  
6                   physician:

7                   (1)   the name of the physician who will perform the  
8                                abortion,

9                   (2)   the medical risks associated with the particular  
10                               abortion procedure to be employed,

11                   (3)   the probable gestational age of the unborn child  
12                               at the time the abortion is to be performed,

13                   (4)   the medical risks associated with carrying her  
14                               child to term, and

15                   (5)   that ultrasound imaging and heart tone monitoring  
16                               that enable the pregnant woman to view her unborn  
17                               child or listen to the heartbeat of the unborn  
18                               child are available to the pregnant woman. The  
19                   physician or agent of the physician shall inform  
20                   the pregnant woman that the ~~web site~~ website and  
21                   printed materials described in Section 1-738.3 of  
22                   this title, contain phone numbers and addresses  
23                   for facilities that offer such services at no  
24                   cost,

- 1           b. the information required by this paragraph may be  
2           provided by telephone without conducting a physical  
3           examination or tests of the woman. If the information  
4           is supplied by telephone, the information shall be  
5           based on facts supplied to the physician,
- 6           c. the information required by this paragraph shall not  
7           be provided by a tape recording, but shall be provided  
8           during a consultation in which the physician is able  
9           to ask questions of the woman and the woman is able to  
10          ask questions of the physician,
- 11          d. if a physical examination, tests, or other new  
12          information subsequently indicates, in the medical  
13          judgment of the physician, the need for a revision of  
14          the information previously supplied to the woman, that  
15          revised information may be communicated to the woman  
16          at any time prior to the performance of the abortion,  
17          and
- 18          e. nothing in subparagraph a of this paragraph may be  
19          construed to preclude provision of the required  
20          information in a language understood by the woman  
21          through a translator;

22          2. Not less than ~~twenty-four (24)~~ seventy-two (72) hours prior  
23 to the abortion, the woman is informed, by telephone or in person,  
24

1 by the physician who is to perform the abortion, by a referring  
2 physician, or by an agent of either physician:

3 a. that medical assistance benefits may be available for  
4 prenatal care, childbirth, and neonatal care,

5 b. that the father is liable to assist in the support of  
6 her child, even in instances in which the father has  
7 offered to pay for the abortion,

8 c. that:

9 (1) she has the option to review the printed  
10 materials described in Section 1-738.3 of this  
11 title,

12 (2) those materials have been provided by the State  
13 Board of Medical Licensure and Supervision, and

14 (3) they describe the unborn child and list agencies  
15 that offer alternatives to abortion, and

16 d. (1) if the woman chooses to exercise her option to  
17 view the materials in a printed form, they shall  
18 be mailed to her, by a method chosen by the  
19 woman, or

20 (2) if the woman chooses to exercise her option to  
21 view the materials via the Internet, the woman  
22 shall be informed at least ~~twenty-four (24)~~  
23 seventy-two (72) hours before the abortion of the  
24

1                   specific address of the Internet ~~web site~~ website  
2                   where the material can be accessed.

3           The information required by this paragraph may be provided by a  
4 tape recording if provision is made to record or otherwise register  
5 specifically whether the woman does or does not choose to review the  
6 printed materials;

7           3. The woman certifies in writing, prior to the abortion, that  
8 she has been told the information described in subparagraph a of  
9 paragraph 1 of this subsection and in subparagraphs a, b and c of  
10 paragraph 2 of this subsection and that she has been informed of her  
11 option to review or reject the printed information described in  
12 Section 1-738.3 of this title; and

13           4. Prior to the abortion, the physician who is to perform the  
14 abortion or the agent of the physician receives a copy of the  
15 written certification prescribed by paragraph 3 of this subsection.

16           C. The State Board of Medical Licensure and Supervision and the  
17 State Board of Osteopathic Examiners shall promulgate rules to  
18 ensure that physicians who perform abortions and referring  
19 physicians or agents of either physician comply with all the  
20 requirements of this section.

21           D. Before the abortion procedure is performed, the physician  
22 shall confirm with the patient that she has received information  
23 regarding:

1 1. The medical risks associated with the particular abortion  
2 procedure to be employed;

3 2. The probable gestational age of the unborn child at the time  
4 the abortion is to be performed; and

5 3. The medical risks associated with carrying the unborn child  
6 to term.

7 SECTION 2. AMENDATORY 63 O.S. 2011, Section 1-738.3, is  
8 amended to read as follows:

9 Section 1-738.3 A. Within one hundred twenty (120) days of the  
10 effective date of this act, the State Board of Medical Licensure and  
11 Supervision shall cause to be published, in English and in Spanish,  
12 and shall update on an annual basis, the following printed materials  
13 in such a way as to ensure that the information is easily  
14 comprehensible:

15 1. a. geographically indexed materials designed to inform  
16 the woman of public and private agencies, including  
17 adoption agencies and services that are available to  
18 assist a woman through pregnancy, upon childbirth, and  
19 while the child is dependent, including:

20 (1) a comprehensive list of the agencies available,  
21 (2) a description of the services they offer,  
22 including which agencies offer, at no cost to the  
23 pregnant woman, ultrasound imaging that enables a  
24 pregnant woman to view the unborn child or heart

1 tone monitoring that enables the pregnant woman  
2 to listen to the heartbeat of the unborn child,  
3 and

4 (3) a description of the manner, including telephone  
5 numbers, in which they might be contacted, or

6 b. at the option of the Board a toll-free, twenty-four-  
7 hour-a-day telephone number which may be called to  
8 obtain, in a mechanical, automated, or auditory  
9 format, a list and description of agencies in the  
10 locality of the caller and of the services they offer;  
11 and

12 2. a. materials designed to inform the woman of the probable  
13 anatomical and physiological characteristics of the  
14 unborn child at two-week gestational increments from  
15 the time when a woman can be known to be pregnant to  
16 full term, including:

17 (1) any relevant information on the possibility of  
18 the survival of the unborn child, and

19 (2) pictures or drawings representing the development  
20 of unborn children at two-week gestational  
21 increments, provided that the pictures or  
22 drawings shall describe the dimensions of the  
23 unborn child and shall be realistic and  
24 appropriate for the stage of pregnancy depicted,

1           b. the materials shall be objective, nonjudgmental, and  
2           designed to convey only accurate scientific  
3           information about the unborn child at the various  
4           gestational ages, and

5           c. the material shall also contain objective information  
6           describing:

7           (1) the methods of abortion procedures commonly  
8           employed,

9           (2) the medical risks commonly associated with each  
10          of those procedures,

11          (3) the possible detrimental psychological effects of  
12          abortion and of carrying a child to term, and

13          (4) the medical risks commonly associated with  
14          carrying a child to term, ~~and~~ and

15          d. the material shall contain the statement "Abortion  
16          shall terminate the life of a whole, separate, unique,  
17          living human being."

18          B. 1. The materials referred to in subsection A of this  
19          section shall be printed in a typeface large enough to be clearly  
20          legible.

21          2. The materials required under this section shall be available  
22          at no cost from the State Board of Medical Licensure and Supervision  
23          and shall be distributed upon request in appropriate numbers to any  
24          person, facility, or hospital.



1 C. 1. The Board shall provide on its stable Internet ~~web site~~  
2 website the information described under subsection A of this  
3 section.

4 2. The ~~web site~~ website provided for in this subsection shall  
5 be maintained at a minimum resolution of 72 PPI.

6 D. Any facility performing abortions that has a website shall  
7 publish an easily identifiable link on the homepage of such website  
8 that directly links to the Board's website that provides informed  
9 consent materials under the Woman's Right-to-Know Act. Such link  
10 shall read: "The State Board of Medical Licensure and Supervision  
11 maintains a website containing information about the development of  
12 the unborn child, as well as video of ultrasound images of the  
13 unborn child at various stages of development. The Board's website  
14 can be reached by clicking here."

15 SECTION 3. AMENDATORY 63 O.S. 2011, Section 1-738.3a, is  
16 amended to read as follows:

17 Section 1-738.3a A. By February 1, 2008, the State Department  
18 of Health shall prepare and make available on its stable Internet  
19 ~~web site~~ website the form described in subsection B of this section.

20 A copy of this act shall be posted on the ~~web site~~ website.

21 Physicians performing abortions shall complete and electronically  
22 submit the required forms to the Department no later than April 1  
23 for the previous calendar year. Nothing in the report shall contain

24

1 the name, address, or any other identifying information of any  
2 patient.

3 B. The form for physicians shall contain a listing for the  
4 following information:

5 1. The number of females to whom the physician, or an agent of  
6 the physician, provided the information described in Section 1-738.2  
7 of Title 63 of the Oklahoma Statutes; of that number, the number  
8 provided the information by telephone and the number provided the  
9 information in person; and of each of those numbers, the number  
10 provided the information in the capacity of a referring physician  
11 and the number provided the information in the capacity of a  
12 physician who is to perform the abortion; and of each of those  
13 numbers, the number provided the information by the physician and  
14 the number provided the information by an agent of the physician;

15 2. The number of females who availed themselves of the  
16 opportunity to obtain a copy of the printed information described in  
17 Section 1-738.3 of Title 63 of the Oklahoma Statutes other than on  
18 the ~~web site~~ website, and the number who did not; and of each of  
19 those numbers, the number who, to the best of the information and  
20 belief of the reporting physician, went on to obtain the abortion;  
21 and

22 3. The number of abortions performed by the physician in which  
23 information otherwise required to be provided at least ~~twenty-four~~  
24 ~~(24)~~ seventy-two (72) hours before the abortion was not so provided

1 because an immediate abortion was necessary to avert the death of  
2 the female, and the number of abortions in which the information was  
3 not so provided because a delay would cause substantial and  
4 irreversible impairment of a major bodily function.

5 C. The State Department of Health shall ensure that the  
6 reporting forms described in subsection B of this section are  
7 posted, on its stable Internet ~~web-site~~ website, within one hundred  
8 twenty (120) days after the effective date of this act. The State  
9 Department of Health shall notify the following of the requirements  
10 of this act:

11 1. By March 1, 2008, all physicians licensed to practice in  
12 this state;

13 2. Each physician who subsequently becomes newly licensed to  
14 practice in this state, at the same time as official notification to  
15 that physician that the physician is so licensed; and

16 3. By December 1 of each year, other than the calendar year in  
17 which forms are first made available to all physicians licensed to  
18 practice in this state.

19 D. By February 28 of each year following a calendar year in any  
20 part of which this section was in effect, each physician who  
21 provided, or whose agent provided, information to one or more  
22 females in accordance with Section 1-738.2 of Title 63 of the  
23 Oklahoma Statutes during the previous calendar year shall  
24 electronically submit to the State Department of Health the form

1 described in subsection B of this section, with the requested data  
2 entered accurately and completely.

3 E. Reports that are not electronically submitted by the end of  
4 a grace period of thirty (30) days following the due date shall be  
5 subject to a late fee of Five Hundred Dollars (\$500.00) for each  
6 additional thirty-day period or portion of a thirty-day period the  
7 reports are overdue. Any physician required to report in accordance  
8 with this section who has not completed and electronically submitted  
9 a report, or has electronically submitted only an incomplete report,  
10 more than one (1) year following the due date, may, in an action  
11 brought by the State Department of Health, be directed by a court of  
12 competent jurisdiction to electronically submit a complete report  
13 within a period stated by court order or be subject to sanctions for  
14 civil contempt.

15 F. By June 30 of each year, the State Department of Health  
16 shall prepare and make available on its stable Internet ~~web site~~  
17 website a public report providing statistics for the previous  
18 calendar year compiled from all items listed in subsection B of this  
19 section. Each report shall also provide statistics for all previous  
20 calendar years, adjusted to reflect any additional information from  
21 late or corrected reports. The State Department of Health shall  
22 take care to ensure that none of the information included in the  
23 public reports could reasonably lead to the identification of any  
24

1 individual providing or provided information in accordance with  
2 subsection B of this section.

3 G. The State Department of Health may promulgate rules in  
4 accordance with the Administrative Procedures Act to alter the dates  
5 established by this section or consolidate the form or report  
6 described in this section with other forms or reports to achieve  
7 administrative convenience, fiscal savings or to reduce the burden  
8 of reporting requirements, as long as reporting forms are made  
9 available, on its stable Internet web site to all licensed  
10 physicians in the state, and the report described in this section is  
11 issued at least once every year.

12 SECTION 4. AMENDATORY 63 O.S. 2011, Section 1-738.8, is  
13 amended to read as follows

14 Section 1-738.8 A. Except in the case of a medical emergency,  
15 at least ~~twenty-four (24)~~ seventy-two (72) hours prior to an  
16 abortion being performed on an unborn child whose probable  
17 gestational age is twenty (20) weeks or more, the physician  
18 performing the abortion or the agent of the physician shall inform  
19 the pregnant female, by telephone or in person, of the right to  
20 review the printed materials described in Section ~~10~~ 1-738.10 of  
21 this ~~act~~ title, that these materials are available on a state-  
22 sponsored ~~web site~~ website, and the web address of that ~~web site~~  
23 website. The physician or the agent of the physician shall orally  
24 inform the female that the materials have been provided by the State

1 of Oklahoma and that the materials contain information on pain and  
2 the unborn child. If the female chooses to view the materials other  
3 than on the ~~web site~~ website, the materials shall either be given to  
4 the female at least ~~twenty-four (24)~~ seventy-two (72) hours before  
5 the abortion, or ~~mailed to~~ received by the female at least seventy-  
6 two (72) hours before the abortion by certified mail, restricted  
7 delivery to the addressee. The information required by this  
8 subsection may be provided by a tape recording if provision is made  
9 to record or otherwise register specifically whether the female does  
10 or does not choose to receive the printed materials given or mailed.

11 B. The female shall certify in writing, prior to the abortion,  
12 that the information described in subsection A of this section has  
13 been furnished to the female and that the female has been informed  
14 of the opportunity to review the printed materials described in  
15 Section ~~10~~ 1-738.10 of this ~~act~~ title. Prior to the performance of  
16 the abortion, the physician who is to perform the abortion or the  
17 agent of the physician shall obtain a copy of the written  
18 certification and retain the copy on file with the medical record of  
19 the female for at least three (3) years following the date of  
20 receipt.

21 SECTION 5. AMENDATORY 63 O.S. 2011, Section 1-738.13, is  
22 amended to read as follows:

23 Section 1-738.13 A. Within ninety (90) days after the Unborn  
24 Child Pain Awareness/Prevention Act becomes law, the State

1 Department of Health shall prepare a reporting form for physicians  
2 containing a reprint of the Unborn Child Pain Awareness/Prevention  
3 Act and listing:

4 1. The number of females to whom the physician or an agent of  
5 the physician provided the information described in subsection A of  
6 Section ~~§~~ 1-738.8 of this ~~act~~ title; of that number, the number  
7 provided by telephone and the number provided in person; and of each  
8 of those numbers, the number provided in the capacity of a referring  
9 physician and the number provided in the capacity of a physician who  
10 is to perform the abortion or agent of such a physician;

11 2. The number of females who availed themselves of the  
12 opportunity to obtain a copy of the printed information described in  
13 Section ~~10~~ 1-738.10 of this ~~act~~ title other than on the ~~web-site~~  
14 website, and the number who did not; and of each of those numbers,  
15 the number who, to the best of the information and belief of the  
16 reporting physician, went on to obtain the abortion; and

17 3. The number of abortions performed by the physician in which  
18 information otherwise required to be provided at least ~~twenty-four~~  
19 ~~(24)~~ seventy-two (72) hours before the abortion was not so provided  
20 because an immediate abortion was necessary to avert the death of  
21 the female, and the number of abortions in which such information  
22 was not so provided because a delay would create serious risk of  
23 substantial and irreversible impairment of a major bodily function.

24

1 B. The Department shall ensure that copies of the reporting  
2 forms described in subsection A of this section are provided:

3 1. Within one hundred twenty days (120) days after the Unborn  
4 Child Pain Awareness/Prevention Act becomes law, to all physicians  
5 licensed to practice in this state;

6 2. To each physician who subsequently becomes newly licensed to  
7 practice in this state, at the same time as official notification to  
8 that physician that the physician is so licensed; and

9 3. By December 1 of each year, other than the calendar year in  
10 which forms are distributed in accordance with paragraph 1 of this  
11 subsection, to all physicians licensed to practice in this state.

12 C. By February 28 of each year following a calendar year in any  
13 part of which the Unborn Child Pain Awareness/Prevention Act was in  
14 effect, each physician who provided, or whose agent provided,  
15 information to one or more females in accordance with Section 8 of  
16 this act during the previous calendar year shall submit to the  
17 Department a copy of the form described in subsection A of this  
18 section, with the requested data entered accurately and completely.

19 D. Reports that are not submitted by the end of a grace period  
20 of thirty (30) days following the due date shall be subject to a  
21 late fee of Five Hundred Dollars (\$500.00) for each additional  
22 thirty-day period or portion of a thirty-day period the reports are  
23 overdue. Any physician required to report in accordance with this  
24 section who has not submitted a report, or has submitted only an



1 incomplete report, more than one (1) year following the due date  
2 may, in an action brought by the State Board of Medical Licensure  
3 and Supervision, be directed by a court of competent jurisdiction to  
4 submit a complete report within a period stated by court order or be  
5 subject to sanctions for civil contempt.

6 E. By June 30 of each year, the Department shall issue a public  
7 report providing statistics for the previous calendar year compiled  
8 from all of the reports covering that year submitted in accordance  
9 with this section for each of the items listed in subsection A of  
10 this section. Each such report shall also provide the statistics  
11 for all previous calendar years, adjusted to reflect any additional  
12 information from late or corrected reports. The Department shall  
13 take care to ensure that none of the information included in the  
14 public reports could reasonably lead to the identification of any  
15 individual providing or provided information in accordance with  
16 subsection A or B of Section ~~§~~ 1-738.8 of this ~~act~~ title.

17 F. The Department, by rule promulgated in accordance with the  
18 Administrative Procedures Act, may alter the dates established by  
19 paragraph 3 of subsection B, subsection C, or subsection E of this  
20 section or consolidate the forms or reports described in this  
21 section with other forms or reports to achieve administrative  
22 convenience or fiscal savings or to reduce the burden of reporting  
23 requirements, so long as reporting forms are sent to all licensed  
24 physicians in the state at least once every year and the report

1 described in subsection E of this section is issued at least once  
2 every year.

3 SECTION 6. AMENDATORY 63 O.S. 2011, Section 1-738m, as  
4 amended by Section 2, Chapter 303, O.S.L. 2013 (63 O.S. Supp. 2014,  
5 Section 1-738m), is amended to read as follows:

6 Section 1-738m. A. Beginning in 2013, by June 1 of each year,  
7 the Department shall issue, on its stable Internet website, a public  
8 Annual Abortion Report providing statistics for the previous  
9 calendar year compiled from all of the reports covering that year  
10 submitted in accordance with the Statistical Abortion Reporting Act.

11 B. The Department's public report shall also provide statistics  
12 for all previous calendar years for which abortion-reporting  
13 requirements have been in effect, adjusted to reflect any additional  
14 information from late or corrected reports.

15 C. The Annual Abortion Report shall include, but not be limited  
16 to, the following information:

17 1. The number of induced abortions performed in the previous  
18 calendar year, broken down by month and county in which the abortion  
19 was performed;

20 2. The number of abortions classified by:  
21 a. the state or foreign country of residence of the  
22 mother,  
23 b. the age, marital status, and race of the mother, and  
24 c. the number of years of education of the mother;

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

- 1           3. The number of abortions classified by:
- 2           a. the number of previous pregnancies of the mother,
- 3           b. previous live births to the mother,
- 4           c. previous miscarriages, and
- 5           d. previous induced abortions;
- 6           4. The number of abortions by week of gestational age;
- 7           5. The number of abortions performed by each reported method;
- 8           6. The number of abortions resulting in an infant born alive;
- 9 of these, the number of cases in which life-sustaining measures were
- 10 taken; and a statistical summary of the length of survival of such
- 11 infants;
- 12           7. The number of cases in which anesthesia was administered to
- 13 the mother and the number of each type of anesthesia;
- 14           8. The number of cases in which anesthesia was administered to
- 15 the unborn child, and the number of each type of anesthesia and of
- 16 each method of administration;
- 17           9. The number of each reported method of fetal disposal;
- 18           10. The reasons reported for the abortions, and the number of
- 19 times each reported reason was cited;
- 20           11. The number of abortions paid for by:
- 21           a. private insurance,
- 22           b. public health plan,
- 23           c. Medicaid,
- 24           d. private pay, or

1 e. other;

2 12. The number of abortions in which medical health insurance  
3 coverage was under:

4 a. a fee-for-service insurance company,

5 b. a managed care company, or

6 c. other;

7 13. A statistical summary of the fees collected;

8 14. Specialty area of medicine of the physician;

9 15. The number of abortions in which ultrasound equipment was  
10 used before, during, or after the abortion, and the number of times  
11 vaginal ultrasound, abdominal ultrasound, or both were used in each  
12 of the three circumstances;

13 16. The number of abortions before which an ultrasound was  
14 performed by:

15 a. the physician performing the abortion,

16 b. a physician other than the physician performing the  
17 abortion, or

18 c. other;

19 17. The number of abortions resulting in reported  
20 complications, and of those, how many were reported by the physician  
21 who performed the abortion, and how many were reported by another  
22 physician, the types of reported complications, and the number of  
23 each type based on data which shall be compiled and transmitted to  
24 the State Department of Health by the State Board of Medical

1 Licensure and Supervision and the State Board of Osteopathic  
2 Examiners;

3 18. The number of abortions resulting in the reported death of  
4 the mother;

5 19. The number of females to whom the physician provided the  
6 information in subparagraph a of paragraph 1 of subsection B of  
7 Section 1-738.2 of this title; of that number, the number provided  
8 by telephone and the number provided in person; and of each of those  
9 numbers, the number provided in the capacity of a referring  
10 physician and the number provided in the capacity of a physician who  
11 is to perform the abortion;

12 20. The number of females to whom physicians or agents of  
13 physicians provided the information in paragraph 2 of subsection B  
14 of Section 1-738.2 of this title; of that number, the number  
15 provided by telephone and the number provided in person; of each of  
16 those numbers, the number provided in the capacity of a referring  
17 physician and the number provided in the capacity of a physician who  
18 is to perform the abortion; and of each of those numbers, the number  
19 provided by the physician and the number provided by an agent of the  
20 physician;

21 21. The number of females who availed themselves of the  
22 opportunity to have a copy of the printed information described in  
23 Section 1-738.3 of this title mailed to them; and of that number,  
24

1 the number who, based on the submitted reports, did and did not  
2 obtain an abortion;

3 22. The number of abortions performed by the physician in which  
4 information otherwise required to be provided at least ~~twenty-four~~  
5 ~~(24)~~ seventy-two (72) hours before the abortion was not so provided  
6 because an immediate abortion was necessary to avert the death of  
7 the female, and the number of abortions in which such information  
8 was not so provided because a delay would create serious risk of  
9 substantial and irreversible impairment of a major bodily function;

10 23. The number of females to whom physicians or their agents  
11 provided the information described in subsection A of Section 1-  
12 738.8 of this title; of that number:

13 a. the number provided by telephone and the number  
14 provided in person; and of each of those numbers, the  
15 number provided in the capacity of a referring  
16 physician and the number provided in the capacity of a  
17 physician who is to perform the abortion, or by the  
18 agent of such physician, and

19 b. the number of females who availed themselves of the  
20 opportunity to be given or mailed the materials  
21 described in Section 1-738.10 of this title, and the  
22 number who did not; and of each of those numbers, the  
23 number who, to the best of the information and belief

24

1 of the reporting physician, went on to obtain the  
2 abortion;

3 24. The number of females to whom the information described in  
4 subsection A of Section 1-738.8 of this title would have had to be  
5 provided but for a medical emergency determination; of that number,  
6 the number for whom an immediate abortion was necessary to avert the  
7 death of the female, and the number for whom a delay would have  
8 created serious risk of substantial and irreversible impairment of a  
9 major bodily function;

10 25. The number of abortions performed within the scope of  
11 employment of Oklahoma state employees and employees of an agency or  
12 political subdivision of the state, the number of abortions  
13 performed with the use of public institutions, facilities,  
14 equipment, or other physical assets owned, leased, or controlled by  
15 this state, its agencies, or political subdivisions, and for each  
16 category:

17 a. the number of abortions reported as necessary to save  
18 the life of the mother, the life-endangering  
19 conditions identified, and the number of each such  
20 condition reported,

21 b. the number of abortions reported from pregnancies  
22 resulting from forcible rape, the number of such rapes  
23 reported to law enforcement authorities, general  
24 categories of law enforcement authorities to whom

1 reports were made and the number made to each  
2 category, and a statistical summary of the length of  
3 time between the dates of reporting to law enforcement  
4 authorities and the dates of the abortions, and  
5 c. the number of abortions reported from pregnancies  
6 resulting from incest committed against a minor, the  
7 number of perpetrators of incest in such cases  
8 reported to law enforcement authorities, general  
9 categories of law enforcement authorities to whom  
10 reports were made and the number made to each  
11 category, and a statistical summary of the length of  
12 time between the dates of reporting to law enforcement  
13 authorities and the dates of the abortions;

14 26. The number of females to a parent of whom the physician  
15 provided notice as required by Section 1-740.2 of this title; of  
16 that number, the number provided personally as described in that  
17 section, and the number provided by mail as described in that  
18 section, and of each of those numbers, the number of females who, to  
19 the best of the information and belief of the reporting physician,  
20 went on to obtain the abortion;

21 27. The number of females upon whom the physician performed an  
22 abortion without the notice to or consent of the parent of the minor  
23 required by Section 1-740.2 of this title; of that number, the  
24 number who were emancipated minors and the number who suffered from



1 a medical emergency, and of the latter, the number of cases in which  
2 a parent was notified subsequently and the number of cases in which  
3 a judicial waiver was obtained. In the case of medical emergencies  
4 in which a parent was informed subsequently, a statistical summary  
5 of the period of time elapsed before notification;

6 28. The number of abortions performed after receiving judicial  
7 authorization to do so without parental notice and consent;

8 29. The number of abortions performed on minors after judicial  
9 authorizations were granted because of a finding that the minor girl  
10 was mature and capable of giving informed consent;

11 30. The number of abortions performed on minors after judicial  
12 authorizations were granted because of a finding that the  
13 performance of the abortion without parental notification and  
14 consent was in the best interest of the minor;

15 31. The number of abortions performed after which the remains  
16 of the fetus after the abortion were examined to ensure that all  
17 such remains were evacuated from the mother's body;

18 32. The number of male children aborted and female children  
19 aborted, as determined from the examination of fetal remains after  
20 abortion;

21 33. The number of male children aborted and female children  
22 aborted, as determined by any method other than those reported in  
23 paragraph 32 of this subsection;

24

1 34. The number of instances in which the mother was informed  
2 prior to the abortion that the child to be aborted was a female;

3 35. The number of abortions performed without surgery but  
4 rather as the result of the administration of chemicals;

5 36. The number of abortions performed as reported in paragraph  
6 35 of this subsection, in which the physician was present in the  
7 same room as the woman to whom the chemicals were administered at  
8 the time any such chemicals were first administered;

9 37. The number of abortions performed for each hospital at  
10 which the abortionist had hospital privileges at the time of the  
11 abortion;

12 38. The number of abortions performed at which ultrasound  
13 equipment was used before the abortion;

14 39. The number of abortions reported in paragraph 38 of this  
15 subsection, during which the mother was under the effect of  
16 anesthesia at the time of the ultrasound;

17 40. The number of abortions performed at which ultrasound  
18 equipment was used during the abortion;

19 41. The number of abortions reported in paragraph 40 of this  
20 subsection, during which the mother was under the effect of  
21 anesthesia at the time of the ultrasound;

22 42. The number of abortions performed at which ultrasound  
23 equipment was used after the abortion;

24

1 43. The number of abortions reported in paragraph 42 of this  
2 subsection, during which the mother was under the effect of  
3 anesthesia at the time of the ultrasound;

4 44. The mean gestational age of the fetus at the time of the  
5 abortion, as determined by ultrasounds reported;

6 45. The number of abortions for which no determination of  
7 probable postfertilization age was made as required by Section 1-  
8 745.5 of this title; and

9 46. The number of abortions in which the pregnant woman was  
10 told that it may be possible to make the embryonic or fetal  
11 heartbeat of the unborn child audible for the pregnant woman to  
12 hear; the number of abortions in which the pregnant woman was asked  
13 if she would like to hear the heartbeat; and the number of abortions  
14 in which the embryonic or fetal heartbeat of the unborn child was  
15 made audible for the pregnant woman to hear, using a Doppler fetal  
16 heart rate monitor.

17 D. Beginning in 2013, by June 1 of each year, the State  
18 Department of Health shall post, on its stable Internet website, a  
19 public Annual Judicial Bypass of Abortion Parental Consent Summary  
20 Report providing statistics which shall be compiled and supplied to  
21 the Department by the Administrative Office of the Courts giving the  
22 total number of petitions or motions filed under Section 1-740.3 of  
23 this title and of that number, the number in which:

24 1. The court appointed a guardian ad litem;

1       2. The court appointed counsel;

2       3. The judge issued an order authorizing an abortion without  
3 parental notification or consent, and of those:

4           a. the number authorized due to a determination by the  
5 judge that the minor was mature and capable of giving  
6 consent to the proposed abortion, and

7           b. the number authorized due to a determination by the  
8 judge that an abortion was in the best interest of the  
9 minor; and

10       4. The judge denied such an order, and of this, the number of:

11           a. denials from which an appeal was filed,

12           b. the appeals that resulted in the denial being  
13 affirmed, and

14           c. appeals that resulted in reversals of the denials.

15       E. Each Annual Judicial Bypass of Abortion Parental Consent  
16 Summary Report shall also provide the statistics for all previous  
17 calendar years for which the public statistical report was required  
18 to be issued, adjusted to reflect any additional information from  
19 late or corrected reports.

20       F. The Department's public reports shall not contain the name,  
21 address, hometown, county of residence, or any other identifying  
22 information of any individual female, and shall take care to ensure  
23 that none of the information included in its public reports could  
24 reasonably lead to the identification of any individual female about

1 whom information is reported in accordance with the Statistical  
2 Abortion Reporting Act or of any physician providing information in  
3 accordance with the Statistical Abortion Reporting Act. Nor shall  
4 the information described in the preceding sentence be subject to  
5 the Oklahoma Open Records Act.

6 SECTION 7. AMENDATORY Section 2, Chapter 175, O.S.L.  
7 2014 (63 O.S. Supp. 2014, Section 1-746.2), is amended to read as  
8 follows:

9 Section 1-746.2 No abortion shall be performed or induced or  
10 attempted to be performed or induced without the voluntary and  
11 informed consent of the female upon whom the abortion is to be  
12 performed or induced or attempted to be performed or induced.  
13 Except in the case of a medical emergency, consent to an abortion is  
14 voluntary and informed if and only if, at least ~~twenty-four (24)~~  
15 seventy-two (72) hours before the abortion:

16 1. In the case of a female seeking an abortion of her unborn  
17 child diagnosed with a fetal anomaly incompatible with life, the  
18 female is informed, by telephone or in person, by the physician who  
19 is to perform the abortion or the physician's agent:

- 20 a. that perinatal hospice services are available,
- 21 b. this service is an alternative to abortion,
- 22 c. that she has the right to review the printed materials  
23 described in this section,

24

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

1 d. that these materials are available on a state-  
2 sponsored website, and

3 e. what the website address is where she can access this  
4 information.

5 The information required by this paragraph may be provided by a tape  
6 recording if provision is made to record or otherwise register  
7 specifically whether the female does or does not choose to have the  
8 printed materials given or mailed to her;

9 2. The physician or the physician's agent shall orally inform  
10 the female that the materials have been provided by the State of  
11 Oklahoma and that they list the places which offer perinatal hospice  
12 services both in her state and nationally. If the female chooses to  
13 view the materials other than on the website, they shall either be  
14 given to her at least ~~twenty-four (24)~~ seventy-two (72) hours before  
15 the abortion, or ~~mailed to~~ received by her at least seventy-two (72)  
16 hours before the abortion by certified mail, restricted delivery to  
17 addressee, which means the postal employee can only deliver the mail  
18 to the addressee;

19 3. The female certifies in writing, prior to the abortion, that  
20 the information described in paragraphs 1 and 2 of this section has  
21 been furnished her, and that she has been informed of her  
22 opportunity to review the information referred to in paragraph 2 of  
23 this section; and

24

1 4. Prior to the performance of the abortion, the physician who  
2 is to perform the abortion or the physician's agent receives a copy  
3 of the written certification prescribed by paragraph 3 of this  
4 section. This certification shall be maintained in the female  
5 patient's file for not less than five (5) years.

6 SECTION 8. AMENDATORY Section 6, Chapter 175, O.S.L.  
7 2013 (63 O.S. Supp. 2014, Section 1-746.6), is amended to read as  
8 follows:

9 Section 1-746.6 A. Within ninety (90) days after this act is  
10 enacted, the State Board of Medical Licensure and Supervision shall  
11 prepare a reporting form for physicians containing a reprint of this  
12 act and listing:

13 1. The number of females to whom the physician or an agent of  
14 the physician provided the information described in paragraph 1 of  
15 Section 2 of this act; of that number, the number provided by  
16 telephone and the number provided in person; of each of those  
17 numbers, the number provided in the capacity of a referring  
18 physician and the number provided in the capacity of a physician who  
19 is to perform the abortion; and of each of those numbers, the number  
20 provided by the physician and the number provided by an agent of the  
21 physician;

22 2. The number of females who availed themselves of the  
23 opportunity to obtain a copy of the printed information described in  
24 Section 3 of this act other than on the website, and the number who

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**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

1 did not; and of each of those numbers, the number who, to the best  
2 of the reporting physician's information and belief, went on to  
3 obtain the abortion; and

4 3. The number of abortions performed by the physician in which  
5 information otherwise required to be provided at least ~~twenty-four~~  
6 ~~(24)~~ seventy-two (72) hours before the abortion was not so provided  
7 because an immediate abortion was necessary to avert the female's  
8 death, and the number of abortions in which such information was not  
9 so provided because a delay would create serious risk of substantial  
10 and irreversible impairment of a major bodily function.

11 B. The Board shall ensure that copies of the reporting forms  
12 described in subsection A of this section are provided:

13 1. Within one hundred twenty (120) days after this act is  
14 enacted, to all physicians licensed to practice in this state;

15 2. To each physician who subsequently becomes newly licensed to  
16 practice in this state, at the same time as official notification to  
17 that physician that the physician is so licensed; and

18 3. By December 1 of each year, other than the calendar year in  
19 which forms are distributed in accordance with paragraph 1 of this  
20 subsection, to all physicians licensed to practice in this state.

21 C. By February 28 of each year following a calendar year in any  
22 part of which this act was in effect, each physician who provided,  
23 or whose agent provided, information to one or more females in  
24 accordance with Section 2 of this act during the previous calendar



1 year shall submit to the Board a copy of the form described in  
2 subsection A of this section, with the requested data entered  
3 accurately and completely.

4 D. Reports that are not submitted by the end of a grace period  
5 of thirty (30) days following the due date shall be subject to a  
6 late fee of Five Hundred Dollars (\$500.00) for each additional  
7 thirty-day period or portion of a thirty-day period they are  
8 overdue. Any physician required to report in accordance with this  
9 section who has not submitted a report, or has submitted only an  
10 incomplete report, more than one (1) year following the due date,  
11 may, in an action brought by the Board, be directed by a court of  
12 competent jurisdiction to submit a complete report within a period  
13 stated by court order or be subject to sanctions for civil contempt.

14 E. By June 30 of each year the State Board of Medical Licensure  
15 and Supervision shall issue a public report providing statistics for  
16 the previous calendar year compiled from all of the reports covering  
17 that year submitted in accordance with this section for each of the  
18 items listed in subsection A of this section. Each such report  
19 shall also provide the statistics for all previous calendar years,  
20 adjusted to reflect any additional information from late or  
21 corrected reports. The Board shall take care to ensure that none of  
22 the information included in the public reports could reasonably lead  
23 to the identification of any individual provided information in  
24 accordance with paragraph 1 of Section 2 of this act.

1 F. The Board may by rule alter the dates established by  
2 paragraph 3 of subsection B or subsection C or E of this section or  
3 consolidate the forms or reports described in this section with  
4 other forms or reports to achieve administrative convenience or  
5 fiscal savings or to reduce the burden of reporting requirements, so  
6 long as reporting forms are sent to all licensed physicians in the  
7 state at least once every year and the report described in  
8 subsection E of this section is issued at least once every year.

9 SECTION 9. This act shall become effective November 1, 2015.

10

11 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 02/04/2015 -  
12 DO PASS, As Coauthored.

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