An Act

ENROLLED SENATE
BILL NO. 1890

By: Lamb, Jolley, Marlatt and Aldridge of the Senate

and

Sullivan, Reynolds, McCullough, Cooksey, Derby, Thompson, Tibbs, Kern and Walker of the House

An Act relating to public health and safety; defining terms; prohibiting the performance of an abortion solely on account of the sex of the unborn child; specifying liability; authorizing injunctive relief; specifying those persons authorized to bring an action; specifying penalties; providing for civil action; providing for the suspension or revocation of a certificate or license; providing for certain privacy; repealing Section 2, Chapter 227, O.S.L. 2009 (63 O.S. Supp. 2009, Section 1-731.1), which relates to abortion on account of the sex of the unborn child; providing for codification; and declaring an emergency.

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 1-731.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Attempt to perform an abortion" means an act, or an omission of a statutorily required act, that under the circumstances

as the actor believes them to be constitutes a substantial step in a course of conduct planned to culminate in the performance of an abortion; and

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

B. No person shall knowingly or recklessly perform or attempt to perform an abortion with knowledge that the pregnant female is seeking the abortion solely on account of the sex of the unborn child. Nothing in this section shall be construed to proscribe the performance of an abortion because the unborn child has a genetic disorder that is sex-linked.

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

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

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

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

c. a district attorney with appropriate jurisdiction, or

d. the Attorney General.

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

3. Any person who knowingly violates the terms of an injunction issued in accordance with this section shall be subject to civil contempt and shall be fined Ten Thousand Dollars ($10,000.00) for the first violation, Fifty Thousand Dollars ($50,000.00) for the second violation, and One Hundred Thousand Dollars ($100,000.00) for the third violation and for each succeeding violation. The fines shall be the exclusive penalties for civil contempt pursuant to this paragraph. Each performance or attempted performance of an abortion in violation of the terms of an injunction is a separate violation. These fines shall be cumulative. No fine shall be assessed against the female upon whom an abortion is performed or attempted.

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

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

E. In every proceeding or action brought under this section, the anonymity of any female upon whom an abortion is performed or attempted shall be preserved unless she gives her consent to such disclosure. The court, upon motion or sua sponte, shall issue orders to the parties, witnesses, and counsel and shall direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary to safeguard the female's identity from public disclosure. In the absence of written consent of the female upon whom an abortion has been performed or attempted, anyone who brings an action under subsection B of this section shall do so under a pseudonym.

SECTION 2. REPEALER Section 2, Chapter 227, O.S.L. 2009 (63 O.S. Supp. 2009, Section 1-731.1), is hereby repealed.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 10th day of March, 2010.

A. Byrd Mallett
Presiding Officer of the Senate

Passed the House of Representatives the 29th day of March, 2010.

Kris Steele
Presiding Officer of the House of Representatives

OFFICE OF THE GOVERNOR

Received by the Governor this 30th
day of March, **20**10,
at 3:45 **o'clock** P **M.**

By:

Approved by the Governor of the State of Oklahoma the 2nd **day of**
April, **20**10, **at** 5:58 **o'clock** P **M.**

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this
5th **day of** April, **20**10,
at 10:45 **o'clock** A **M.**

By: M. Susan Savage