

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1372

By: Hamilton

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5  
6 AS INTRODUCED

7 An Act relating to abortion; creating the Equal  
8 Protection and Equal Justice for All Oklahomans Act;  
9 stating purpose of act; providing certain  
10 construction; amending 12 O.S. 2021, Section 1053,  
11 which relates to wrongful death; modifying statutory  
12 reference; modifying applicability of section;  
13 requiring enforcement and monitoring of enforcement  
14 of certain laws; amending 21 O.S. 2021, Section 652,  
15 which relates to attempts to kill; modifying  
16 statutory references; modifying applicability of  
17 section; prohibiting certain construction; amending  
18 21 O.S. 2021, Section 691, which relates to the  
19 definition of homicide; modifying and adding  
20 definitions; modifying certain protection from  
21 prosecution; amending 25 O.S. 2021, Section 2004,  
22 which relates to medical consent for treatment of  
23 minors; modifying applicability of section; amending  
24 56 O.S. 2021, Section 1005, which relates to unlawful  
acts; modifying construction; amending 59 O.S. 2021,  
Section 519.11, which relates to construction of the  
Physician Assistant Act; removing prohibition on  
certain acts; amending 63 O.S. 2021, Section 1-701,  
which relates to hospitals; modifying certain  
definition; amending 63 O.S. 2021, Section 1-728c,  
which relates to employer discrimination; removing  
certain circumstance under which discrimination is  
prohibited; amending 63 O.S. 2021, Section 2601,  
which relates to definitions; modifying certain  
definition; amending 74 O.S. 2021, Section 5054,  
which relates to limits on use of funds; modifying  
statutory references; specifying control of certain  
provisions; stating that act is prospective; defining  
term; protecting certain defenses; voiding  
conflicting provisions of law; allowing the state and  
political subdivisions to nullify certain court

1 decisions; providing for impeachment or removal of  
2 judges for certain acts; declaring act inseverable;  
3 providing for codification; providing for  
4 noncodification; and declaring an emergency.

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

6 SECTION 1. NEW LAW A new section of law not to be  
7 codified in the Oklahoma Statutes reads as follows:

8 This act shall be known and may be cited as the "Equal  
9 Protection and Equal Justice for All Oklahomans Act".

10 SECTION 2. NEW LAW A new section of law not to be  
11 codified in the Oklahoma Statutes reads as follows:

12 A. Acting upon the Section 1 of Article I of the Oklahoma  
13 Constitution, which provides that the Constitution of the United  
14 States is the supreme law of the land; and acknowledging the  
15 sanctity of innocent human life, created in the image of God, which  
16 should be equally protected from fertilization to natural death; the  
17 purpose of this act is:

18 1. To ensure the right to life and equal protection of the laws  
19 to all unborn children from the moment of fertilization;

20 2. To establish that a living human unborn child, from the  
21 moment of fertilization and at every stage of development, is  
22 entitled to the same rights, powers and privileges as are secured or  
23 granted by the laws of this state to any other human person;

1           3. To recognize that the Constitution of the United States and  
2 the laws of the United States which shall be made in pursuance  
3 thereof, are the supreme law of the land; and to fulfill our oaths  
4 to such Constitution, so help us God, by refusing to assent to the  
5 legal fiction that such Constitution prohibits this state from  
6 exercising its reserved police powers to outlaw homicide and from  
7 exercising its constitutional and God-given duties to provide equal  
8 protection to all persons within its jurisdiction. As Supreme Court  
9 Justice Clarence Thomas recently stated, "The Constitution does not  
10 constrain the States' ability to regulate or even prohibit  
11 abortion." *June Med. Servs. L.L.C. v. Russo*, 140 S. Ct. 2103, 2149  
12 (2020) (Thomas, J., dissenting); and

13           4. To treat as void and of no effect any and all federal  
14 statutes, regulations, treaties, orders and court rulings which  
15 would deprive an unborn child of the right to life or prohibit the  
16 equal protection of such right.

17           B. Nothing in this act shall be construed as an intent by this  
18 state to withdraw from the United States of America. To the  
19 contrary, this act is in accordance with and in furtherance of the  
20 Constitution of the United States and the principles which made  
21 America great. This state urges the federal government to honor the  
22 same by supporting this act which equally secures the right to life  
23 to all preborn people within this state.

1 SECTION 3. AMENDATORY 12 O.S. 2021, Section 1053, is

2 amended to read as follows:

3 Section 1053. A. When the death of one is caused by the  
4 wrongful act or omission of another, the personal representative of  
5 the former may maintain an action therefor against the latter, or  
6 his or her personal representative if he or she is also deceased, if  
7 the former might have maintained an action, had he or she lived,  
8 against the latter, or his or her representative, for an injury for  
9 the same act or omission. The action must be commenced within two  
10 (2) years.

11 B. The damages recoverable in actions for wrongful death as  
12 provided in this section shall include the following:

13 1. Medical and burial expenses, which shall be distributed to  
14 the person or governmental agency as defined in Section 5051.1 of  
15 Title 63 of the Oklahoma Statutes who paid these expenses, or to the  
16 decedent's estate if paid by the estate. The provisions of this  
17 paragraph shall not apply to the cost of an abortion in actions  
18 maintained pursuant to subsection F of this section;

19 2. The loss of consortium and the grief of the surviving  
20 spouse, which shall be distributed to the surviving spouse;

21 3. The mental pain and anguish suffered by the decedent, which  
22 shall be distributed to the surviving spouse and children, if any,  
23 or next of kin in the same proportion as personal property of the  
24 decedent. For the purposes of actions maintained pursuant to

1 subsection F of this section, "next of kin" as used in this  
2 paragraph shall mean the parent or grandparent who maintained the  
3 action as provided for in paragraph 3 of subsection F of this  
4 section;

5 4. The pecuniary loss to the survivors based upon properly  
6 admissible evidence with regard thereto including, but not limited  
7 to, the age, occupation, earning capacity, health habits, and  
8 probable duration of the decedent's life, which must inure to the  
9 exclusive benefit of the surviving spouse and children, if any, or  
10 next of kin, and shall be distributed to them according to their  
11 pecuniary loss. For the purposes of actions maintained pursuant to  
12 subsection F of this section, "next of kin" as used in this  
13 paragraph shall mean the parent or grandparent who maintained the  
14 action as provided for in paragraph 3 of subsection F of this  
15 section; and

16 5. The grief and loss of companionship of the children and  
17 parents of the decedent, which shall be distributed to them  
18 according to their grief and loss of companionship.

19 C. In proper cases, as provided by Section 9.1 of Title 23 of  
20 the Oklahoma Statutes, punitive or exemplary damages may also be  
21 recovered against the person proximately causing the wrongful death  
22 or the person's representative if such person is deceased. Such  
23 damages, if recovered, shall be distributed to the surviving spouse  
24 and children, if any, or next of kin in the same proportion as

1 personal property of the decedent. For the purposes of actions  
2 maintained pursuant to subsection F of this section, "next of kin"  
3 as used in this paragraph shall mean the parent or grandparent who  
4 maintained the action as provided for in paragraph 3 of subsection F  
5 of this section.

6 D. Where the recovery is to be distributed according to a  
7 person's pecuniary loss or loss of companionship, the judge shall  
8 determine the proper division.

9 E. The above-mentioned distributions shall be made after the  
10 payment of legal expenses and costs of the action.

11 F. 1. The provisions of this section shall also be available  
12 for the death of an unborn person as defined in Section ~~1-730~~ 691 of  
13 Title ~~63~~ 21 of the Oklahoma Statutes.

14 2. The provisions of this subsection ~~shall apply to acts which~~  
15 ~~cause the death of an unborn person in utero if:~~

16 ~~a. the physician who performed the abortion or the~~  
17 ~~referring physician fails to obtain and document the~~  
18 ~~voluntary and informed consent of the pregnant woman~~  
19 ~~pursuant to Section 1-738.2 of Title 63 of the~~  
20 ~~Oklahoma Statutes,~~

21 ~~b. the pregnant woman withdraws her consent to the~~  
22 ~~abortion prior to performance of the abortion,~~

23 ~~c. the pregnant woman undergoes the abortion due to~~  
24 ~~coercion from a third party,~~

- 1 ~~d. the physician fails to obtain and document proof of~~  
2 ~~age demonstrating that the pregnant woman is not a~~  
3 ~~minor, or, in the case of a minor, fails to obtain:~~  
4 ~~(1) parental consent to the abortion pursuant to~~  
5 ~~Section 1-740.2 of Title 63 of the Oklahoma~~  
6 ~~Statutes,~~  
7 ~~(2) proof that the pregnant woman, although a minor,~~  
8 ~~is emancipated, or~~  
9 ~~(3) judicial authorization of the abortion without~~  
10 ~~parental notification pursuant to Section 1-740.3~~  
11 ~~of Title 63 of the Oklahoma Statutes,~~  
12 ~~e. the physician who performed the abortion causes the~~  
13 ~~woman physical or psychological harm, the possibility~~  
14 ~~of which she did not foresee or was not informed of at~~  
15 ~~the time of her consent,~~  
16 ~~f. the physician who performed the abortion fails to~~  
17 ~~screen the pregnant woman and document such screening~~  
18 ~~for risk factors associated with a heightened risk of~~  
19 ~~adverse consequences from abortion which a reasonably~~  
20 ~~prudent physician would screen for,~~  
21 ~~g. the physician fails to screen the pregnant woman and~~  
22 ~~document such screening for physical or psychological~~  
23 ~~impairment of judgment due to factors including, but~~  
24 ~~not limited to, drugs, alcohol, illness or fatigue,~~

1           ~~h. the physician fraudulently induces the pregnant woman~~  
2           ~~to obtain the abortion or gives misleading or false~~  
3           ~~information in response to a pregnant woman's inquiry,~~  
4           ~~or~~  
5           ~~i. there exist any other circumstances which violate~~  
6           ~~state law.~~

7           ~~The provisions of this paragraph~~ shall not be construed to apply  
8 to cases in which a physician licensed to practice medicine in this  
9 state attempts, in a reasonably prudent manner, to prevent the death  
10 of an unborn person or a pregnant woman.

11           3. A parent or grandparent of the deceased unborn person is  
12 entitled to maintain an action against the physician who caused the  
13 death of an unborn person ~~under the conditions provided by~~  
14 ~~subparagraphs a through i of paragraph 2 of this subsection;~~  
15 provided, however, the parent or grandparent may not maintain such  
16 action if the parent or grandparent coerced the mother of the unborn  
17 person to abort the unborn person.

18           4. Liability for wrongful death by the physician under this  
19 section shall not be waived by the pregnant woman prior to  
20 performance of the abortion. A physician shall not request, orally,  
21 on a written form or in any other manner, that the pregnant woman  
22 waive the liability of the physician for wrongful death related to  
23 the abortion as a condition of performing an abortion.



1           5. Under no circumstances shall the mother of the unborn person  
2 be found liable for causing the death of the unborn person unless  
3 the mother has committed a crime that caused the death of the unborn  
4 person.

5           SECTION 4.           NEW LAW           A new section of law to be codified  
6 in the Oklahoma Statutes as Section 18h of Title 74, unless there is  
7 created a duplication in numbering, reads as follows:

8           The Attorney General shall monitor this state's enforcement of  
9 Chapter 24 of Title 21 of the Oklahoma Statutes in relation to  
10 abortion. The Attorney General shall direct state agencies to  
11 enforce those laws without regard to the opinions and judgments of  
12 the Supreme Court of the United States in *Roe v. Wade*, 410 U.S. 113  
13 (1973), and its judicial progeny, past and future, including, but  
14 not limited to, *Planned Parenthood v. Casey*, 505 U.S. 833 (1992),  
15 and *June Med. Servs. L.L.C. v. Russo*, 140 S. Ct. 2103 (2020), and  
16 without regard to any other contrary or conflicting federal statute,  
17 regulation, treaty, executive order or court ruling.

18           SECTION 5.           NEW LAW           A new section of law to be codified  
19 in the Oklahoma Statutes as Section 215.41 of Title 19, unless there  
20 is created a duplication in numbering, reads as follows:

21           Without limiting prosecutorial discretion, this state and all  
22 political subdivisions of this state shall enforce Chapter 24 of  
23 Title 21 of the Oklahoma Statutes in relation to abortion without  
24 regard to the opinions and judgments of the Supreme Court of the

1 United States in Roe v. Wade, 410 U.S. 113 (1973), and its judicial  
2 progeny, past and future, including, but not limited to, Planned  
3 Parenthood v. Casey, 505 U.S. 833 (1992), and June Med. Servs.  
4 L.L.C. v. Russo, 140 S. Ct. 2103 (2020), and without regard to any  
5 other contrary or conflicting federal statute, regulation, treaty,  
6 executive order, or court ruling.

7 SECTION 6. AMENDATORY 21 O.S. 2021, Section 652, is  
8 amended to read as follows:

9 Section 652. A. Every person who intentionally and wrongfully  
10 shoots another with or discharges any kind of firearm, with intent  
11 to kill any person, including an unborn child as defined in Section  
12 ~~1-730~~ 691 of ~~Title 63 of the Oklahoma Statutes~~ this title, shall  
13 upon conviction be guilty of a felony punishable by imprisonment in  
14 the State Penitentiary not exceeding life.

15 B. Every person who uses any vehicle to facilitate the  
16 intentional discharge of any kind of firearm, crossbow or other  
17 weapon in conscious disregard for the safety of any other person or  
18 persons, including an unborn child as defined in Section ~~1-730~~ 691  
19 of ~~Title 63 of the Oklahoma Statutes~~ this title, shall upon  
20 conviction be guilty of a felony punishable by imprisonment in the  
21 custody of the Department of Corrections for a term not less than  
22 two (2) years nor exceeding life.

23 C. Any person who commits any assault and battery upon another,  
24 including an unborn child as defined in Section ~~1-730~~ 691 of ~~Title~~

1 ~~63 of the Oklahoma Statutes this title~~, by means of any deadly  
2 weapon, or by such other means or force as is likely to produce  
3 death, or in any manner attempts to kill another, including an  
4 unborn child as defined in Section ~~1-730~~ 691 of ~~Title 63 of the~~  
5 ~~Oklahoma Statutes this title~~, or in resisting the execution of any  
6 legal process, shall upon conviction be guilty of a felony  
7 punishable by imprisonment in the ~~State Penitentiary~~ Department of  
8 Corrections not exceeding life.

9 D. ~~The provisions of this section shall not apply to:~~

10 1. ~~Acts which cause the death of an unborn child if those acts~~  
11 ~~were committed during a legal abortion to which the pregnant woman~~  
12 ~~consented; or~~

13 2. ~~Acts which are committed pursuant to usual and customary~~  
14 ~~standards of medical practice during diagnostic testing or~~  
15 ~~therapeutic treatment.~~

16 E. ~~Under no circumstances shall the mother of the unborn child~~  
17 ~~be prosecuted for causing the death of the unborn child unless the~~  
18 ~~mother has committed a crime that caused the death of the unborn~~  
19 ~~child.~~

20 The provisions of this section shall not be construed to apply  
21 to cases in which a physician licensed to practice medicine in this  
22 state attempts, in a reasonably prudent manner, to prevent the death  
23 of an unborn person or a pregnant woman.

1 SECTION 7. AMENDATORY 21 O.S. 2021, Section 691, is

2 amended to read as follows:

3 Section 691. A. Homicide is the killing of one human being by  
4 another.

5 B. As used in this section, ~~"human being":~~

6 1. "Human being" includes an unborn child, as defined in  
7 ~~Section 1-730 of Title 63 of the Oklahoma Statutes~~ this section;

8 2. "Abortion" means the act of using or prescribing an  
9 instrument, a drug, a medicine or any other substance, device or  
10 means with the intent to cause the death of an unborn child, which  
11 shall not include instances in which an unborn child dies by natural  
12 causes;

13 3. "Unborn child" or "unborn person" means the unborn offspring  
14 of human beings from the moment of fertilization and until live  
15 birth including the developmental stages of human conceptus, zygote,  
16 morula, blastocyst, embryo and fetus; and

17 4. "Fertilization" means the fusion of a human spermatozoon  
18 with a human ovum.

19 C. Homicide shall ~~not~~ include:

20 ~~1. Acts, but not be limited to, acts which cause the death of~~  
21 ~~an unborn child if those acts were committed during a legal an~~  
22 ~~abortion to which the pregnant woman consented; or~~

1       ~~2. Acts which are committed pursuant to the usual and customary~~  
2 ~~standards of medical practice during diagnostic testing or~~  
3 ~~therapeutic treatment.~~

4       ~~D. Under no circumstances shall the mother of the unborn child~~  
5 ~~be prosecuted for causing the death of the unborn child unless the~~  
6 ~~mother has committed a crime that caused the death of the unborn~~  
7 ~~child.~~

8       SECTION 8.       AMENDATORY       25 O.S. 2021, Section 2004, is  
9 amended to read as follows:

10       Section 2004. A. Except as otherwise provided by law, no  
11 person, corporation, association, organization, state-supported  
12 institution, or individual employed by any of these entities may  
13 procure, solicit to perform, arrange for the performance of, perform  
14 surgical procedures, or perform a physical examination upon a minor  
15 or prescribe any prescription drugs to a minor without first  
16 obtaining a written consent of a parent or legal guardian of the  
17 minor. Provided, however, that if written consent is provided to a  
18 school district for assessment or treatment, such consent shall be  
19 effective for the school year for which it is granted and shall be  
20 renewed each subsequent school year. If an assessment or treatment  
21 is performed through telemedicine at a school site and if consent  
22 has been provided by the parent and is currently effective, the  
23 health professional shall not be required to verify that the parent  
24 is at the site.

1 B. Except as otherwise provided by law, no hospital as defined  
2 in Section 1-701 of Title 63 of the Oklahoma Statutes may permit  
3 surgical procedures to be performed upon a minor in its facilities  
4 without first having received a written consent from a parent or  
5 legal guardian of the minor.

6 C. The provisions of this section shall not apply when it has  
7 been determined by a physician that an emergency exists and that it  
8 is necessary to perform such surgical procedures for the treatment  
9 of an injury, illness or drug abuse, or to save the life of the  
10 patient, or when such parent or other adult authorized by law to  
11 consent on behalf of a minor cannot be located or contacted after a  
12 reasonably diligent effort.

13 ~~D. The provisions of this section shall not apply to an~~  
14 ~~abortion, which shall be governed by the provisions of Sections 1-~~  
15 ~~740 through 1-740.6 and Sections 1-744 through 1-744.6 of Title 63~~  
16 ~~of the Oklahoma Statutes or any successor statute.~~

17 ~~E.~~ A person who violates a provision of this section is guilty  
18 of a misdemeanor, punishable by a fine of not more than One Thousand  
19 Dollars (\$1,000.00) or imprisonment of not more than one (1) year in  
20 the county jail, or by both such fine and imprisonment.

21 SECTION 9. AMENDATORY 56 O.S. 2021, Section 1005, is  
22 amended to read as follows:

23 Section 1005. A. It shall be unlawful for any person to  
24 willfully and knowingly:  
25

- 1           1. Make or cause to be made a claim, knowing the claim to be  
2 false, in whole or in part, by commission or omission;
- 3           2. Make or cause to be made a statement or representation for  
4 use in obtaining or seeking to obtain authorization to provide a  
5 good or a service knowing the statement or representation to be  
6 false, in whole or in part, by commission or omission;
- 7           3. Make or cause to be made a statement or representation for  
8 use by another in obtaining a good or a service under the Oklahoma  
9 Medicaid Program, knowing the statement or representation to be  
10 false, in whole or in part, by commission or omission;
- 11           4. Make or cause to be made a statement or representation for  
12 use in qualifying as a provider of a good or a service under the  
13 Oklahoma Medicaid Program, knowing the statement or representation  
14 to be false, in whole or in part, by commission or omission;
- 15           5. Charge any recipient or person acting on behalf of a  
16 recipient, money or other consideration in addition to or in excess  
17 of rates of remuneration established under the Oklahoma Medicaid  
18 Program;
- 19           6. Solicit or accept a benefit, pecuniary benefit, or kickback  
20 in connection with goods or services paid or claimed by a provider  
21 to be payable by the Oklahoma Medicaid Program; or
- 22           7. Having submitted a claim for or received payment for a good  
23 or a service under the Oklahoma Medicaid Program, fail to maintain  
24 or destroy such records as required by law or the rules of the  
25

1 Oklahoma Health Care Authority for a period of at least six (6)  
2 years following the date on which payment was received.

3 B. For the purposes of this section, a person shall be deemed  
4 to have made or caused to be made a claim, statement, or  
5 representation if the person:

6 1. Had the authority or responsibility to make the claim,  
7 statement, or representation, to supervise those who made the claim,  
8 statement, or representation, or to authorize the making of the  
9 claim, statement, or representation, whether by operation of law,  
10 business or professional practice, or office procedure; and

11 2. Exercised such authority or responsibility or failed to  
12 exercise such authority or responsibility and as a direct or  
13 indirect result, the false statement was made.

14 C. The provisions of this section shall not be construed to  
15 prohibit any payment, business arrangement or payment practice not  
16 prohibited by 42 U.S.C., Section 1320a-7b(b) or any regulations  
17 promulgated pursuant thereto ~~or to prohibit any payment, business~~  
18 ~~arrangement or payment practice not prohibited by Section 1-742 of~~  
19 ~~Title 63 of the Oklahoma Statutes.~~

20 D. For the purposes of this section, a person shall be deemed  
21 to have known that a claim, statement, or representation was false  
22 if the person knew, or by virtue of the person's position, authority  
23 or responsibility, had reason to know, of the falsity of the claim,  
24 statement or representation.



1 E. Any employee of the State Department of Health, the  
2 Department of Human Services or the Oklahoma Health Care Authority  
3 who knowingly or willfully fails to promptly report a violation of  
4 the Oklahoma Medicaid Program, subject to the provisions of this  
5 section, to the chief administrative officer of such agency or the  
6 State Attorney General shall, upon conviction thereof, be guilty of  
7 a misdemeanor.

8 SECTION 10. AMENDATORY 59 O.S. 2021, Section 519.11, is  
9 amended to read as follows:

10 Section 519.11. A. Nothing in the Physician Assistant Act  
11 shall be construed to prevent or restrict the practice, services or  
12 activities of any persons of other licensed professions or personnel  
13 supervised by licensed professions in this state from performing  
14 work incidental to the practice of their profession or occupation,  
15 if that person does not represent himself as a physician assistant.

16 B. Nothing stated in the Physician Assistant Act shall prevent  
17 any hospital from requiring the physician assistant or the  
18 delegating physician to meet and maintain certain staff appointment  
19 and credentialing qualifications for the privilege of practicing as,  
20 or utilizing, a physician assistant in the hospital.

21 C. Nothing in the Physician Assistant Act shall be construed to  
22 permit a physician assistant to practice medicine or prescribe drugs  
23 and medical supplies in this state except when such actions are  
24 performed under the supervision and at the direction of a physician

1 or physicians approved by the State Board of Medical Licensure and  
2 Supervision.

3 D. Nothing herein shall be construed to require licensure under  
4 the Physician Assistant Act of a physician assistant student  
5 enrolled in a physician assistant educational program accredited by  
6 the Accreditation Review Commission on Education for the Physician  
7 Assistant.

8 ~~E. Notwithstanding any other provision of law, no one who is~~  
9 ~~not a physician licensed to practice medicine in this state may~~  
10 ~~perform acts restricted to such physicians pursuant to the~~  
11 ~~provisions of Section 1-731 of Title 63 of the Oklahoma Statutes.~~  
12 ~~This paragraph is inseverable.~~

13 SECTION 11. AMENDATORY 63 O.S. 2021, Section 1-701, is  
14 amended to read as follows:

15 Section 1-701. For the purposes of Section 1-701 et seq. of  
16 this title:

17 1. "Hospital" means any institution, place, building or agency,  
18 public or private, whether organized for profit or not, primarily  
19 engaged in the maintenance and operation of facilities for the  
20 diagnosis, treatment or care of patients admitted for overnight stay  
21 or longer in order to obtain medical care, surgical care,  
22 obstetrical care, or nursing care for illness, disease, injury,  
23 infirmity, or deformity. Except as otherwise provided by paragraph  
24 5 of this subsection, places where pregnant females are admitted and

1 receive care incident to pregnancy, ~~abortion~~ or delivery shall be  
2 considered to be a "hospital" within the meaning of this article,  
3 regardless of the number of patients received or the duration of  
4 their stay. The term "hospital" includes general medical surgical  
5 hospitals, specialized hospitals, critical access and emergency  
6 hospitals, and birthing centers;

7 2. "General medical surgical hospital" means a hospital  
8 maintained for the purpose of providing hospital care in a broad  
9 category of illness and injury;

10 3. "Specialized hospital" means a hospital maintained for the  
11 purpose of providing hospital care in a certain category, or  
12 categories, of illness and injury;

13 4. "Critical access hospital" means a hospital determined by  
14 the State Department of Health to be a necessary provider of health  
15 care services to residents of a rural community;

16 5. "Emergency hospital" means a hospital that provides  
17 emergency treatment and stabilization services on a twenty-four-hour  
18 basis that has the ability to admit and treat patients for short  
19 periods of time;

20 6. "Birthing center" means any facility, place or institution,  
21 which is maintained or established primarily for the purpose of  
22 providing services of a certified midwife or licensed medical doctor  
23 to assist or attend a woman in delivery and birth, and where a woman  
24 is scheduled in advance to give birth following a normal,

1 uncomplicated, low-risk pregnancy. Provided, however, licensure for  
2 a birthing center shall not be compulsory;

3 7. "Day treatment program" means nonresidential, partial  
4 hospitalization programs, day treatment programs, and day hospital  
5 programs as defined by subsection A of Section 175.20 of Title 10 of  
6 the Oklahoma Statutes; and

7 8. a. "Primarily engaged" means a hospital shall be  
8 primarily engaged, defined by this section and as  
9 determined by the State Department of Health, in  
10 providing to inpatients the following care by or under  
11 the supervision of physicians:

12 (1) diagnostic services and therapeutic services for  
13 medical diagnosis, treatment and care of injured,  
14 disabled or sick persons, or

15 (2) rehabilitation services for the rehabilitation of  
16 injured, disabled or sick persons.

17 b. In reaching a determination as to whether an entity is  
18 primarily engaged in providing inpatient hospital  
19 services to inpatients of a hospital, the Department  
20 shall evaluate the total facility operations and  
21 consider multiple factors as provided in subparagraphs  
22 c and d of this subsection.

23 c. In evaluating the total facility operations, the  
24 Department shall review the actual provision of care  
25

1 and services to two or more inpatients, and the  
2 effects of that care, to assess whether the care  
3 provided meets the needs of individual patients by way  
4 of patient outcomes.

5 d. The factors that the Department shall consider for  
6 determination of whether an entity meets the  
7 definition of primarily engaged include, but are not  
8 limited to:

- 9 (1) a minimum of four inpatient beds,
- 10 (2) the entity's average daily census (ADC),
- 11 (3) the average length of stay (ALOS),
- 12 (4) the number of off-site campus outpatient  
13 locations,
- 14 (5) the number of provider-based emergency  
15 departments for the entity,
- 16 (6) the number of inpatient beds related to the size  
17 of the entity and the scope of the services  
18 offered,
- 19 (7) the volume of outpatient surgical procedures  
20 compared to the inpatient surgical procedures, if  
21 surgical services are provided,
- 22 (8) staffing patterns, and
- 23 (9) patterns of ADC by day of the week.

1 e. Notwithstanding any other provision of this section,  
2 an entity shall be considered primarily engaged in  
3 providing inpatient hospital services to inpatients if  
4 the hospital has had an ADC of at least two (2) and an  
5 ALOS of at least two (2) midnights over the past  
6 twelve (12) months. A critical access hospital shall  
7 be exempt from the ADC and ALOS determination. ADC  
8 shall be calculated by adding the midnight daily  
9 census for each day of the twelve-month period and  
10 then dividing the total number by days in the year. A  
11 facility that has been operating for less than (12)  
12 months at the time of the survey shall calculate its  
13 ADC based on the number of months the facility has  
14 been operational, but not less than three (3) months.  
15 If a first survey finds noncompliance with the ADC and  
16 ALOS, a second survey may be required by the  
17 Department to demonstrate compliance with state  
18 licensure.

19 SECTION 12. AMENDATORY 63 O.S. 2021, Section 1-728c, is  
20 amended to read as follows:

21 Section 1-728c. An employer shall not discriminate against an  
22 employee or prospective employee by refusing to reasonably  
23 accommodate the religious observance or practice of the employee or  
24 prospective employee, ~~unless the employer can demonstrate that the~~

1 ~~accommodation would pose an undue hardship on the program,~~  
2 ~~enterprise, or business of the employer,~~ in the following  
3 circumstances:

4 1. ~~An abortion as defined in Section 1-730 of Title 63 of the~~  
5 ~~Oklahoma Statutes. The provisions of this section shall not apply~~  
6 ~~if the pregnant woman suffers from a physical disorder, physical~~  
7 ~~injury, or physical illness which, as certified by a physician,~~  
8 ~~causes the woman to be in imminent danger of death unless an~~  
9 ~~abortion is immediately performed or induced and there are no other~~  
10 ~~competent personnel available to attend to the woman. As used in~~  
11 ~~this act, the term "abortion" shall not include the prescription of~~  
12 ~~contraceptives;~~

13 2. An experiment or medical procedure that destroys an in vitro  
14 human embryo or uses cells or tissue derived from the destruction of  
15 an in vitro human embryo;

16 ~~3.~~ 2. An experiment or medical procedure on an in vitro human  
17 embryo that is not related to the beneficial treatment of the in  
18 vitro human embryo;

19 ~~4.~~ 3. An experiment or medical procedure on a developing child  
20 in an artificial womb, at any stage of development, that is not  
21 related to the beneficial treatment of the developing child;

22 ~~5.~~ 4. A procedure, including a transplant procedure, that uses  
23 fetal tissue or organs that come from a source other than a  
24 stillbirth or miscarriage; or

1       ~~6.~~ 5. An act that intentionally causes or assists in causing  
2 the death of an individual by assisted suicide, euthanasia, or mercy  
3 killing.

4       SECTION 13.        AMENDATORY        63 O.S. 2021, Section 2601, is  
5 amended to read as follows:

6       Section 2601. For the purposes of ~~this act~~ Section 2601 et seq.  
7 of this title, the following words and phrases mean:

8       ~~(a)~~ 1. "Minor" means any person under the age of eighteen (18)  
9 years of age, except such person who is on active duty with or has  
10 served in any branch of the Armed Services of the United States  
11 shall be considered an adult~~;~~;

12       ~~(b)~~ 2. "Health professional" means for the purposes of this act  
13 any licensed physician, psychologist, dentist, osteopathic  
14 physician, podiatrist, chiropractor, registered or licensed  
15 practical nurse or physician's assistant~~;~~; and

16       ~~(c)~~ 3. "Health services" means services delivered by any health  
17 professional including examination, preventive and curative  
18 treatment, surgical, hospitalization, and psychological services,  
19 except ~~abortion or sterilization. Should the health services~~  
20 ~~include counseling concerning abortion, all alternatives will be~~  
21 ~~fully presented to the minor. Services in this act~~ Section 2601 et  
22 seq. of this title shall not include research or experimentation  
23 with minors except where used in an attempt to preserve the life of  
24



1 that minor, or research as approved by an appropriate review board  
2 involved in the management of reportable diseases.

3 SECTION 14. AMENDATORY 74 O.S. 2021, Section 5054, is  
4 amended to read as follows:

5 Section 5054. A. None of the funds provided in the Oklahoma  
6 Health Research Act shall be used to conduct or support any research  
7 or experimentation on a human subject unless the research or  
8 experimentation has been reviewed and approved by an institutional  
9 review board.

10 B. None of the funds provided in the Oklahoma Health Research  
11 Act shall be used to undertake any research which has abortion, as  
12 defined by Section ~~1-730~~ 691 of Title ~~63~~ 21 of the Oklahoma  
13 Statutes, as its purpose.

14 SECTION 15. NEW LAW A new section of law not to be  
15 codified in the Oklahoma Statutes reads as follows:

16 Existing provisions regulating abortion or abortion facilities  
17 are not repealed but are superseded to the extent of any conflict or  
18 inconsistency.

19 SECTION 16. NEW LAW A new section of law not to be  
20 codified in the Oklahoma Statutes reads as follows:

21 This act is prospective only and shall not apply to crimes  
22 committed prior to the effective date of this act. For purposes of  
23 this section, a crime is committed before the effective date of this  
24 act if any element of the crime occurs before the effective date.

1 SECTION 17. NEW LAW A new section of law not to be  
2 codified in the Oklahoma Statutes reads as follows:

3 Nothing in this act shall alter any existing defense,  
4 justification, immunity, or clemency including, but not limited to,  
5 Sections 152, 155, 156, 731, and 701.11a of Title 21 of the Oklahoma  
6 Statutes, Section 27 of Article II of the Oklahoma Constitution, or  
7 the common law defense of necessity.

8 SECTION 18. NEW LAW A new section of law not to be  
9 codified in the Oklahoma Statutes reads as follows:

10 A. Any federal statute, regulation, treaty, executive order or  
11 court ruling which purports to supersede, stay or overrule this act  
12 is in violation of the Constitution of the State of Oklahoma and the  
13 Constitution of the United States of America and is therefore void.

14 B. This state, a political subdivision of this state and any  
15 agents of this state or a political subdivision of this state may  
16 disregard any part or the whole of any court decision which purports  
17 to enjoin or void any provision of this act.

18 SECTION 19. NEW LAW A new section of law not to be  
19 codified in the Oklahoma Statutes reads as follows:

20 Pursuant to the powers granted to the Legislature by Article  
21 VIII of the Oklahoma Constitution, any judge of this state who  
22 purports to enjoin, stay, overrule, or void any provision of this  
23 act shall be subject to impeachment or removal.

24  
25

1 SECTION 20. NEW LAW A new section of law not to be  
2 codified in the Oklahoma Statutes reads as follows:

3 The provisions, words, phrases, and clauses of this act are  
4 declared to be inseverable.

5 SECTION 21. It being immediately necessary for the preservation  
6 of the public peace, health, and safety, an emergency is hereby  
7 declared to exist, by reason whereof this act shall take effect and  
8 be in full force from and after its passage and approval.

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