

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 SENATE BILL 817

By: Silk

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5
6 AS INTRODUCED

7 An Act relating to abortion; amending 21 O.S. 2011,
8 Section 701.7, as last amended by Section 1, Chapter
9 208, O.S.L. 2012 (21 O.S. Supp. 2016, Section 701.7),
10 which relates to murder in the first degree;
11 broadening grounds for inclusion to include abortion;
12 amending 63 O.S. 2011, Section 1-745.5, which relates
13 to procedures; providing definitions; prohibiting
14 abortion after conception; providing severability;
15 and declaring an emergency.

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

17 SECTION 1. AMENDATORY 21 O.S. 2011, Section 701.7, as
18 last amended by Section 1, Chapter 208, O.S.L. 2012 (21 O.S. Supp.
19 2016, Section 701.7), is amended to read as follows:

20 Section 701.7. A. A person commits murder in the first degree
21 when that person unlawfully and with malice aforethought causes the
22 death of another human being. Malice is that deliberate intention
23 unlawfully to take away the life of a human being, which is
24 manifested by external circumstances capable of proof.

B. A person also commits the crime of murder in the first
degree, regardless of malice, when that person or any other person

1 takes the life of a human being during, or if the death of a human
2 being results from, the commission or attempted commission of murder
3 of another person, shooting or discharge of a firearm or crossbow
4 with intent to kill, intentional discharge of a firearm or other
5 deadly weapon into any dwelling or building as provided in Section
6 1289.17A of this title, forcible rape, robbery with a dangerous
7 weapon, kidnapping, escape from lawful custody, eluding an officer,
8 first degree burglary, first degree arson, unlawful distributing or
9 dispensing of controlled dangerous substances or synthetic
10 controlled substances, trafficking in illegal drugs, or
11 manufacturing or attempting to manufacture a controlled dangerous
12 substance.

13 1. Except as provided in paragraph 3 of this subsection, the
14 term "synthetic controlled substance" means a substance:

- 15 a. the chemical structure of which is substantially
16 similar to the chemical structure of a controlled
17 substance in Schedule I or II,
- 18 b. which has a stimulant, depressant, or hallucinogenic
19 effect on the central nervous system that is
20 substantially similar to or greater than the
21 stimulant, depressant, or hallucinogenic effect on the
22 central nervous system of a controlled substance in
23 Schedule I or II, or

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1 c. with respect to a particular person, which such person
2 represents or intends to have a stimulant, depressant,
3 or hallucinogenic effect on the central nervous system
4 that is substantially similar to or greater than the
5 stimulant, depressant, or hallucinogenic effect on the
6 central nervous system of a controlled substance in
7 Schedule I or II.

8 2. The designation of gamma butyrolactone does not preclude a
9 finding pursuant to paragraph 1 of this subsection that the chemical
10 is a synthetic controlled substance.

11 3. Such term does not include:

12 a. a controlled substance,

13 b. any substance for which there is an approved new drug
14 application,

15 c. with respect to a particular person any substance, if
16 an exemption is in effect for investigational use, for
17 that person, under Section 505 of the Federal Food,
18 Drug, and Cosmetic Act (21 U.S.C. 355) to the extent
19 conduct with respect to such substance is pursuant to
20 such exemption, or

21 d. any substance to the extent not intended for human
22 consumption before such an exemption takes effect with
23 respect to that substance.

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1 C. A person commits murder in the first degree when the death
2 of a child results from the willful or malicious injuring,
3 torturing, maiming or using of unreasonable force by said person or
4 who shall willfully cause, procure or permit any of said acts to be
5 done upon the child pursuant to Section 843.5 of this title. It is
6 sufficient for the crime of murder in the first degree that the
7 person either willfully tortured or used unreasonable force upon the
8 child or maliciously injured or maimed the child.

9 D. A person commits murder in the first degree when that person
10 unlawfully and with malice aforethought solicits another person or
11 persons to cause the death of a human being in furtherance of
12 unlawfully manufacturing, distributing or dispensing controlled
13 dangerous substances, as defined in the Uniform Controlled Dangerous
14 Substances Act, unlawfully possessing with intent to distribute or
15 dispense controlled dangerous substances, or trafficking in illegal
16 drugs.

17 E. A person commits murder in the first degree when that person
18 intentionally causes the death of a law enforcement officer,
19 correctional officer, or corrections employee while the officer or
20 employee is in the performance of official duties.

21 F. A person commits murder in the first degree when that person
22 performs an abortion as defined by Section 1-745.5 of Title 63 of
23 the Oklahoma Statutes.

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1 SECTION 2. AMENDATORY 63 O.S. 2011, Section 1-745.5, is
2 amended to read as follows:

3 Section 1-745.5. A. As used in this section:

4 1. "Abortion" means the use or prescription of any instrument,
5 medicine, drug or any other substance or device to intentionally
6 kill an unborn human being;

7 2. "Unborn human being" means the offspring of human beings
8 from the moment of conception until either live birth or death,
9 including the human conceptus, zygote, morula, blastocyst, embryo
10 and fetus, whether conceived or located inside or outside the body
11 of a human female; and

12 3. "Conception" means the fertilization of the ovum of a female
13 individual by the sperm of a male individual.

14 B. No person shall perform or induce or attempt to perform or
15 induce an abortion upon a woman when it has been determined, by the
16 physician performing or inducing or attempting to perform or induce
17 the abortion or by another physician upon whose determination that
18 physician relies, that the probable postfertilization age of the
19 woman's unborn child is twenty (20) or more weeks, unless, in
20 reasonable medical judgment, she has a condition which so
21 complicates her medical condition as to necessitate the abortion of
22 her pregnancy to avert her death or to avert serious risk of
23 substantial and irreversible physical impairment of a major bodily
24 function, not including psychological or emotional conditions. No

1 ~~such condition shall be deemed to exist if it is based on a claim or~~
2 ~~diagnosis that the woman will engage in conduct which she intends to~~
3 ~~result in her death or in substantial and irreversible physical~~
4 ~~impairment of a major bodily function.~~

5 ~~B. When an abortion upon a woman whose unborn child has been~~
6 ~~determined to have a probable postfertilization age of twenty (20)~~
7 ~~or more weeks is not prohibited by this section, the physician shall~~
8 ~~terminate the pregnancy in the manner which, in reasonable medical~~
9 ~~judgment, provides the best opportunity for the unborn child to~~
10 ~~survive, unless, in reasonable medical judgment, termination of the~~
11 ~~pregnancy in that manner would pose a greater risk either of the~~
12 ~~death of the pregnant woman or of the substantial and irreversible~~
13 ~~physical impairment of a major bodily function, not including~~
14 ~~psychological or emotional conditions, of the woman than would other~~
15 ~~available methods. No such greater risk shall be deemed to exist if~~
16 ~~it is based on a claim or diagnosis that the woman will engage in~~
17 ~~conduct which she intends to result in her death or in substantial~~
18 ~~and irreversible physical impairment of a major bodily function~~
19 ~~after conception.~~

20 ~~C. A person commits murder in the first degree when that person~~
21 ~~performs an abortion in violation of the provisions of this section.~~

22 SECTION 3. The provisions of this act are severable and if any
23 part or provision shall be held void the decision of the court so
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1 holding shall not affect or impair any of the remaining parts or
2 provisions of this act.

3 SECTION 4. It being immediately necessary for the preservation
4 of the public peace, health and safety, an emergency is hereby
5 declared to exist, by reason whereof this act shall take effect and
6 be in full force from and after its passage and approval.

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