

# House Bill 3415

Sponsored by Representative THATCHER; Representatives BOQUIST, BRUUN, BUTLER, CAMERON, DALLUM, ESQUIVEL, FLORES, GARRARD, GILLIAM, GIROD, HANNA, KRIEGER, KRUMMEL, LIM, MAURER, MINNIS, MORGAN, NELSON, OLSON, RICHARDSON, SCOTT, G SMITH, WHISNANT, Senators BEYER, G GEORGE, L GEORGE, KRUSE, WHITSETT, WINTERS (at the request of Oregon Right to Life)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires information to be given to pregnant female 24 hours prior to abortion. Specifies information health care provider must provide to obtain informed consent. Requires Department of Human Services to provide information about assistance services, abortion procedures, medical risks and fetal development and viability. Requires health care providers to report to Center for Health Statistics on compliance with Act. Requires reporting of induced termination of pregnancies as fetal deaths. Requires Director of Human Services to impose civil penalty on person who willfully fails to comply with certain provisions of Act. Prohibits Center for Health Statistics from disclosing identity of health care provider without provider's consent. Authorizes Speaker of House of Representatives and President of Senate to appoint members of Legislative Assembly to intervene in action challenging validity of Act.

## A BILL FOR AN ACT

1  
2 Relating to the reporting of information about abortion; creating new provisions; and amending ORS  
3 432.333 and 435.496.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. As used in sections 1 to 7 of this 2007 Act:**

6 (1)(a) **"Abortion" means the termination of a pregnancy through the prescription or use**  
7 **by a health care provider of any instrument, medicine or drug or any other substance or**  
8 **device with the intent to terminate the pregnancy of a female known by the health care**  
9 **provider to be pregnant.**

10 (b) **"Abortion" does not mean prescription or use if done with the intent to:**

11 (A) **Save the life or preserve the health of an unborn child;**

12 (B) **Remove a dead unborn child; or**

13 (C) **Deliver an unborn child prematurely to preserve the health of the mother and the**  
14 **unborn child.**

15 (2) **"Health care provider" means a person licensed or certified to provide health care**  
16 **under ORS chapter 677 or 678.**

17 (3) **"Medical emergency" means a condition that, on the basis of the good faith clinical**  
18 **judgment of a health care provider:**

19 (a) **Requires the immediate termination of a pregnancy to avert the death of the preg-**  
20 **nant female; or**

21 (b) **Creates serious risk of substantial and irreversible impairment of a major bodily**  
22 **function of a pregnant female if termination of a pregnancy is delayed.**

23 **SECTION 2. A health care provider may not perform an abortion without the voluntary**  
24 **and informed consent of the female. Consent to an abortion is voluntary and informed only**  
25 **if, at least 24 hours before the abortion, the female receives by telephone or in person the**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 information required by sections 3 and 4 of this 2007 Act.

2 **SECTION 3.** (1) A health care provider who is to perform an abortion or the referring  
3 health care provider shall inform the female patient by telephone or in person of:

4 (a) The name of the health care provider who is to perform the abortion.

5 (b) The medical risks associated with the proposed abortion.

6 (c) The probable gestational age of the unborn child at the time the abortion is to be  
7 performed.

8 (d) The medical risks to the female of carrying the unborn child to term.

9 (2) A health care provider must provide the information required by this section in a  
10 conversation with the female in which the female may ask questions.

11 (3) A health care provider may provide the information required by this section by tele-  
12 phone without having first conducted a physical examination of or test on the female. The  
13 health care provider may base the information provided by telephone on facts the female  
14 provides to the health care provider and any other relevant information available to the  
15 health care provider.

16 (4) A health care provider may not provide the information required by this section  
17 through a recording.

18 **SECTION 4.** (1) A health care provider who is to perform an abortion, a referring health  
19 care provider, an agent of the health care provider who is to perform the abortion or an  
20 agent of the referring health care provider shall inform the female that:

21 (a) Medical assistance benefits may be available for prenatal care, childbirth and neonatal  
22 care.

23 (b) The father of the unborn child may be required to assist in the support of the child,  
24 even when the father has offered to pay for the abortion.

25 (c) The female has the right to obtain the information described in section 6 of this 2007  
26 Act.

27 (d) The information described in section 6 of this 2007 Act:

28 (A) Has been provided by the State of Oregon;

29 (B) Includes a description of an unborn child; and

30 (C) Is available in printed form and through a secure Internet website maintained by the  
31 Department of Human Services.

32 (e) Upon request, the health care provider who is to perform the abortion, the referring  
33 health care provider, an agent of the health care provider who is to perform the abortion  
34 or an agent of the referring health care provider will provide the information described in  
35 section 6 of this 2007 Act in printed form:

36 (A) In person at least 24 hours before the abortion; or

37 (B) By certified mail, with delivery restricted to the female, mailed at least 72 hours be-  
38 fore the abortion.

39 (2) The health care provider who is to perform the abortion, the referring health care  
40 provider, an agent of the health care provider who is to perform the abortion or an agent  
41 of the referring health care provider shall provide the information required by subsection (1)  
42 of this section in person or by telephone at least 24 hours before the abortion.

43 (3) Notwithstanding subsection (2) of this section, the health care provider who is to  
44 perform the abortion, the referring health care provider, an agent of the health care provider  
45 who is to perform the abortion or an agent of the referring health care provider may provide

1 the information required by subsection (1) of this section through a recording if the health  
2 care provider who is to perform the abortion, the referring health care provider, an agent  
3 of the health care provider who is to perform the abortion or an agent of the referring health  
4 care provider also records whether the female chooses to receive the information in printed  
5 form.

6 **SECTION 5. Prior to an abortion:**

7 (1) The female must certify in writing that the information required to be provided under  
8 sections 3 and 4 of this 2007 Act has been provided.

9 (2) The health care provider who is to perform the abortion or an agent of the health  
10 care provider must receive a copy of the written certification required by subsection (1) of  
11 this section.

12 **SECTION 6. (1) The Department of Human Services shall print materials that clearly**  
13 **inform a female of:**

14 (a) The services available to assist the female through pregnancy and childbirth and while  
15 the child is dependent upon the care of the female. As used in this paragraph, "services"  
16 includes adoption services, medical assistance benefits and support obligations of the father  
17 of a child born alive.

18 (b) The probable anatomical and physiological characteristics of an unborn child at two-  
19 week gestational increments.

20 (c) Abortion procedures commonly employed, the medical risks commonly associated  
21 with the procedures, the possible detrimental psychological effects of an abortion and the  
22 medical risks associated with carrying a child to term.

23 (2) The information required by subsection (1)(a) of this section must include:

24 (a) A list of the persons providing the services that includes each person's address, in-  
25 dexed geographically, each person's telephone number and a description of the services each  
26 person provides; or

27 (b) A toll-free, 24-hour telephone number through which a person may obtain the list.

28 (3) The information required by subsection (1)(b) of this section must:

29 (a) Include:

30 (A) All relevant information about the possibility of an unborn child's survival.

31 (B) Representations of the development of an unborn child at two-week gestational in-  
32 crements.

33 (b) Be objective and nonjudgmental.

34 (c) Convey only accurate scientific information about an unborn child.

35 (4) The representations required by subsection (3)(a)(B) of this section must contain the  
36 dimensions of the unborn child and realistically depict the stages of development.

37 (5) The Department of Human Services shall make the information required by this sec-  
38 tion available through a secure Internet website. The department shall maintain the  
39 website's resolution at not less than 72 dots per inch.

40 (6) The information required by this section must be:

41 (a) In at least 10-point type.

42 (b) In each language that is the primary language of at least two percent of the state's  
43 population.

44 (c) Updated annually.

45 **SECTION 7. When a medical emergency compels termination of a pregnancy, the health**

1 **care provider shall, if possible, inform the female that termination of the pregnancy is nec-**  
 2 **essary to avert the death of the female or to avert substantial and irreversible impairment**  
 3 **of a major bodily function of the female.**

4 **SECTION 8.** ORS 432.333 is amended to read:

5 432.333. (1) Each fetal death of 350 grams or more, or, if weight is unknown, of 20 completed  
 6 weeks gestation or more, calculated from the date last normal menstrual period began to the date  
 7 of delivery, that occurs in this state shall be reported within five days after delivery to the county  
 8 registrar of the county in which the fetal death occurred or to the Center for Health Statistics or  
 9 as otherwise directed by the State Registrar of the Center for Health Statistics. [*All induced termi-*  
 10 *nations of pregnancy shall be reported in the manner prescribed in ORS 435.496 and shall not be re-*  
 11 *ported as fetal deaths.*]

12 (2) When a fetus is delivered in an institution, the person in charge of the institution or a des-  
 13 ignated representative shall prepare and file the report.

14 (3) When a fetus is delivered outside an institution, the physician in attendance at or imme-  
 15 diately after delivery shall prepare and file the report.

16 (4) When a fetal death required to be reported by this section occurs without attendance by a  
 17 physician at or immediately after the delivery or when inquiry is required by ORS 146.003 to 146.165  
 18 and 146.710 to 146.992, the medical examiner shall investigate the cause of fetal death and shall  
 19 prepare and file the report.

20 (5) When a fetal death occurs in a moving conveyance and the fetus is first removed from the  
 21 conveyance in this state or when a fetus is found in this state and the place of fetal death is un-  
 22 known, the fetal death shall be reported in this state. The place where the fetus was first removed  
 23 from the conveyance or the fetus was found shall be considered the place of fetal death.

24 (6) All information regarding the father shall be entered on the fetal death report if the father  
 25 is identified.

26 **SECTION 9.** ORS 435.496 is amended to read:

27 435.496. (1) **As used in this section, “abortion,” “health care provider” and “medical**  
 28 **emergency” have the meanings given those terms in section 1 of this 2007 Act.**

29 [(1)] (2) Each induced termination of pregnancy [*which*] **that** occurs in this state, regardless of  
 30 the length of gestation, shall be reported to the Center for Health Statistics within 30 days by the  
 31 person in charge of the institution in which the induced termination of pregnancy was performed.  
 32 If the induced termination of pregnancy was performed outside an institution, the attending [*physi-*  
 33 *cian*] **health care provider** shall prepare and file the report.

34 [(2)] (3) If the person who is required to file the report under subsection [(1)] (2) of this section  
 35 has knowledge that the [*person*] **female** who underwent the induced termination of pregnancy also  
 36 underwent a follow-up visit or had follow-up contact with a health care provider, the person shall  
 37 include the fact of the follow-up visit or contact, and whether any complications were noted, in the  
 38 report. If the person filing the report is not personally aware of the follow-up visit or contact but  
 39 was informed of the visit or contact, the person shall include the source of that information in the  
 40 report.

41 (4) **A person required to file the report under subsection (2) of this section shall include**  
 42 **in the report for each abortion:**

43 (a) **Whether the person who provided the information required by section 3 of this 2007**  
 44 **Act provided the information as the health care provider who performed the abortion or as**  
 45 **the referring health care provider.**

1 (b) Whether the person who provided the information required by section 3 of this 2007  
2 Act provided the information in person or by telephone.

3 (c) Whether the person who informed the female about the availability of the information  
4 described in section 6 of this 2007 Act informed the female in person or by telephone.

5 (d) Whether the female received the information described in section 6 of this 2007 Act  
6 in person or through the secure Internet website required by section 6 of this 2007 Act or  
7 did not receive the information.

8 (e) Whether a medical emergency compelled the abortion.

9 [(3)] (5)(a) Reports submitted under this section shall not disclose the names or identities of the  
10 parents.

11 (b) The center may not, without the female's consent, disclose the name of a female upon  
12 whom a health care provider performed or attempted to perform an induced termination of  
13 pregnancy.

14 (c) The center may not, without the consent of the health care provider, disclose the  
15 identity of a health care provider who performed or attempted to perform an induced ter-  
16 mination of pregnancy.

17 (d) The center may not, without the consent of the health care provider, make informa-  
18 tion available in a manner that permits a person to identify a reporting health care provider.

19 SECTION 10. (1) The Director of Human Services shall, in addition to any other liability  
20 or penalty provided by law, impose a civil penalty on a person who willfully fails to comply  
21 with the requirements imposed by ORS 435.496. The penalty shall be \$50 per day for the first  
22 30 days and \$500 per day thereafter.

23 (2) The director shall pay any penalties collected under subsection (1) of this section into  
24 the State Treasury for deposit into the General Fund.

25 (3) The director shall impose the civil penalty under subsection (1) of this section in the  
26 manner provided in ORS 183.745.

27 SECTION 11. Sections 1 to 7 of this 2007 Act shall be known and may be cited as the  
28 "Woman's Right to Know Act."

29 SECTION 12. Within 90 days after the effective date of this 2007 Act, the Department of  
30 Human Services shall prepare the materials described in section 6 of this 2007 Act and make  
31 the materials available on a secure Internet website.

32 SECTION 13. The President of the Senate and the Speaker of the House of Represen-  
33 tatives may each appoint one or more members of the Legislative Assembly to intervene as  
34 a matter of right in an action challenging the validity of sections 1 to 7 and 10 to 12 of this  
35 2007 Act and the amendments to ORS 432.333 and 435.496 by sections 8 and 9 of this 2007 Act.

36 SECTION 14. Sections 1 to 7 of this 2007 Act and the amendments to ORS 432.333 and  
37 435.496 by sections 8 and 9 of this 2007 Act apply to abortions performed on or after the ef-  
38 fective date of this 2007 Act.