

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 2. PROCEDURES OF THE STATE DEPARTMENT OF HEALTH**

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

SUBCHAPTER 31. HUMANITY OF THE UNBORN CHILD ACT [NEW]

310:2-31-1. Purpose. [NEW]

310:2-31-2. Definitions. [NEW]

310:2-31-3. Signage. [NEW]

310:2-31-4. Language and web portal requirements. [NEW]

SUMMARY:

These proposed regulations, if adopted, will implement the Department's requirements contained in House Bill Number 2797, from the 2nd Session of the 55th Oklahoma Legislature (2016) known as "Humanity of the Unborn Child Act" and codified at 63 O.S. § 1-751 et seq. The proposed regulations set forth the requirements to be used by facilities regulated by the Department to place signage in restrooms and other areas in compliance with the Act.

AUTHORITY:

Oklahoma State Board of Health, Title 63 O.S. Section 1-104; Title 63 O.S. § 1-751 *et seq.*

COMMENT PERIOD:

October 3, 2016, through November 3, 2016. Interested persons may informally discuss the proposed rules with the contact person identified below; or may, through November 3, 2016, submit written comment to the contact person identified below; or may, at the hearing, ask to present written or oral views.

PUBLIC HEARING:

Pursuant to 75 O.S. § 303 (A), the public hearing for the proposed rulemaking in this chapter shall be on November 3, 2016, at the Oklahoma State Department of Health, 1000 Northeast Tenth Street, Oklahoma City, OK 73117-1207, in room 1102 beginning at 10:00 a.m. Those wishing to present oral comments should be present at that time to register to speak. The hearing will close at the conclusion of those registering to speak. Interested persons may attend for the purpose of submitting data, views or concerns, orally or in writing, about the rule proposal described and summarized in this Notice.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, on the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule. Business entities may submit this information in writing through November 3, 2016, to the contact person identified below.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from the contract person identified below or via the agency website at www.health.ok.gov.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement is available through the contact person identified.

CONTACT PERSON:

Donald D. Maisch, General Counsel, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1207; phone (405) 271-6017, e-mail: donm@health.ok.gov.

INITIAL RULE IMPACT STATEMENT

(This document may be revised based on comment received during the public comment period.)

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 2. PROCEDURES OF THE STATE DEPARTMENT OF HEALTH
SUBCHAPTER 31. HUMANITY OF THE UNBORN CHILD ACT [NEW]**

1. **DESCRIPTION:** *(a brief description of the purpose of the proposed rule [75 O.S. §303.D.2(a)])*

These proposed regulations, if adopted, will implement the Department's requirements contained in House Bill Number 2797, from the 2nd Session of the 55th Oklahoma Legislature (2016) known as "Humanity of the Unborn Child Act" and codified at 63 O.S. § 1-751 *et seq.* The proposed regulations set forth the requirements to be used by facilities regulated by the Department to place signage in restrooms and other areas in compliance with the Act.

2. **DESCRIPTION OF PERSONS AFFECTED AND COST IMPACT RESPONSE:** *(a description of the classes of persons who most likely will be affected by the proposed rule, including classes that will bear the costs of the proposed rule, and any information on cost impacts received by the agency from any private or public entities [75 O.S. §303.D.2(b)])*

The classes of persons potentially affected are all owners of facilities licensed or permitted by the Department. Additionally, pregnant women may be affected by proposed regulations.

3. **DESCRIPTION OF PERSONS BENEFITING, VALUE OF BENEFIT AND EXPECTED HEALTH OUTCOMES:** *(a description of the classes of persons who will benefit from the proposed rule [75 O.S. §303.D.2(c)])*

The potential benefit will be to assist and inform women who are pregnant.

4. **ECONOMIC IMPACT, COST OF COMPLIANCE AND FEE CHANGES:** *(a description of the probable economic impact of the proposed rule upon affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change [75 O.S. §303.D.2(d)])*

The costs to compliance and/or economic impact to those facilities licensed or permitted by the Department that comply with the requirements of the Act are unknown at the present time, it is assumed that there will be costs associated with the creation, production and display of the signage described in the Act and the proposed rules.

5. **COST AND BENEFITS OF IMPLEMENTATION AND ENFORCEMENT TO THE AGENCY:** *(the probable costs and benefits to the agency and to any other agency of the implementation and enforcement of the proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule, and any anticipated effect on state revenues, including a projected net loss or gain in such revenues if it can be projected by the agency)*

[75 O.S. §303.D.2(e)] The cost to implement the rule for the Oklahoma State Department of Health is unknown at the present time. If adopted the proposed rules would establish requirements for Department licensed or permitted facilities that choose to place signs, in compliance with the Act, in the restroom and potentially other places in their establishment.

The cost to the Department to implement the amendments will be approximately \$[4,419.63] to cover the costs of rule drafting, adoption, publication, distribution, and education. The proposed rules will be implemented and enforced by existing Department personnel and will have no anticipated effect on state revenues.

6. **IMPACT ON POLITICAL SUBDIVISIONS:** *(a determination of whether implementation of the proposed rule will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule [75 O.S. §303.D.2(f)])*

There is a potential economic impact any political subdivisions of the State of Oklahoma who receive licenses from the Oklahoma State Department of Health. At the time of the drafting of this Rule Impact Statement the economic impact on political subdivisions is unknown.

7. **ADVERSE EFFECT ON SMALL BUSINESS:** *(a determination of whether implementation of the proposed rule may have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act [75 O.S. §303.D.2(g)])¹²*

There is a potential economic impact any and all small business in the State of Oklahoma who receive licenses from the Oklahoma State Department of Health and provide public restrooms. At the time of the drafting of this Rule Impact Statement the economic impact on small businesses is unknown.

8. **EFFORTS TO MINIMIZE COSTS OF RULE:** *(an explanation of the measures the agency has taken to minimize compliance costs and a determination of whether there are less costly or nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rule [75 O.S. §303.D.2(h)])*

There have been no efforts to minimize compliance costs, as all the requirements contained in the proposed regulations are required by the implementing statutory requirements.

9. **EFFECT ON PUBLIC HEALTH AND SAFETY:** *(a determination of the effect of the proposed rule on the public health, safety and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk [75 O.S. §303.D.2(i)])*

- Explain how this rule supports core public health functions, ensures delivery of essential public health services, and contributes to strategic planning goals and objectives.
- Hyperlinks to published articles on the internet supporting the statement of effects are acceptable.

The public health benefit is to assist and inform women who are pregnant.

10. **DETRIMENTAL EFFECTS ON PUBLIC HEALTH AND SAFETY WITHOUT ADOPTION:** *(a determination of any detrimental effect on the public health, safety and environment if the proposed rule is not implemented [75 O.S. §303.D.2(j)])*

¹ 75 O.S. § 502. As used in the Oklahoma Small Business Regulatory Flexibility Act:

4. "Small business" means a for-profit enterprise consisting of fifty or fewer full-time or part-time employees.

² 75 O.S. § 504(B). If the proposed rules may have an adverse economic effect upon small business, the agency shall submit a copy of the proposed rules and a rule impact statement to the Small Business Regulatory Review Committee for its review and comment pursuant to the review and comment provisions of paragraph 2 of subsection A and paragraph 6 of subsection B of [Section 303](#) of this title.

It is unknown if there are any detrimental effects on public health and safety if these proposed rules are not adopted.

11. This rule impact statement was prepared on July 26, 2016. Modifications made subsequent to the publication of the *Notice of Rulemaking Intent* were made on: August 31, 2016. (*the date the rule impact statement was prepared and if modified, the date modified* [75 O.S. §303.D.2(k)])

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 2. PROCEDURES OF THE STATE DEPARTMENT OF HEALTH**

SUBCHAPTER 31. HUMANITY OF THE UNBORN CHILD ACT [NEW]

310:2-31-1. Purpose. [NEW]

The rules in this Subchapter implement the authorities assigned to the Oklahoma State Department of Health as established in Enrolled House Bill Number 2797, from the 2nd Session of the 55th Oklahoma Legislature (2016) known as the "Humanity of the Unborn Child Act" and codified at 63 O.S. § 1-751 *et seq.*

310:2-31-2. Definitions. [NEW]

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise.

"Department" means the Oklahoma State Department of Health.

"O.S." means Oklahoma Statute.

"Signage" means information provided by the Department that shall be used by a facility licensed or permitted by the Department to produce a sign meeting the requirements of the Humanity of the Unborn Child Act.

310:2-31-3. Signage. [NEW]

Any facility licensed or permitted by the Department shall create, produce and display a sign pursuant to the Humanity of the Unborn Child Act that meets the following requirements:

- (1) The background of any signage shall be white;
- (2) The lettering on any signage shall be in black;
- (3) The lettering on any signage shall be at least one inch (1") in height and be in a times new roman or courier font;
- (4) The signage shall contain the following statement: "There are many public and private agencies willing and able to help you carry your child to term and assist you and your child after your child is born, whether you choose to keep your child or to place him or her for adoption. The State of Oklahoma strongly urges you to contact them if you are pregnant."
- (5) Additionally, the signage shall contain lettering at least one-half inch (1/2") in height that says: "This sign is created, produced and displayed in compliance with the Humanity of the Unborn Child Act.";
- (6) The signage shall be created, produced and displayed in English, additional signage may be created, produced and displayed in languages other than English at the discretion of the owner or operator of the licensed or permitted facility;
- (7) Neither the Department logo nor any other Department identification shall appear on the signage;
- (8) Any facility creating, producing and displaying signage in compliance with these requirements shall display said sign in any and all public restrooms at the facility and may display the signage at any other location at the facility; and
- (9) Any facility creating, producing and displaying signage in compliance with the requirements of this subchapter shall create, produce and display said signage at the facility's expense.

310:2-31-4. Language and web portal requirements. [NEW]

The Department shall create a web portal on the Department's website for the purposes of housing and making available information to comply with the Humanity of the Unborn Child Act. The information contained on the web portal shall include, at a minimum:

(1) The requirements contained in this subchapter.

(2) The following language in a downloadable format for use on the signage: "There are many public and private agencies willing and able to help you carry your child to term and assist you and your child after your child is born, whether you choose to keep your child or to place him or her for adoption. The State of Oklahoma strongly urges you to contact them if you are pregnant."

(3) The Department shall publish on its website the address for the web portal to all facilities licensed by the Department.

(4) The Department shall inform the advisory committees and/or councils who advise the Oklahoma State Board of Health on issues related to Department licensed or permitted facilities about the web portal and the requirements of this subchapter.