

By: Goodwin

H.B. No. 1753

A BILL TO BE ENTITLED

AN ACT

relating to the right to assistive reproductive technology treatments and procedures, including in vitro fertilization.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 161, Health and Safety Code, is amended by adding Subchapter X to read as follows:

SUBCHAPTER X. RIGHT TO ASSISTIVE REPRODUCTIVE TECHNOLOGY

TREATMENTS AND PROCEDURES

Sec. 161.701. DEFINITION. In this subchapter, "assistive reproductive technology treatment or procedure" means a health care treatment or procedure in which a human oocyte or embryo is handled by a health care practitioner for fertility purposes. The term includes in vitro fertilization, gamete intrafallopian transfer, and zygote intrafallopian transfer.

Sec. 161.702. CONSTRUCTION OF SUBCHAPTER. (a) This subchapter may not be construed to prohibit the enforcement of a health and safety law if the law:

(1) advances the safety of health care services or the health of patients; and

(2) cannot be advanced by a less restrictive alternate measure or action.

(b) This subchapter may not be construed to modify, supersede, or otherwise affect the coverage of assistive reproductive technology procedures or treatments under Chapter

1366, Insurance Code.

Sec. 161.703. RULES. The executive commissioner may adopt rules necessary to implement this subchapter.

Sec. 161.704. INFRINGEMENT OF RIGHT TO ASSISTIVE REPRODUCTIVE TECHNOLOGY TREATMENTS AND PROCEDURES PROHIBITED.

This state, a political subdivision of this state, or an official or employee of this state or a political subdivision of this state may not prohibit or unreasonably limit:

(1) an individual from:

(A) accessing an assistive reproductive technology treatment or procedure;

(B) continuing or completing an ongoing assistive reproductive technology treatment or procedure under a written plan or agreement with a health care provider; or

(C) retaining all rights regarding the use of the individual's reproductive genetic material, including gametes;

(2) a health care provider from:

(A) performing or administering an assistive reproductive technology treatment or procedure; or

(B) providing evidence-based information related to assistive reproductive technology treatments or procedures; or

(3) a health benefit plan issuer from covering an assistive reproductive technology treatment or procedure.

Sec. 161.705. CIVIL ACTION. (a) The following persons may bring a civil action for appropriate equitable relief, including a temporary or permanent injunction, against a governmental entity, official, or employee who violates Section 161.704:

1           (1) the attorney general;

2           (2) a person adversely affected by the violation; or

3           (3) a health care provider on the provider's behalf or  
4 on behalf of a patient who is adversely affected by the violation.

5           (b) A court shall award a claimant who prevails in an action  
6 brought under this section court costs and reasonable attorney's  
7 fees incurred in bringing the action. The court may not award court  
8 costs and attorney's fees to the defendant for a nonfrivolous  
9 claim.

10           SECTION 2. Section 161.705, Health and Safety Code, as  
11 added by this Act, applies only to a cause of action that accrues on  
12 or after the effective date of this Act.

13           SECTION 3. This Act takes effect September 1, 2023.