

By: Klick

H.B. No. 5249

A BILL TO BE ENTITLED

1 AN ACT
2 relating to prohibiting a public entity from providing financial
3 assistance for abortion or abortion-related services; providing
4 civil penalties.

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

6 SECTION 1. Chapter 2273, Government Code, is amended to
7 read as follows:

8 CHAPTER 2273. PROHIBITED TRANSACTIONS

9 Sec. 2273.001. DEFINITIONS. In this chapter:

10 (1) "Abortion" has the meaning assigned by Section
11 245.002, Health and Safety Code.

12 (2) "Abortion provider" means:

13 (A) a facility licensed under Chapter 245, Health
14 and Safety Code; ~~or~~

15 (B) an ambulatory surgical center defined and
16 licensed under Chapter 243, Health and Safety Code, that performs
17 abortions; or ~~[is used to perform more than 50 abortions in any~~
18 ~~12-month period]~~

19 (C) a physician as defined by Section 151.002,
20 Occupations Code, a pharmacist or pharmacy, as defined by Section
21 551.003, Occupations Code, or a health care entity that performs,
22 prescribes, or provides abortions.

23 (3) "Affiliate" means a person or entity who enters
24 into with another person or entity a legal relationship created or

1 governed by at least one written instrument, including a
2 certificate of formation, a franchise or membership agreement,
3 standards of affiliation, bylaws, or a license, that demonstrates:

4 (A) common ownership, management, or control
5 between the parties to the relationship;

6 (B) a franchise granted by the person or entity
7 to the affiliate; or

8 (C) the granting or extension of a license or
9 other agreement authorizing the affiliate to use the other person's
10 or entity's brand name, trademark, service mark, or other
11 registered identification mark.

12 (4) "Financial assistance" means, with respect to a
13 government program, governmental payments provided as
14 reimbursement for carrying out health-related activities.

15 (5) "Health care entity" includes an individual
16 physician, pharmacist, or pharmacy technician; a postgraduate
17 physician training program; and a participant in a program of
18 training in the health professions.

19 (6) "Postgraduate physician training program"
20 includes a residency training program.

21 (7) "Public [~~Governmental~~] entity" means this state,
22 a state agency in the executive, judicial, or legislative branch of
23 state government, county, city, public school district, public
24 hospital district, any public hospital district or public
25 university that offers a postgraduate physician training program or
26 residency program, or any local or [a] political subdivision of
27 this state or an agency of the political subdivision.

1 (8) [~~(5)~~] "Taxpayer resource transaction" means a
2 sale, purchase, lease, loan, grant, reimbursement, financial
3 assistance, donation of money, goods, services, or real property,
4 or any other transaction between a public [~~governmental~~] entity and
5 a private entity that provides to the private entity something of
6 value derived from state or local tax revenue, regardless of
7 whether the public [~~governmental~~] entity receives something of
8 value in return. The term does not include the provision of basic
9 public services, including fire and police protection and
10 utilities, by a public [~~governmental~~] entity to an abortion
11 provider or affiliate in the same manner as the entity provides the
12 services to the general public. The term includes advocacy or
13 lobbying by or on behalf of a public [~~governmental~~] entity on behalf
14 of the interests of an abortion provider or affiliate, but does not
15 include:

16 (A) an officer or employee of a public
17 [~~governmental~~] entity providing information to a member of the
18 legislature or appearing before a legislative committee at the
19 request of the member or committee;

20 (B) an elected official advocating for or against
21 or otherwise influencing or attempting to influence the outcome of
22 legislation pending before the legislature while acting in the
23 capacity of an elected official; or

24 (C) an individual speaking as a private citizen
25 on a matter of public concern.

26 Sec. 2273.002. APPLICABILITY. [~~(a) This chapter does not~~
27 ~~apply to:~~

1 ~~[(1) a hospital licensed under Chapter 241, Health and~~
2 ~~Safety Code,~~

3 ~~[(2) the office of a physician licensed under Subtitle~~
4 ~~B, Title 3, Occupations Code, that performs 50 or fewer abortions in~~
5 ~~any 12-month period,~~

6 ~~[(3) a state hospital as defined by Section 552.0011,~~
7 ~~Health and Safety Code,~~

8 ~~[(4) a teaching hospital of a public or private~~
9 ~~institution of higher education; or~~

10 ~~[(5) an accredited residency program providing~~
11 ~~training to resident physicians.~~

12 ~~[(b)]~~ For purposes of this chapter, a facility is not
13 considered to be an abortion provider solely based on the
14 performance of a procedure ~~[an abortion]~~ at the facility during a
15 medical emergency as defined by Section 171.002, Health and Safety
16 Code, or to save the life of the mother.

17 Sec. 2273.003. ABORTION PROVIDER AND AFFILIATE
18 TRANSACTIONS PROHIBITED~~, EXCEPTION~~. (a) A public entity in this
19 state shall not make ~~[Except as provided by Subsection (b), a~~
20 ~~governmental entity may not enter into]~~ a taxpayer resource
21 transaction with any funds under its control to prescribe, provide,
22 perform, or induce an abortion; assist in the prescription,
23 provision, or performance of an abortion; refer for an abortion; or
24 provide facilities for an abortion or for training to prescribe,
25 provide, or perform ~~[provider or an affiliate of]~~ an abortion
26 ~~[provider].~~

27 (b) A public entity in this state shall not enter into ~~[This~~

1 ~~section does not apply to~~ a taxpayer resource transaction with an
2 abortion prescriber or provider or an affiliate of an abortion
3 provider, including pharmacies.

4 (c) A public entity in this state shall not assist in the
5 training of staff or students, or conduct training for any health
6 care entity, on abortion [~~that is subject to a federal law in~~
7 ~~conflict with Subsection (a) as determined by the executive~~
8 ~~commissioner of the Health and Human Services Commission and~~
9 ~~confirmed in writing by the attorney general~~].

10 Sec. 2273.004. INJUNCTION; WAIVER OF IMMUNITY. (a) The
11 attorney general may bring an action in the name of the state to
12 enjoin a violation of Section 2272.003. The attorney general may
13 recover reasonable attorney's fees and costs incurred in bringing
14 an action under this subsection and Section 2273.006.

15 (b) Sovereign or governmental immunity, as applicable, of a
16 governmental entity to suit and from liability is waived to the
17 extent of liability created by Subsection (a) and Section 2273.003.

18 Sec. 2273.005. CONSTRUCTION OF CHAPTER. (a) This section
19 supersedes any previous law regarding restrictions on the use of
20 public funds for abortion or on taxpayer resource transactions with
21 abortion providers or affiliates of abortion providers. If any
22 current or future law regarding restrictions on the use of public
23 funds for abortion or on taxpayer resource transactions with
24 abortion providers or affiliates of abortion providers conflicts
25 with this section, the more restrictive provision shall apply.

26 (b) This chapter may not be construed to restrict a
27 municipality or county from prohibiting abortion.

1 Sec. 2273.006. ENFORCEMENT. (a) The attorney general may
2 bring an action in the name of the state to enjoin a violation of
3 Section 2273.003.

4 (b) A person may bring a civil action to enjoin a violation
5 of Section 2273.003 for the person and for the state. The action
6 must be brought in the name of the person and of the state. A person
7 bringing an action under this chapter shall serve a copy of the
8 petition and a written disclosure of substantially all material
9 evidence and information the person possesses on the attorney
10 general in compliance with the Texas Rules of Civil Procedure.

11 (c) A person who violates this chapter is subject to a civil
12 penalty of up to \$25,000 for each violation. An entity that
13 violates this chapter is subject to a civil penalty of up to \$50,000
14 for each violation and a loss of funding from the applicable public
15 entity.

16 SECTION 2. The Health and Human Services Commission shall
17 adopt rules or enter into binding agreements, such as with an
18 accrediting agency described by the federal Coats-Snowe Amendment
19 (42 U.S.C. Section 238n), as necessary to implement the changes in
20 law made by Section 1 of this Act.

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