

BILL ANALYSIS

C.S.H.B. 15
By: Corte
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law does not specifically require that women seeking an abortion be provided with comprehensive information concerning the potential risks and alternatives to abortion. In addition, certain provisions of law relating to the licensing of abortion facilities need to be modified. The purposes of C.S.H.B. 15 are to help ensure the voluntary and informed consent of women seeking an abortion, and to modify certain provisions of law relating to the licensing of abortion facilities.

RULEMAKING AUTHORITY

It is the opinion of the committee that rulemaking authority is expressly granted to the Texas Department of Health in SECTION 1 (Section 171.014, Health and Safety Code) and the Texas Board of Health in SECTION 4 (Section 245.010, Health and Safety Code) of this bill.

ANALYSIS

C.S.H.B. 15 amends the Health and Safety Code to add Chapter 171 relating to the regulation of abortion. The following is a summary of the provisions of Chapter 171:

Section 171.001 - Short title. The Woman's Right to Know Act.

Section 171.002 - Defines "abortion."

Section 171.003 - Provides that an abortion can only be performed by a physician licensed to practice medicine in this state.

Section 171.004 - Provides that an abortion of a fetus age 16 weeks or more may be performed only at an ambulatory surgical center or hospital licensed to perform the abortion.

Section 171.005 - Provides that the Texas Department of Health (TDH) shall enforce Chapter 171.

Section 171.011 - Provides that a person may not perform an abortion without the voluntary and informed consent of the woman on whom the abortion is to be performed.

Section 171.012 - Sets forth detailed criteria for establishing voluntary and informed consent, including notification to the woman of:

- the name of the physician who will perform the abortion
- the medical risks associated with the particular procedure
- the probable gestational age of the unborn child
- the medical risks of carrying the child to term
- medical assistance benefits may be available for prenatal care, childbirth, and neonatal care
- the liability of the father for child support
- agencies providing pregnancy prevention counseling and medical referrals
- the woman's right to review informational materials published by TDH that describe the unborn child and list agencies that offer alternatives to abortion

Requires the woman seeking an abortion to provide written certification concerning the information she has been provided or to which she has received access.

Establishes permissible methods of providing the required information to a woman seeking an abortion.

Establishes an exception to the requirements of this Section for medical emergencies.

Section 171.013 - Provides that if a woman chooses to view certain informational materials published by TDH, the materials shall be furnished to the woman at least 24 hours before the abortion is to be performed. Also establishes requirements and time lines for notification by mail, and provides that the materials need not be furnished if the woman provides a written statement that she chooses to view the materials on the TDH Internet site. Further provides that the physician and the physician's agent may disassociate themselves from the materials and may choose whether or not to comment on the materials.

Section 171.014 - Generally describes the informational materials to be published by TDH. Provides the materials are to be published in English and Spanish, in an easily comprehensible and legible format, and made available at no cost.

Establishes a requirement for annually reviewing and changing the materials as necessary, and for developing and maintaining an Internet site for the materials.

Section 171.015 - Provides that TDH materials must include geographically-indexed information on agencies and services available to assist women through pregnancy, childbirth, and a child's dependency. The materials must include a comprehensive list of adoption agencies and their services and contact information, as well as a toll-free number through which to obtain information. The materials may not include information on abortion providers, or organizations affiliated with, or making referrals to, abortion providers.

Section 171.016 - Provides that TDH materials must include objective and nonjudgmental information relating to the characteristics of an unborn child at two-week gestational increments, as well as information relating to the possibility of an unborn child's survival.

Section 171.017 - Relates to unemancipated minors. Provides that the 24-hour periods under Chapter 171 may run concurrently with the period during which actual or constructive notice is provided under Section 33.002, Family Code.

Section 171.018 - Establishes that a physician who intentionally performs an abortion in violation of Subchapter B, Chapter 171, commits a misdemeanor offense punishable by a fine not to exceed \$10,000.

C.S.H.B. 15 also amends Chapter 245, Health and Safety Code, as follows:

Section 245.004 - Amends the provisions describing the types of facilities that are not required to be licensed under Chapter 245 (Abortion Facilities), which include ambulatory surgical centers licensed under Chapter 243.

Section 245.007 - Requires the Board of Health to set fees imposed by Chapter 245 as necessary to defray the cost of administering Chapter 171.

Section 245.010 - Provides that Board of Health rules must contain provisions requiring compliance with the requirements of Subchapter B, Chapter 171.

C.S.H.B. 15 requires TDH to prepare and have ready for distribution the materials required by Chapter 171 not later than December 1, 2003.

C.S.H.B. 15 includes a severability clause.

EFFECTIVE DATE

September 1, 2003. The Act applies only to an abortion that is performed on or after January 1, 2004.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 15 modifies the language in the original bill relating to information that must be provided to a woman seeking an abortion regarding the risk of breast cancer. Further, the substitute specifies that TDH informational materials on agencies and services cannot include facilities that provide abortions, make referrals to abortion providers, or are affiliated with abortion providers. The substitute adds new language to require the Texas Board of Health to set fees on abortion facilities to defray the cost of administering proposed Chapter 171 of the Health and Safety Code. The substitute removes the provision in the original which required TDH to publish detailed informational materials on pregnancy prevention methods for review by women seeking an abortion. The substitute adds new language to provide that ambulatory surgical centers licensed under Chapter 243 need not be licensed under Chapter 245, Health and Safety Code. The substitute removes the provision in the original which prohibited new abortion facilities from being located near a church or school.