

BILL ANALYSIS

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S.B. 1174
By: Ellis
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2005, the 79th Legislature allocated \$2.5 million a year out of Temporary Assistance for Needy Families funds to create and fund an alternatives to abortion program (program). Under this program, alternatives to abortion organizations, such as crisis pregnancy centers (centers), received state funding as subcontractors. The centers offer non-medical services for pregnant women and the vast majority of these facilities are unregulated in Texas. This state does not license these facilities nor are they subject to the regulations or health and safety standards of health care clinics. Now that Texas is providing substantial funding to these organizations, the state must provide oversight similar to that of other subcontractors, ensure that the centers provide a safe and reliable environment to their clients, and ensure that pregnant women seeking services are aware that these centers are not medical facilities.

As proposed, S.B. 1174 places certain regulations on alternatives to abortion organizations, including crisis pregnancy centers, in order to provide the best services and protection to women utilizing these facilities. This bill requires that centers employ at least one licensed health care practitioner or counselor; provides for a licensing process for the programs; allows for inspections by the Health and Human Services Commission; sets minimum health and safety standards; and provides for privacy requirements relating to a client's identity, health information, or any other identifying information.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 (Section 173.007, Health & Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle H, Title 2, Health and Safety Code, by adding Chapter 173, as follows:

CHAPTER 173. ALTERNATIVES TO ABORTION ORGANIZATIONS

Sec. 173.001. DEFINITIONS. Defines "alternatives to abortion organization," "commission," "health care practitioner," "licensed counselor," and "patient."

Sec. 173.002. LICENSE. (a) Authorizes an alternatives to abortion organization (organization) to be licensed under this chapter.

(b) Prohibits an organization from directly or indirectly receiving state money or other assistance unless the organization is licensed under this chapter.

(c) Provides that a license issued under this chapter is not transferable or assignable.

Sec. 173.003. LICENSE APPLICATION AND ISSUANCE. (a) Requires an applicant for an organization license to submit an application to the Health and Human Services Commission (HHCS) on a form prescribed by HHSC.

(b) Requires each application to be accompanied by a nonrefundable license fee in an amount set by HHSC.

(c) Requires the application to contain certain evidence to ensure that at least one health care practitioner or licensed counselor is on the organization's staff.

(d) Requires HHSC to issue a license to the applicant if, after inspection and investigation, it finds that the organization meets the requirements of this chapter and the standards adopted under this chapter.

(e) Requires the license holder, as a condition for renewal of a license, to submit to HHSC the annual license renewal fee.

(f) Provides that information regarding the licensing status of an organization is an open record for the purposes of Chapter 552 (Public Information), Government Code, and is required to be made available by HHSC on request.

Sec. 173.004. INSPECTIONS. (a) Authorizes HHSC to inspect a licensed organization, or an applicant for a license, at reasonable times as necessary to ensure compliance with this chapter.

(b) Requires HHSC to inspect an organization before renewing the organization's license under Section 173.003(e).

Sec. 173.005. FEES. Requires HHSC to set fees imposed by this chapter in amounts reasonable and necessary to defray the cost of administering this chapter.

Sec. 173.006. ALTERNATIVES TO ABORTION ORGANIZATION LICENSING FUND. Requires all fees collected under this chapter to be deposited in the state treasury to the credit of the organization licensing fund and authorizes the fees to be appropriated only to HHSC to administer and enforce this chapter.

Sec. 173.007. ADOPTION OF RULES. Requires the executive commissioner of HHSC to adopt rules necessary to implement this chapter, including requirements for the issuance, renewal, denial, suspension, and revocation of a license.

Sec. 173.008. MINIMUM STANDARDS. (a) Requires the rules adopted under Section 173.007 to contain minimum standards for licensed organizations to protect the health and safety of a patient.

(b) Prohibits the standards from being more stringent than Medicare certification standards, if any, for certain organizational components.

(c) Provides that this section does not authorize HHSC to establish the qualifications of a licensed practitioner or permit a person to provide health care services who is not authorized to provide those services under other Texas laws.

Sec. 173.009. PRIVACY REQUIREMENTS; USE OF INFORMATION. (a) Prohibits an organization from revealing certain identifying information about a patient without the patient's written consent.

(b) Requires an organization to comply with Section 181.152 (Marketing Uses of Information).

(c) Provides that this section applies without regard to whether the organization is licensed.

Sec. 173.010. DISCIPLINARY ACTION. (a) Provides that an organization that violates Section 173.009 is ineligible to receive state funding.

(b) Requires HHSC to withhold state money from an organization if HHSC determines the organization violated Section 173.009. Provides that the organization is liable to this state for any money the organization has already received from the state during the state fiscal year in which the determination is made. Provides that the organization is not eligible for state funding before the first anniversary of the date of the HHSC determination. Authorizes the attorney general in the name of the state to bring an action to recover amounts owed to the state under this section.

(c) Requires the attorney general, at the request of HHSC, to bring an action to impose a civil penalty in an amount not to exceed \$5,000 for each violation if HHSC determines that an organization that does not receive state money or other assistance violated this chapter.

(d) Authorizes an organization to appeal an HHSC determination under this section to the State Office of Administrative Hearings. Provides that an appeal under this subsection is a contested case under Chapter 2001 (Administrative Procedure), Government Code.

SECTION 2. Effective date: September 1, 2007.