

BILL ANALYSIS

Senate Research Center

C.S.S.B. 182
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State Affairs
3/25/2009
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, the law requires a physician performing an abortion to provide the probable gestation age of the unborn child. Requiring an ultrasound examination allows the physician to determine a more accurate age of the unborn child, which will allow for the safest method for performing the procedure. Under the Woman's Right to Know Act (H.B. 15), 78th Legislature, Regular Session, 2003, physicians performing an abortion are required to provide certain information and materials, including the health risks involved, and other options that may be available.

C.S.S.B. 182 amends the Woman's Right to Know Act to require physicians to provide an obstetric ultrasound on a pregnant woman at least two hours before performing an abortion. C.S.S.B. 182 defines a "medical emergency" in the event that a pregnancy puts a woman's life at risk. C.S.S.B. 182 requires a physician who performs an abortion in a medical emergency to include in the patient's medical records a statement signed by the physician certifying the nature of the medical emergency and certifying to the Department of State Health Services the specific medical condition that constituted the emergency.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 171.002, Health and Safety Code, as follows:

Sec. 171.002. New heading: DEFINITIONS. Defines "medical emergency." Makes nonsubstantive changes.

SECTION 2. Amends Sections 171.012(a), (b), and (c), Health and Safety Code, as follows:

(a) Deletes existing text providing an exception in the case of a medical emergency. Provides that consent to an abortion is voluntary and informed only if certain conditions are met, including that:

(1) the physician who is to perform the abortion or the physician's agent or the referring physician or the referring physician's agent informs the pregnant woman on whom the abortion is to be performed of the name of the physician who will perform the abortion, the particular medical risks associated with the particular abortion procedure to be employed, including, when medically accurate the risks of infection and hemorrhage; the potential danger to a subsequent pregnancy and of infertility; and the possibility of increased risk of breast cancer following an induced abortion and the natural protective effect of a completed pregnancy in avoiding breast cancer, the probable gestational age of the unborn child at the time the abortion is to be performed, and the medical risks associated with carrying the child to term;

(2) the physician who is to perform the abortion or the physician's agent informs the pregnant woman that medical assistance benefits may be available for prenatal care, childbirth, and neonatal care; the father is liable for assistance in the support of the child without regard to whether the father has offered to pay for the

abortion; and public and private agencies provide pregnancy prevention counseling and medical referrals for obtaining pregnancy prevention medications or devices, including emergency contraception for victims of rape or incest;

(3) the physician who is to perform the abortion or the physician's agent provides the pregnant woman with the printed materials described in Section 171.014 (Informational Materials) and informs her that those materials have been provided by the Department of State Health Services (DSHS), are accessible on an Internet website sponsored by DSHS, describe the unborn child and list agencies that offer alternatives to abortion, and include a list of agencies that offer obstetric ultrasound services at no cost to the pregnant woman and that do not provide abortions, abortion-related services, or referrals for abortion. Deletes existing text requiring the physician who is to perform the abortion or the physician's agent to inform the woman that the woman has the right to review certain materials. Makes conforming and nonsubstantive changes;

(4) at least two hours before the abortion, the physician who is to perform the abortion or the physician's agent performs an obstetric ultrasound on the pregnant woman on whom the abortion is to be performed; displays the ultrasound images in a quality consistent with current medical practice in a manner that the pregnant woman may view them; provides, in a manner understandable to a layperson, a simultaneous verbal explanation of the results of the ultrasound images, including a medical description of the dimensions of the embryo or fetus, the presence of cardiac activity, and the presence of external members and internal organs; and makes audible the heart auscultation for the pregnant woman to hear, if present, in a quality consistent with current medical practice and provides, in a manner understandable to a layperson, a simultaneous verbal explanation of the heart auscultation;

(5) the pregnant woman certifies in a signed, written statement before the abortion is performed that the information and the printed materials described by Subdivisions (1), (2), and (3) have been provided and explained to her; that she has been provided with and has had the opportunity to review ultrasound images and hear the heart auscultation required by Subdivision (4); and the nature and consequences of an abortion have been explained to her. Deletes existing text providing that the woman certifies in writing before the abortion is performed that the information described by Subdivisions (1) and (2) has been provided to her and that she has been informed of her opportunity to review the information described by Section 171.014;

(6) before the abortion is performed, the physician who is to perform the abortion receives a copy of the signed, written certification required by Subdivision (5); and

(7) the pregnant woman is provided the name of each person who provides or explains the information required under this subsection. Makes conforming and nonsubstantive changes.

(b) Prohibits the information required to be provided under Subsections (a)(1) and (2) from being provided by audio or video recording and requires the information to be provided orally by telephone or in person and at least 24 hours before the abortion is to be performed.

(c) Requires the physician or the physician's agent, when providing the information under Subsection (a)(3), rather than Subsection (a)(2)(D), to provide the pregnant woman with the address of the Internet website on which the printed materials described by Section 171.014 may be viewed as required by Section 171.014(e) (relating to DSHS maintaining an Internet website to display the information required to be published under Section 171.014).

SECTION 3. Amends Subchapter B, Chapter 171, Health and Safety Code, by adding Sections 171.0121 and 171.0122, as follows:

Sec. 171.0121. **VIEWING OR RECEIVING PRINTED MATERIALS OR ULTRASOUND IMAGE.** (a) Authorizes the pregnant woman to choose not to view the printed materials provided under Section 171.012(a)(3) after she has been provided the materials.

(b) Authorizes a pregnant woman to choose not to receive the information made available to her under Section 171.012(a)(4).

(c) Provides that the physician and the pregnant woman are not subject to a penalty under this chapter if the pregnant woman chooses not to view the printed materials or receive the ultrasound images or the information made available to her under Section 171.012(a)(4) (relating to a physician performing an ultrasound).

Sec. 171.0122. **EXCEPTION FOR MEDICAL EMERGENCY.** Authorizes a physician to perform an abortion without obtaining informed consent under this subchapter in a medical emergency. Requires a physician who performs an abortion in a medical emergency to include in the patient's medical records a statement signed by the physician certifying the nature of the medical emergency and, not later than the seventh day after the date the abortion is performed, certify to DSHS the specific medical condition that constituted the emergency.

SECTION 4. Amends Section 171.013(a), Health and Safety Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Requires the physician or the physician's agent to furnish copies of the materials described by Section 171.014 to the pregnant woman at least 24 hours before the abortion is to be performed and to direct the pregnant woman to the Internet website required to be published under Section 171.014(e). Authorizes the physician or the physician's agent to furnish the materials to the pregnant woman by mail if the materials are mailed, restricted delivery to addressee, at least 72 hours before the abortion is performed. Amends references in this subsection to apply to a pregnant woman, rather than a woman. Deletes existing text requiring the physician or the physician's agent to provide certain materials if the woman chooses to view the materials described by Section 171.014. Makes conforming and nonsubstantive changes.

(d) Requires the physician or the physician's agent, if the pregnant woman chooses to receive the information described in Section 171.012(a)(4), to make the information available not less than two hours before the abortion and requires the pregnant woman to be provided with the name of each person who provides or explains the information.

SECTION 5. Amends Section 171.015, Health and Safety Code, to require that informational materials provided to a pregnant woman include certain geographically indexed materials, including a comprehensive list of agencies and organizations that offer obstetric ultrasound services at no cost to the pregnant woman and a toll-free, 24-hour telephone number that may be called to obtain an oral list and description of agencies described by Subdivision (1) that are located near the caller and of the services the agencies offer. Amends references in this subsection to apply to a pregnant woman, rather than a woman. Makes conforming and nonsubstantive changes.

SECTION 6. Amends Section 164.055(a), Occupations Code, to authorize the Texas Medical Board to take appropriate disciplinary action against a physician who violates Section 170.002 (Prohibited Acts; Exemption) or Chapter 171 (Abortion), Health and Safety Code. Makes a conforming change.

SECTION 7. Sets forth the purpose of this Act.

SECTION 8. Effective date: upon passage or September 1, 2009.