

By: Patrick, et al.

S.B. No. 182

Substitute the following for S.B. No. 182:

By: Solomons

C.S.S.B. No. 182

A BILL TO BE ENTITLED

AN ACT

relating to informed consent to an abortion.

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

SECTION 1. Section 171.002, Health and Safety Code, is amended to read as follows:

Sec. 171.002. DEFINITIONS [~~DEFINITION~~]. In this chapter:

(1) "Abortion" [~~,"abortion"~~] means the use of any means to terminate the pregnancy of a female known by the attending physician to be pregnant with the intention that the termination of the pregnancy by those means will, with reasonable likelihood, cause the death of the fetus.

(2) "Medical emergency" means a condition exists that, in a physician's good faith clinical judgment, complicates the medical condition of the pregnant woman and necessitates the immediate abortion of her pregnancy to avert her death or to avoid a serious risk of substantial impairment of a major bodily function.

SECTION 2. Section 171.012, Health and Safety Code, is amended by amending Subsections (a), (b), and (c) and adding Subsection (f) to read as follows:

(a) Consent [~~Except in the case of a medical emergency, consent~~] to an abortion is voluntary and informed only if:

(1) the physician who is to perform the abortion or the referring physician informs the pregnant woman on whom the abortion is to be performed of:

1 (A) the name of the physician who will perform
2 the abortion;

3 (B) the particular medical risks associated with
4 the particular abortion procedure to be employed, including, when
5 medically accurate:

6 (i) the risks of infection and hemorrhage;

7 (ii) the potential danger to a subsequent
8 pregnancy and of infertility; and

9 (iii) the possibility of increased risk of
10 breast cancer following an induced abortion and the natural
11 protective effect of a completed pregnancy in avoiding breast
12 cancer;

13 (C) the probable gestational age of the unborn
14 child at the time the abortion is to be performed; and

15 (D) the medical risks associated with carrying
16 the child to term;

17 (2) the physician who is to perform the abortion or the
18 physician's agent informs the pregnant woman that:

19 (A) medical assistance benefits may be available
20 for prenatal care, childbirth, and neonatal care;

21 (B) the father is liable for assistance in the
22 support of the child without regard to whether the father has
23 offered to pay for the abortion; and

24 (C) public and private agencies provide
25 pregnancy prevention counseling and medical referrals for
26 obtaining pregnancy prevention medications or devices, including
27 emergency contraception for victims of rape or incest; [~~and~~]

1 (3) the physician who is to perform the abortion or the
2 physician's agent:

3 (A) provides [~~D~~] the pregnant woman with [~~has~~
4 ~~the right to review~~] the printed materials described by Section
5 171.014;

6 (B) informs her [7] that those materials:

7 (i) have been provided by the [~~Texas~~
8 Department of State Health Services;

9 (ii) [~~and~~] are accessible on an Internet
10 website sponsored by the department; and

11 (iii) [~~and that the materials~~] describe
12 the unborn child and list agencies that offer alternatives to
13 abortion;

14 (C) informs her that she is not required to
15 review those materials; and

16 (D) provides the pregnant woman with a form that
17 states the following:

18 ULTRASOUND ELECTION

19 TEXAS LAW REQUIRES YOU TO UNDERGO AN ULTRASOUND

20 PRIOR TO RECEIVING AN ABORTION.

21 I ELECT TO ___ SEE ___ NOT SEE THE ULTRASOUND.

22 I ELECT TO ___ HEAR ___ NOT HEAR THE ULTRASOUND.

23 I ELECT TO ___ RECEIVE ___ NOT RECEIVE A VERBAL EXPLANATION OF THE
24 ULTRASOUND RESULTS.

25 I AM MAKING THIS ELECTION OF MY OWN FREE WILL AND WITHOUT COERCION.

26 _____

27 SIGNATURE _____ DATE _____;

1 (4) before the abortion, the pregnant woman undergoes
2 an obstetric ultrasound performed by the physician or the
3 physician's agent and:

4 (A) views the ultrasound, unless she has elected
5 not to view the ultrasound on the form provided under Subdivision
6 (3)(D);

7 (B) hears the heart auscultation in a quality
8 consistent with current medical practice and a simultaneous verbal
9 explanation of the heart auscultation, unless she has elected not
10 to hear the auscultation or the explanation on the form provided
11 under Subdivision (3)(D); and

12 (C) receives in a manner understandable to a
13 layperson a simultaneous verbal explanation of the results of the
14 ultrasound images, including a medical description of the
15 dimensions of the embryo or fetus, the presence of cardiac
16 activity, and the presence of external members and internal organs,
17 unless she has elected not to receive the explanation on the form
18 provided under Subdivision (3)(D);

19 (5) [~~(3)~~] the pregnant woman certifies in a signed,
20 written statement [~~writing~~] before the abortion is performed that
21 the information and the printed materials described by Subdivisions
22 (1), [~~and~~] (2), and (3) have [~~has~~] been provided and explained to
23 her [~~and that she has been informed of her opportunity to review the~~
24 information described by Section 171.014]; [~~and~~]

25 (6) [~~(4)~~] before the abortion is performed, the
26 physician who is to perform the abortion receives a copy of the
27 signed, written certification required by Subdivision (5); and

1 (7) the pregnant woman is provided the name of each
2 person who provides or explains the information required under this
3 subsection [~~(3)~~].

4 (b) The information required to be provided under
5 Subsections (a)(1) and (2) may not be provided by audio or video
6 recording and must be provided:

7 (1) orally by telephone or in person; and

8 (2) at least 24 hours before the abortion is to be
9 performed.

10 (c) When providing the information under Subsection (a)(3)
11 [~~(a)(2)(D)~~], the physician or the physician's agent must provide
12 the pregnant woman with the address of the Internet website on which
13 the printed materials described by Section 171.014 may be viewed as
14 required by Section 171.014(e).

15 (f) The physician and the pregnant woman are not subject to
16 a penalty under this chapter solely because the pregnant woman
17 chooses not to view the printed materials or the ultrasound images
18 or requests not to hear the heart auscultation as described by this
19 section.

20 SECTION 3. Subchapter B, Chapter 171, Health and Safety
21 Code, is amended by adding Section 171.0121 to read as follows:

22 Sec. 171.0121. EXCEPTION FOR MEDICAL EMERGENCY. A
23 physician may perform an abortion without obtaining informed
24 consent under this subchapter in a medical emergency. A physician
25 who performs an abortion in a medical emergency shall:

26 (1) include in the patient's medical records a
27 statement signed by the physician certifying the nature of the

1 medical emergency; and

2 (2) not later than the seventh day after the date the
3 abortion is performed, certify to the Department of State Health
4 Services the specific medical condition that constituted the
5 emergency.

6 SECTION 4. Section 171.013(a), Health and Safety Code, is
7 amended to read as follows:

8 (a) The [~~If the woman chooses to view the materials~~
9 ~~described by Section 171.014, the~~] physician or the physician's
10 agent shall furnish copies of the materials described by Section
11 171.014 to the pregnant woman [~~her~~] at least 24 hours before the
12 abortion is to be performed and shall direct the pregnant woman to
13 the Internet website required to be published under Section
14 171.014(e). The [A] physician or the physician's agent may furnish
15 the materials to the pregnant woman by mail if the materials are
16 mailed, restricted delivery to addressee, at least 72 hours before
17 the abortion is to be performed.

18 SECTION 5. Section 171.015, Health and Safety Code, is
19 amended to read as follows:

20 Sec. 171.015. INFORMATION RELATING TO PUBLIC AND PRIVATE
21 AGENCIES. The informational materials must include [~~either~~]:

22 (1) geographically indexed materials designed to
23 inform the pregnant woman of public and private agencies and
24 services that:

25 (A) are available to assist a woman through
26 pregnancy, childbirth, and the child's dependency, including:

27 (i) a comprehensive list of adoption

1 agencies;

2 (ii) a description of the services the
3 adoption agencies offer; ~~and~~

4 (iii) a description of the manner,
5 including telephone numbers, in which an adoption agency may be
6 contacted; and

7 (iv) a comprehensive list of agencies and
8 organizations that offer obstetric ultrasound services at no cost
9 to the pregnant woman;

10 (B) do not provide abortions or abortion-related
11 services or make referrals to abortion providers; and

12 (C) are not affiliated with organizations that
13 provide abortions or abortion-related services or make referrals to
14 abortion providers; and ~~or~~

15 (2) a toll-free, 24-hour telephone number that may be
16 called to obtain an oral list and description of agencies described
17 by Subdivision (1) that are located near the caller and of the
18 services the agencies offer.

19 SECTION 6. Section 164.055(a), Occupations Code, is amended
20 to read as follows:

21 (a) The board may take an appropriate disciplinary action
22 against a physician who violates Section 170.002 or Chapter 171,
23 Health and Safety Code. The board may refuse to admit to
24 examination or refuse to issue a license or renewal license to a
25 person who violates that section or chapter.

26 SECTION 7. The purpose of this Act is to protect the health
27 and safety of women.

1 SECTION 8. This Act takes effect immediately if it receives
2 a vote of two-thirds of all the members elected to each house, as
3 provided by Section 39, Article III, Texas Constitution. If this
4 Act does not receive the vote necessary for immediate effect, this
5 Act takes effect September 1, 2009.