

Amend CSHB 15 (senate committee report) by striking all below the enacting clause and substituting the following:

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) "Abortion provider" means a facility where an abortion is performed, including the office of a physician and a facility licensed under Chapter 245.

(3) "Medical emergency" means a life-threatening physical condition aggravated by, caused by, or arising from a pregnancy that, as certified by a physician, places the woman in danger of death or a serious risk of substantial impairment of a major bodily function unless an abortion is performed.

(4) "Sonogram" means the use of ultrasonic waves for diagnostic or therapeutic purposes, specifically to monitor an unborn child.

SECTION 2. Section 171.012, Health and Safety Code, is amended by amending Subsections (a), (b), and (c) and adding Subsection (a-1) 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:

(A) the physician's name [~~of the physician who will perform the abortion~~];

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

(i) the risks of infection and hemorrhage;

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

(iii) 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;

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

(D) 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:

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

(B) 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

(C) 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; ~~and~~

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

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

(B) informs the pregnant woman ~~[7]~~ that those materials:

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

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

(iii) [7 and that the materials] describe the unborn child and list agencies that offer alternatives to abortion; and

(iv) include a list of agencies that offer sonogram services at no cost to the pregnant woman;

(4) before any sedative or anesthesia is administered to the pregnant woman and at least 24 hours before the abortion or

at least two hours before the abortion if the pregnant woman waives this requirement by certifying that she currently lives 100 miles or more from the nearest abortion provider:

(A) the physician who is to perform the abortion or an agent of the physician who is also a sonographer certified by a national registry of medical sonographers performs a sonogram on the pregnant woman on whom the abortion is to be performed;

(B) the physician who is to perform the abortion displays the sonogram images in a quality consistent with current medical practice in a manner that the pregnant woman may view them;

(C) the physician who is to perform the abortion provides, in a manner understandable to a layperson, a verbal explanation of the results of the sonogram 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

(D) the physician who is to perform the abortion or an agent of the physician who is also a sonographer certified by a national registry of medical sonographers 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) before receiving a sonogram under Subdivision (4)(A) and [~~(3) the woman certifies in writing~~] before the abortion is performed and before any sedative or anesthesia is administered, the pregnant woman completes and certifies with her signature an election form that states as follows:

"ABORTION AND SONOGRAM ELECTION

(1) THE INFORMATION AND PRINTED MATERIALS DESCRIBED BY SECTIONS 171.012(a)(1)-(3), TEXAS HEALTH AND SAFETY CODE, HAVE BEEN PROVIDED AND EXPLAINED TO ME.

(2) I UNDERSTAND THE NATURE AND CONSEQUENCES OF AN ABORTION.

(3) TEXAS LAW REQUIRES THAT I RECEIVE A SONOGRAM PRIOR TO RECEIVING AN ABORTION.

(4) I UNDERSTAND THAT I HAVE THE OPTION TO VIEW THE SONOGRAM IMAGES.

(5) I UNDERSTAND THAT I HAVE THE OPTION TO HEAR THE HEARTBEAT.

(6) I UNDERSTAND THAT I AM REQUIRED BY LAW TO HEAR AN EXPLANATION OF THE SONOGRAM IMAGES UNLESS I CERTIFY IN WRITING TO ONE OF THE FOLLOWING:

 I AM PREGNANT AS A RESULT OF A SEXUAL ASSAULT, INCEST, OR OTHER VIOLATION OF THE TEXAS PENAL CODE THAT HAS BEEN REPORTED TO LAW ENFORCEMENT AUTHORITIES OR THAT HAS NOT BEEN REPORTED BECAUSE I REASONABLY BELIEVE THAT DOING SO WOULD PUT ME AT RISK OF RETALIATION RESULTING IN SERIOUS BODILY INJURY.

 I AM A MINOR AND OBTAINING AN ABORTION IN ACCORDANCE WITH JUDICIAL BYPASS PROCEDURES UNDER CHAPTER 33, TEXAS FAMILY CODE.

 MY FETUS HAS AN IRREVERSIBLE MEDICAL CONDITION OR ABNORMALITY, AS IDENTIFIED BY RELIABLE DIAGNOSTIC PROCEDURES AND DOCUMENTED IN MY MEDICAL FILE.

(7) I AM MAKING THIS ELECTION OF MY OWN FREE WILL AND WITHOUT COERCION.

(8) FOR A WOMAN WHO LIVES 100 MILES OR MORE FROM THE NEAREST ABORTION PROVIDER ONLY:

I CERTIFY THAT, BECAUSE I CURRENTLY LIVE 100 MILES OR MORE FROM THE NEAREST ABORTION PROVIDER, I WAIVE THE REQUIREMENT TO WAIT 24 HOURS AFTER THE SONOGRAM IS PERFORMED BEFORE RECEIVING THE ABORTION PROCEDURE. MY PLACE OF RESIDENCE IS:_____.

SIGNATURE

DATE"

~~[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]; ~~and~~

(6) ~~(4)~~ 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 ~~(3)~~.

(a-1) During a visit made to a facility to fulfill the requirements of Subsection (a), the facility and any person at the facility may not accept any form of payment, deposit, or exchange or make any financial agreement for an abortion or abortion-related services other than for payment of a service required by Subsection (a). The amount charged for a service required by Subsection (a) may not exceed the reimbursement rate established for the service by the Health and Human Services Commission for statewide medical reimbursement programs.

(b) The information required to be provided under Subsections (a)(1) and (2) may not be provided by audio or video recording and must be provided at least 24 hours before the abortion is to be performed:

(1) orally and ~~by telephone or~~ in person in a private and confidential setting if the pregnant woman currently lives less than 100 miles from the nearest abortion provider; or ~~and~~

(2) orally by telephone or in person in a private and confidential setting if the pregnant woman certifies that the woman currently lives 100 miles or more from the nearest abortion provider ~~[at least 24 hours before the abortion is to be performed].~~

(c) When providing the information under Subsection (a)(3) ~~(a)(2)(D)~~, the physician or the physician's agent must 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).

SECTION 3. Subchapter B, Chapter 171, Health and Safety Code, is amended by adding Sections 171.0121, 171.0122, 171.0123, and 171.0124 to read as follows:

Sec. 171.0121. MEDICAL RECORD. (a) Before the abortion begins, a copy of the signed, written certification received by the

physician under Section 171.012(a)(6) must be placed in the pregnant woman's medical records.

(b) A copy of the signed, written certification required under Sections 171.012(a)(5) and (6) shall be retained by the facility where the abortion is performed until:

(1) the seventh anniversary of the date it is signed;
or

(2) if the pregnant woman is a minor, the later of:
(A) the seventh anniversary of the date it is signed; or

(B) the woman's 21st birthday.

Sec. 171.0122. VIEWING PRINTED MATERIALS AND SONOGRAM IMAGE; HEARING HEART AUSCULTATION OR VERBAL EXPLANATION. (a) A pregnant woman may choose not to view the printed materials provided under Section 171.012(a)(3) after she has been provided the materials.

(b) A pregnant woman may choose not to view the sonogram images required to be provided to and reviewed with the pregnant woman under Section 171.012(a)(4).

(c) A pregnant woman may choose not to hear the heart auscultation required to be provided to and reviewed with the pregnant woman under Section 171.012(a)(4).

(d) A pregnant woman may choose not to receive the verbal explanation of the results of the sonogram images under Section 171.012(a)(4)(C) if:

(1) the woman's pregnancy is a result of a sexual assault, incest, or other violation of the Penal Code that has been reported to law enforcement authorities or that has not been reported because she has a reason that she declines to reveal because she reasonably believes that to do so would put her at risk of retaliation resulting in serious bodily injury;

(2) the woman is a minor and obtaining an abortion in accordance with judicial bypass procedures under Chapter 33, Family Code; or

(3) the fetus has an irreversible medical condition or abnormality, as previously identified by reliable diagnostic procedures and documented in the woman's medical file.

(e) The physician and the pregnant woman are not subject to a penalty under this chapter solely because the pregnant woman chooses not to view the printed materials or the sonogram images, hear the heart auscultation, or receive the verbal explanation, if waived as provided by this section.

Sec. 171.0123. PATERNITY AND CHILD SUPPORT INFORMATION. If, after being provided with a sonogram and the information required under this subchapter, the pregnant woman chooses not to have an abortion, the physician or an agent of the physician shall provide the pregnant woman with a publication developed by the Title IV-D agency that provides information about paternity establishment and child support, including:

(1) the steps necessary for unmarried parents to establish legal paternity;

(2) the benefits of paternity establishment for children;

(3) the steps necessary to obtain a child support order;

(4) the benefits of establishing a legal parenting order; and

(5) financial and legal responsibilities of parenting.

Sec. 171.0124. EXCEPTION FOR MEDICAL EMERGENCY. A physician may perform an abortion without obtaining informed consent under this subchapter in a medical emergency. A physician who performs an abortion in a medical emergency shall:

(1) include in the patient's medical records a statement signed by the physician certifying the nature of the medical emergency; and

(2) not later than the 30th day after the date the abortion is performed, certify to the Department of State Health Services the specific medical condition that constituted the emergency.

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

(a) The [~~If the woman chooses to view the materials described by Section 171.014, the~~] physician or the physician's

agent shall furnish copies of the materials described by Section 171.014 to the pregnant woman [~~her~~] at least 24 hours before the abortion is to be performed and shall direct the pregnant woman to the Internet website required to be published under Section 171.014(e). The [A] physician or the physician's agent may 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 to be performed.

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

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

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

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

(i) a comprehensive list of adoption agencies;

(ii) a description of the services the adoption agencies offer; [~~and~~]

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

(iv) a comprehensive list of agencies and organizations that offer sonogram services at no cost to the pregnant woman;

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

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

(2) 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.

SECTION 6. Subchapter A, Chapter 241, Health and Safety

Code, is amended by adding Section 241.007 to read as follows:

Sec. 241.007. COMPLIANCE WITH CERTAIN REQUIREMENTS REGARDING SONOGRAM BEFORE ABORTION. A hospital shall comply with Subchapter B, Chapter 171.

SECTION 7. Subchapter A, Chapter 243, Health and Safety Code, is amended by adding Section 243.017 to read as follows:

Sec. 243.017. COMPLIANCE WITH CERTAIN REQUIREMENTS REGARDING SONOGRAM BEFORE ABORTION. An ambulatory surgical center shall comply with Subchapter B, Chapter 171.

SECTION 8. Section 245.006(a), Health and Safety Code, is amended to read as follows:

(a) The department shall [~~may~~] inspect an abortion facility at random, unannounced, and reasonable times as necessary to ensure compliance with this chapter and Subchapter B, Chapter 171.

SECTION 9. Chapter 245, Health and Safety Code, is amended by adding Section 245.024 to read as follows:

Sec. 245.024. COMPLIANCE WITH CERTAIN REQUIREMENTS REGARDING SONOGRAM BEFORE ABORTION. An abortion facility shall comply with Subchapter B, Chapter 171.

SECTION 10. Section 164.055(a), Occupations Code, is amended to read as follows:

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

SECTION 11. Subchapter B, Chapter 164, Occupations Code, is amended by adding Section 164.0551 to read as follows:

Sec. 164.0551. COMPLIANCE WITH CERTAIN REQUIREMENTS REGARDING SONOGRAM BEFORE ABORTION. A physician shall comply with Subchapter B, Chapter 171, Health and Safety Code.

SECTION 12. The purposes of this Act include, but are not limited to:

(1) protecting the physical and psychological health and well-being of pregnant women;

(2) providing pregnant women access to information that would allow her to consider the impact an abortion would have

on her unborn child; and

(3) protecting the integrity and ethical standards of the medical profession.

SECTION 13. The change in law made by this Act applies only to an abortion performed on or after the 30th day after the effective date of this Act. An abortion performed before the 30th day after the effective date of this Act is governed by the law in effect on the date the abortion was performed, and the former law is continued in effect for that purpose.

SECTION 14. The Title IV-D agency shall publish the information required by Section 171.0123, Health and Safety Code, as added by this Act, not later than the 30th day after the effective date of this Act.

SECTION 15. Every provision in this Act and every application of the provisions in this Act are severable from each other. If any application of any provision in this Act to any person or group of persons or circumstances is found by a court to be invalid, the remainder of this Act and the application of the Act's provisions to all other persons and circumstances may not be affected. All constitutionally valid applications of this Act shall be severed from any applications that a court finds to be invalid, leaving the valid applications in force, because it is the legislature's intent and priority that the valid applications be allowed to stand alone. Even if a reviewing court finds a provision of this Act invalid in a large or substantial fraction of relevant cases, the remaining valid applications shall be severed and allowed to remain in force.

SECTION 16. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.