

Amend **SB 8** (house committee report) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE _____. REPORTING REQUIREMENTS ON ABORTIONS AND TREATMENT FOR
COMPLICATIONS RESULTING FROM ABORTIONS

SECTION _____.01. Chapter 170, Health and Safety Code, is amended by adding Section 170.003 to read as follows:

Sec. 170.003. COERCIVE ABORTION PROHIBITED; CRIMINAL PENALTY. (a) A physician commits an offense if the physician:

(1) intentionally performs an abortion on a woman; and
(2) knows or should reasonably believe that the woman is seeking the abortion as the result of coercion, as that term is defined by Section 1.07, Penal Code.

(b) An offense under this section is a Class A misdemeanor.

SECTION _____.02. Chapter 171, Health and Safety Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. REPORTING REQUIREMENTS

Sec. 171.021. LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature finds that:

(1) an abortion, whether surgically or chemically induced, terminates the life of a whole, separate, unique, living human being;

(2) this state is currently prevented from providing adequate legal remedies to protect the life, health, and welfare of pregnant women and unborn human life because of the lack of accurate and relevant statistical data concerning the practice of abortion and the women seeking abortion services in this state; and

(3) there is a need for stricter requirements regarding the content, accuracy, and consistency of reporting by physicians who perform abortions in this state and stricter enforcement of the reporting requirements.

(b) The purpose of this subchapter is to further the important and compelling state interests in:

(1) protecting the life and health of a pregnant woman seeking an elective abortion and, to the extent constitutionally permissible, the life of the woman's unborn child;

(2) fostering the development of standards of

professional conduct in the provision of an abortion; and

(3) maintaining accurate statistical data to aid in providing proper maternal health assistance, regulation, and education.

Sec. 171.022. REPORTING REQUIREMENTS. (a) Not later than the 15th day of each month, a physician by mail shall submit to the department the abortion reporting form required by Section 171.024 for each abortion performed by the physician in the preceding calendar month.

(b) As soon as practicable, but not later than 48 hours after the time of diagnosis or treatment, a physician by mail shall submit to the department the complication reporting form required by Section 171.025 for each illness or injury of a woman in the preceding calendar year that:

(1) the physician determines was caused by a medical complication resulting from an abortion for which the physician treated the woman; or

(2) the woman suspects was caused by a medical complication resulting from an abortion for which the physician treated the woman.

(c) The reports submitted to the department as required by this subchapter may not by any means identify the name of a woman on whom an abortion is performed.

Sec. 171.023. REPORTING FEE. A physician submitting a reporting form under Section 171.022(a) or (b) shall pay to the department for each form submitted a fee in an amount, set by the department, that is reasonably designed to cover the costs associated with administering the department's duties under this chapter.

Sec. 171.024. ABORTION REPORTING FORM; PARTIAL EXCEPTION. (a) A physician shall report to the department on the form prescribed by the department the information required by this section for each abortion performed by the physician.

(b) The form must include:

(1) the following information, which must be completed by the woman before anesthesia is administered or the abortion is performed:

(A) the woman's:

(i) age;

(ii) race or ethnicity;

(iii) marital status; and

(iv) municipality, county, state, and
nation of residence;

(B) the woman's highest level of education,
selected by checking one of the following:

(i) did not receive any high school
education;

(ii) received some high school education
but did not graduate;

(iii) is a high school graduate or
recipient of a high school equivalency certificate;

(iv) received some college education but is
not a college graduate;

(v) obtained an associate's degree;

(vi) obtained a bachelor's degree;

(vii) obtained a master's degree;

(viii) obtained a doctoral degree; or

(ix) received other education (specify):

_____;

(C) the age of the father of the unborn child at
the time of the abortion;

(D) the method or methods of contraception used
at the time the unborn child was conceived, selected by checking all
applicable methods from the following list:

(i) condoms;

(ii) spermicide;

(iii) male sterilization;

(iv) female sterilization;

(v) an injectable contraceptive;

(vi) an inter-uterine device;

(vii) mini pills;

(viii) combination pills;

(ix) a diaphragm;

(x) a cervical cap or vaginal contraceptive

ring;

(xi) a contraceptive patch;

(xii) a sponge;

(xiii) a calendar-based contraceptive method, including rhythm method or natural family planning or fertility awareness;

(xiv) withdrawal;

(xv) no method of contraception; or

(xvi) other method (specify): _____;

(E) a space for the woman to indicate the specific reason the abortion is to be performed, selected from the following list:

(i) the woman was coerced or forced to have the abortion;

(ii) the woman does not want any more children;

(iii) economic reasons;

(iv) the woman's unborn child has been diagnosed with one or more health problems that are documented in the woman's medical records;

(v) the father of the unborn child opposes the pregnancy;

(vi) the woman's parent opposes the pregnancy;

(vii) the woman fears a loss of family support;

(viii) the woman fears losing her job;

(ix) a school counselor recommends abortion;

(x) a physician recommends abortion;

(xi) the pregnancy is the result of rape;

(xii) the pregnancy is the result of incest;

(xiii) the woman does not prefer the gender of the unborn child; or

(xiv) the woman does not want to complete this section;

(F) the number of the woman's previous live births;

(G) the number of induced abortions the woman has previously undergone;

(H) the number of miscarriages the woman has previously experienced;

(I) the source of the woman's referral to the physician for the abortion, selected from the following list:

(i) a physician;

(ii) the woman herself;

(iii) a friend or family member of the woman;

(iv) a member of the clergy;

(v) a school counselor;

(vi) a social services agency;

(vii) the department;

(viii) a family planning clinic; or

(ix) other (specify): _____;

(J) the method of payment for the abortion, selected from the following list:

(i) private insurance;

(ii) a public health plan;

(iii) personal payment by cash; or

(iv) personal payment by check or credit card; and

(K) whether the woman availed herself of the opportunity to view the printed information required under Subchapter B and, if so, whether the woman viewed the information described by Section 171.014 in printed form or on the department's Internet website; and

(2) the following information, which must be completed by the physician:

(A) the name of the facility at which the abortion was performed, the municipality and county in which the facility is located, and the type of facility at which the abortion was performed, selected from the following list:

(i) an abortion facility licensed under

Chapter 245;

(ii) a private office of a licensed physician;

(iii) a licensed hospital;

(iv) a licensed hospital satellite clinic;

or

(v) an ambulatory surgical center licensed under Chapter 243;

(B) the license number, area of specialty, and signature of the physician who performed the abortion;

(C) a statement that the physician screened the woman to determine whether:

(i) coercion, as defined by Section 1.07, Penal Code, is a reason that the woman is seeking the abortion; and

(ii) the woman is a victim of an offense described by Section 22.011(a)(2), Penal Code;

(D) the type of the abortion procedure performed, selected from the following list:

(i) chemical abortion, specifying the chemical used;

(ii) suction and curettage;

(iii) dilation and curettage;

(iv) dilation and evacuation;

(v) dilation and extraction;

(vi) labor and induction;

(vii) hysterotomy or hysterectomy; or

(viii) other (specify): _____;

(E) the date the abortion was performed;

(F) whether the woman survived the abortion and, if the woman did not survive, the cause of the woman's death;

(G) the number of fetuses aborted;

(H) the number of weeks of gestation at which the abortion was performed, based on the best medical judgment of the attending physician performing the procedure, and the weight of the fetus or fetuses, if determinable;

(I) the method of pregnancy verification, selected from the following list:

- (i) urine test;
- (ii) clinical laboratory test;
- (iii) ultrasound;
- (iv) not tested; or
- (v) other (specify): _____;

(J) the total fee collected from the patient by the physician for performing the abortion, including any services related to the abortion;

(K) whether the abortion procedure was:

(i) covered by fee-for-service insurance;
(ii) covered by a managed care benefit plan;

(iii) covered by another type of health benefit plan (specify): _____; or

(iv) not covered by insurance or a health benefit plan;

(L) the type of anesthetic, if any, used on the woman during the abortion;

(M) the type of anesthetic, if any, used on the unborn child or children during the abortion;

(N) the method used to dispose of fetal tissue and remains;

(O) complications of the abortion, including:

- (i) none;
- (ii) shock;
- (iii) uterine perforation;
- (iv) cervical laceration;
- (v) hemorrhage;
- (vi) aspiration or allergic response;
- (vii) infection or sepsis;
- (viii) infant or infants born alive;
- (ix) death of woman; or
- (x) other (specify): _____;

(P) if an infant was born alive during the abortion:

(i) whether life-sustaining measures were provided to the infant; and

(ii) the period of time the infant survived; and

(Q) for each abortion performed on a woman who is younger than 18 years of age:

(i) whether:

(a) the minor's parent, managing conservator, or legal guardian provided the written consent required by Section 164.052(a)(19), Occupations Code;

(b) the minor obtained judicial authorization under Section 33.003 or 33.004, Family Code, for the minor to consent to the abortion;

(c) the woman is emancipated and permitted under law to have the abortion without the written consent required by Section 164.052(a)(19), Occupations Code, or judicial authorization; or

(d) the physician concluded and documented in writing in the patient's medical record that on the basis of the physician's good faith clinical judgment a condition existed that complicated the medical condition of the pregnant minor and necessitated the immediate abortion of her pregnancy to avert her death or to avoid a serious risk of substantial impairment of a major bodily function and that there was insufficient time to obtain the consent of the minor's parent, managing conservator, or legal guardian;

(ii) if the minor's parent, managing conservator, or legal guardian gave written consent, whether the consent was given:

(a) in person at the time of the abortion; or

(b) at a place other than the location where the abortion was performed; and

(iii) if the minor obtained judicial authorization:

(a) the process the physician or physician's agent used to inform the minor of the availability of judicial bypass as an alternative to the written consent required by Section 164.052(a)(19), Occupations Code;

(b) whether court forms were provided to the minor; and

(c) who made arrangements for the minor for the court appearance.

(c) The information required by Subsection (b)(1) must be at the top of the form. The information required by Subsection (b)(2) must be at the bottom of the form.

(d) A woman is required to complete the information required by Subsection (b)(1) unless the abortion is medically necessary, as certified by a physician, to prevent death or the serious risk of substantial impairment of a major bodily function resulting from a life-threatening physical condition that is aggravated by, is caused by, or arises from the woman's pregnancy.

(e) If the woman does not complete the required information, the physician who performs the abortion shall include in the woman's medical file a signed written statement certifying the nature of the medical emergency described by Subsection (d).

(f) A physician shall maintain a copy of each completed form in the woman's medical file until the later of:

(1) the seventh anniversary of the date on which the form was signed; or

(2) the woman's 25th birthday.

(g) A physician or the physician's agent shall provide to each woman required to complete a form under this section a copy of the completed form before the woman leaves the facility where the abortion was performed.

(h) The department shall make the abortion reporting form available on the department's Internet website.

(i) The form prescribed by this section must comply with the requirements of Section 171.014(b)(1).

Sec. 171.025. COMPLICATION REPORTING FORM. (a) A physician shall report to the department on the form prescribed by the department the information required by this section on the physician's treatment of an illness or injury related to a medical complication resulting from the performance of an abortion.

(b) The form must include the following information to be completed by the physician providing the treatment:

(1) the date of the abortion that caused or may have caused the complication;

(2) the type of abortion that caused or may have caused the complication, selected from the following list:

(A) chemical abortion, specifying the chemical used;

(B) suction and curettage;

(C) dilation and curettage;

(D) dilation and evacuation;

(E) dilation and extraction;

(F) labor and induction;

(G) hysterotomy or hysterectomy; or

(H) other (specify): _____;

(3) the name and type of the facility where the abortion complication was diagnosed and treated, selected from the following list:

(A) an abortion facility licensed under Chapter 245;

(B) a private office of a licensed physician;

(C) a licensed hospital;

(D) a licensed hospital satellite clinic; or

(E) an ambulatory surgical center licensed under Chapter 243;

(4) the name and type of the facility where the abortion was provided, if known;

(5) the license number, area of specialty, and signature of the physician who treated the abortion complication;

(6) the date on which the abortion complication was treated;

(7) a description of the complication or complications, selected from the following list:

(A) none;

(B) shock;

(C) uterine perforation;

(D) cervical laceration;

(E) hemorrhage;

(F) aspiration or allergic response;

(G) infection or sepsis;

(H) infant or infants born alive;

(I) death of woman; or

(J) other (specify): _____;

(8) the number of weeks of gestation at which the abortion was performed, based on the best medical judgment of the attending physician at the time of the treatment for the complication;

(9) the number of the woman's previous live births;

(10) the number of previous induced abortions the woman has undergone;

(11) the number of miscarriages the woman has previously experienced;

(12) whether the treatment for the complication was paid for by:

(A) private insurance;

(B) a public health plan;

(C) personal payment by cash; or

(D) personal payment by check or credit card;

(13) the total fee collected by the physician for treatment of the complication;

(14) whether the treatment for the complication was:

(A) covered by fee-for-service insurance;

(B) covered by a managed care benefit plan;

(C) covered by another type of health benefit plan (specify): _____; or

(D) not covered by insurance or a health benefit plan; and

(15) the type of follow-up care recommended by the physician after the physician provides treatment for the complication.

(c) A physician shall maintain a copy of each completed form in the woman's medical file until the later of:

(1) the seventh anniversary of the date on which the form was signed; or

(2) the woman's 25th birthday.

(d) A physician or the physician's agent shall provide to

each woman for whom a form is completed under this section a copy of the completed form before the woman leaves the facility where the treatment was received.

(e) The department shall make the complication form available on the department's Internet website.

(f) The form prescribed by this section must comply with the requirements of Section 171.014(b)(1).

Sec. 171.026. CONFIDENTIAL INFORMATION. (a) Except as provided by Section 171.029 and Subsection (b), all information received or maintained by the department under this subchapter is confidential and is not subject to disclosure under Chapter 552, Government Code.

(b) A department employee may disclose information described by Subsection (a):

(1) for statistical purposes, but only if a person or facility is not identified;

(2) to a medical professional, a state agency, or a county or district court for purposes of enforcing this chapter or Chapter 245; or

(3) to a state licensing board for purposes of enforcing state licensing laws.

Sec. 171.027. PENALTIES. (a) The commissioner of state health services may assess an administrative penalty against a physician who fails to submit a report within the time required by Section 171.022 in the amount of \$500 for each 30-day period or portion of a 30-day period the report remains overdue.

(b) The commissioner may bring an action against a physician who fails to file a report required under Section 171.022 before the first anniversary of the date the report was due to compel the physician to submit a complete report within a time stated by the court order or be subject to sanctions for civil contempt.

Sec. 171.028. OFFENSE; CRIMINAL PENALTY. (a) A physician commits an offense if:

(1) the physician fails to submit a report required by this subchapter;

(2) the physician intentionally, knowingly, or recklessly submits false information in a report required by this

subchapter;

(3) the physician includes in a report required by this subchapter the name or identifying information of a woman on whom the physician performed an abortion; or

(4) the physician or the physician's agent discloses identifying information that is confidential under Section 171.026.

(b) An offense under this section is a Class A misdemeanor.

Sec. 171.029. PUBLIC DATA POSTING BY DEPARTMENT. (a) Not later than April 1 of each year, the department shall post on the department's Internet website statistical data that details the information reported under Section 171.022 during the preceding calendar year.

(b) Each posting under Subsection (a) must include data from the postings made under this section in previous years, including updated or corrected information for those postings. Each Internet web page containing a posting from a previous year must indicate at the bottom of the web page the date on which the data contained on the web page was most recently updated or corrected.

(c) The department shall ensure that a posting made under this section does not contain any information that could reasonably lead to the identification of:

(1) a woman on whom an abortion was performed or who received treatment for a complication resulting from an abortion; or

(2) a physician who performed an abortion or treated a complication resulting from an abortion.

SECTION _____.03. Section 245.001, Health and Safety Code, is amended to read as follows:

Sec. 245.001. SHORT TITLE. This chapter may be cited as the Texas Abortion Facility [~~Reporting and~~] Licensing Act.

SECTION _____.04. Section 245.005(e), Health and Safety Code, is amended to read as follows:

(e) As a condition for renewal of a license, the licensee must submit to the department the annual license renewal fee and an annual report[, ~~including the report required under Section 245.011~~].

SECTION _____.05. Section 248.003, Health and Safety Code, is amended to read as follows:

Sec. 248.003. EXEMPTIONS. This chapter does not apply to:

- (1) a home and community support services agency required to be licensed under Chapter 142;
- (2) a person required to be licensed under Chapter 241 (Texas Hospital Licensing Law);
- (3) an institution required to be licensed under Chapter 242;
- (4) an ambulatory surgical center required to be licensed under Chapter 243 (Texas Ambulatory Surgical Center Licensing Act);
- (5) a birthing center required to be licensed under Chapter 244 (Texas Birthing Center Licensing Act);
- (6) a facility required to be licensed under Chapter 245 (Texas Abortion Facility [~~Reporting and~~] Licensing Act);
- (7) a child care institution, foster group home, foster family home, and child-placing agency, for children in foster care or other residential care who are under the conservatorship of the Department of Family and Protective [~~and Regulatory~~] Services; or
- (8) a person providing medical or nursing care or services under a license or permit issued under other state law.

SECTION _____.06. Effective January 1, 2012, Section 245.011, Health and Safety Code, is repealed.

SECTION _____.07. (a) Not later than December 1, 2011, the Department of State Health Services shall:

(1) make available the forms required by Sections 171.024 and 171.025, Health and Safety Code, as added by this article; and

(2) set the fee described by Section 171.023, Health and Safety Code, as added by this article.

(b) Notwithstanding Section 171.022, Health and Safety Code, as added by this article, a physician is not required to submit a report required by Section 171.022, Health and Safety Code, as added by this article, before January 1, 2012.

SECTION _____.08. Not later than April 1, 2013, the

Department of State Health Services shall make the data posting required by Section 171.029, Health and Safety Code, as added by this article.

SECTION _____.09. Sections 170.003 and 171.028, Health and Safety Code, as added by this article, and Sections 245.001, 245.005, and 248.003, Health and Safety Code, as amended by this article, take effect January 1, 2012.