

By: Callegari

H.B. No. 26

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the offense of coercing a person to have or seek an  
3 abortion and voluntary and informed consent for an abortion;  
4 providing penalties.

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

6 SECTION 1. The heading to Subchapter B, Chapter 171, Health  
7 and Safety Code, is amended to read as follows:

8 SUBCHAPTER B. VOLUNTARY AND INFORMED CONSENT

9 SECTION 2. Section 171.018, Health and Safety Code, is  
10 amended to read as follows:

11 Sec. 171.018. OFFENSE. A physician who intentionally  
12 performs an abortion on a woman in violation of Section 171.011  
13 [~~this subchapter~~] commits an offense. An offense under this  
14 section is a misdemeanor punishable by a fine not to exceed \$10,000.  
15 In this section, "intentionally" has the meaning assigned by  
16 Section 6.03(a), Penal Code.

17 SECTION 3. Subchapter B, Chapter 171, Health and Safety  
18 Code, is amended by adding Sections 171.019, 171.020, 171.021,  
19 171.022, and 171.023 to read as follows:

20 Sec. 171.019. PREVENTION OF COERCED ABORTIONS. (a) Before  
21 any anesthesia or sedative is given to a woman prior to the  
22 performance of an abortion, a physician shall:

23 (1) verbally inform the woman on whom the abortion is  
24 to be performed that a person cannot coerce or force her to have or

1 seek an abortion and that the physician cannot perform the abortion  
2 unless the woman provides her voluntary and informed consent; and

3 (2) provide the woman on whom the abortion is to be  
4 performed with the coerced abortion form described by Section  
5 171.021:

6 (A) in both English and Spanish; and

7 (B) in a language other than English or Spanish,  
8 if applicable, under Section 171.021(c).

9 (b) A doctor may not perform an abortion on a woman unless,  
10 before the abortion, the woman certifies on the coerced abortion  
11 form described by Section 171.021 that she received from the  
12 physician the information and materials required by Subsection (a).

13 (c) If the woman indicates on the coerced abortion form or  
14 communicates to the physician that she is being coerced to have or  
15 seek an abortion or the physician is otherwise made aware that the  
16 woman has indicated that she is being coerced to have or seek an  
17 abortion, the physician:

18 (1) shall report an offense under Section 25.12, Penal  
19 Code, to local law enforcement;

20 (2) shall provide the referral required by Section  
21 171.020(2);

22 (3) shall provide the woman with access to a telephone  
23 in a private room; and

24 (4) may not perform the abortion until:

25 (A) 48 hours have elapsed:

26 (i) since the woman last communicated to  
27 the physician, through the form or otherwise, that the woman was

1 being forced or coerced to have or seek an abortion; or  
2 (ii) to the best of the physician's  
3 knowledge, since the woman last communicated to an agent of the  
4 physician that the woman was being forced or coerced to have or seek  
5 an abortion; and

6 (B) the woman provides her voluntary and informed  
7 consent that the woman states is not a result of coercion.

8 (d) A person who is a volunteer for or an employee of a  
9 physician or an office or facility at which abortions are performed  
10 shall immediately notify the physician who is to perform an  
11 abortion on a woman if the woman communicates to the person that the  
12 woman is being forced or coerced to have or seek an abortion.

13 Sec. 171.020. REFERRAL TO DOMESTIC VIOLENCE ASSISTANCE.  
14 The department shall require each physician who performs an  
15 abortion to:

16 (1) maintain a list of domestic violence shelters and  
17 assistance programs that do not:

18 (A) provide abortions or abortion-related  
19 services;

20 (B) make referrals to abortion providers; or

21 (C) affiliate or contract with entities that:

22 (i) provide abortions or abortion-related  
23 services; or

24 (ii) make referrals to abortion providers;  
25 and

26 (2) provide a referral to a domestic violence shelter  
27 or assistance program described by Subdivision (1) if the woman

1 seeking an abortion communicates to the facility, the physician, or  
2 an agent of the physician who is performing the abortion that the  
3 woman is being abused or is being coerced to have or seek the  
4 abortion.

5 Sec. 171.021. CONTENTS OF FORM. (a) The department shall  
6 develop a coerced abortion form to be completed by each woman on  
7 whom an abortion is performed in this state. The form must include:

8 (1) the following title centered on the page in  
9 boldfaced capital letters in 26-point font or larger: "NOTICE";

10 (2) the following statement printed in 16-point font  
11 or larger: "It is against the law for a person, regardless of that  
12 person's relationship to you, to coerce or force you to have or seek  
13 an abortion. By law, a physician cannot perform an abortion,  
14 including inducing, prescribing for, or otherwise providing the  
15 means for an abortion, unless you give your voluntary and informed  
16 consent without coercion or force. It is against the law for a  
17 physician to perform an abortion against your will. You have the  
18 right to a telephone in a private room to contact any local or state  
19 law enforcement agency to receive protection from any actual or  
20 threatened physical abuse or violence.";

21 (3) the following statements printed in 14-point font  
22 or larger followed by spaces for the woman to initial:

23 (A) "I understand that I have the right to access  
24 a telephone in a private room to contact a local or state law  
25 enforcement agency to receive protection from any actual or  
26 threatened physical abuse or violence.";

27 (B) "I have been informed in person that no one

1 can coerce or force me to have or seek an abortion and that an  
2 abortion cannot be provided to me unless I provide my freely given,  
3 voluntary, and informed consent."; and

4 (C) "I have read the above notice and understand  
5 that I have legal protection against being coerced or forced to have  
6 or seek an abortion.";

7 (4) spaces for the signature of the woman on whom an  
8 abortion is to be performed and the date the form was completed; and

9 (5) spaces for the license number, area of specialty,  
10 and signature of the physician who performed the abortion.

11 (b) The department shall provide the form required by  
12 Subsection (a) in both English and Spanish.

13 (c) If the department determines that a substantial number  
14 of residents in this state speak a primary language other than  
15 English or Spanish, the department shall provide the form required  
16 by Subsection (a) in that language. The department shall instruct a  
17 facility that provides abortions to provide the coerced abortion  
18 form in a language other than English or Spanish if the department  
19 determines that a substantial number of residents in the area speak  
20 a primary language other than English or Spanish.

21 Sec. 171.022. PROVISION AND RETENTION OF COERCED ABORTION  
22 FORM. (a) The department shall provide a copy of this section and  
23 Sections 171.019-171.021 and the coerced abortion form required by  
24 Section 171.019 to:

25 (1) a physician who becomes newly licensed to practice  
26 in this state, not later than the 30th day after the date the  
27 physician receives the license; and

1           (2) all physicians licensed to practice in this state,  
2 not later than December 1 of each year.

3           (b) A copy of the coerced abortion form certified by the  
4 woman shall be placed in the woman's medical file and kept until at  
5 least the seventh anniversary of the date on which the form was  
6 signed or, if the woman is a minor, at least until the date the woman  
7 reaches 20 years of age, whichever is later.

8           (c) The woman on whom an abortion is performed shall be  
9 given a copy of the completed coerced abortion form in person before  
10 the woman leaves the facility where the abortion is performed.

11           Sec. 171.023. SIGN POSTING. (a) An office or facility at  
12 which abortions are performed shall post the following sign:  
13 "NOTICE: It is against the law for a person, regardless of that  
14 person's relationship to you, to coerce or force you to have or seek  
15 an abortion. By law, a physician cannot perform an abortion,  
16 including inducing, prescribing for, or otherwise providing the  
17 means for an abortion, unless you give your voluntary and informed  
18 consent without coercion or force. It is against the law for a  
19 physician to perform an abortion against your will. You have the  
20 right to a telephone in a private room to contact any local or state  
21 law enforcement agency to receive protection from any actual or  
22 threatened physical abuse or violence."

23           (b) The sign described by Subsection (a) must be:

24           (1) printed with lettering that is legible and in at  
25 least two-inch boldfaced type; and

26           (2) printed and posted in both English and Spanish, as  
27 well as any language other than English or Spanish if it is likely

1 that a substantial number of the residents in the area speak a  
2 language other than English or Spanish as their primary language.

3 (c) An office or facility at which abortions are performed  
4 shall conspicuously post the sign described by Subsection (a) in  
5 each patient waiting room and each patient consultation room  
6 regularly used by patients seeking abortions.

7 (d) If requested by a patient, the office or facility shall  
8 provide the patient:

9 (1) a paper copy of the sign described by Subsection  
10 (a) in the language preferred by the patient; and

11 (2) access to a telephone in a private room.

12 SECTION 4. Chapter 6, Code of Criminal Procedure, is  
13 amended by adding Article 6.11 to read as follows:

14 Art. 6.11. REPORTS OF COERCION OF ABORTION. A peace officer  
15 who receives a report of or other information indicating the  
16 commission or attempted commission of an alleged offense under  
17 Section 25.12, Penal Code, shall file a police report as necessary  
18 to ensure that law enforcement may investigate the alleged offense.

19 SECTION 5. Chapter 25, Penal Code, is amended by adding  
20 Section 25.12 to read as follows:

21 Sec. 25.12. COERCION OF ABORTION. (a) A person commits an  
22 offense if the person uses coercion to induce a pregnant woman to  
23 have or seek an abortion.

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

25 (c) A person who in good faith reports to law enforcement  
26 authorities a suspected offense under Subsection (a) is immune from  
27 civil liability in an action brought against the person for

1 reporting the suspected offense.

2           SECTION 6. (a) Not later than January 1, 2014, the  
3 Department of State Health Services shall develop and make  
4 available the form required by Subchapter B, Chapter 171, Health  
5 and Safety Code, as amended by this Act, along with instructions for  
6 completing the form.

7           (b) Not later than January 1, 2014, the Department of State  
8 Health Services shall develop and make available the sign required  
9 by Section 171.023, Health and Safety Code, as added by this Act.

10           (c) Not later than February 1, 2014, the Department of State  
11 Health Services shall distribute forms as required by Section  
12 171.022(a), Health and Safety Code, as added by this Act.

13           SECTION 7. This Act takes effect November 1, 2013.