

By: Howard

H.B. No. 35

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the waiting period before a physician may perform an
3 abortion.

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

5 SECTION 1. Sections 171.012(a) and (b), Health and Safety
6 Code, are amended to read as follows:

7 (a) Consent to an abortion is voluntary and informed only
8 if:

9 (1) the physician who is to perform the abortion
10 informs the pregnant woman on whom the abortion is to be performed
11 of:

12 (A) the physician's name;

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

16 (i) the risks of infection and hemorrhage;

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

19 (iii) the possibility of increased risk of
20 breast cancer following an induced abortion and the natural
21 protective effect of a completed pregnancy in avoiding breast
22 cancer;

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

1 (D) the medical risks associated with carrying
2 the child to term;

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

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

7 (B) the father is liable for assistance in the
8 support of the child without regard to whether the father has
9 offered to pay for the abortion; and

10 (C) public and private agencies provide
11 pregnancy prevention counseling and medical referrals for
12 obtaining pregnancy prevention medications or devices, including
13 emergency contraception for victims of rape or incest;

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

16 (A) provides the pregnant woman with the
17 printed materials described by Section 171.014; and

18 (B) informs the pregnant woman that those
19 materials:

20 (i) have been provided by the Department of
21 State Health Services;

22 (ii) are accessible on an Internet website
23 sponsored by the department;

24 (iii) describe the unborn child and list
25 agencies that offer alternatives to abortion; and

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

1 (4) before any sedative or anesthesia is administered
2 to the pregnant woman and [~~at least 24 hours~~] before the abortion is
3 performed [~~or at least two hours before the abortion if the pregnant~~
4 ~~woman waives this requirement by certifying that she currently~~
5 ~~lives 100 miles or more from the nearest abortion provider that is a~~
6 ~~facility licensed under Chapter 245 or a facility that performs~~
7 ~~more than 50 abortions in any 12-month period~~]:

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

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

15 (C) the physician who is to perform the abortion
16 provides, in a manner understandable to a layperson, a verbal
17 explanation of the results of the sonogram images, including a
18 medical description of the dimensions of the embryo or fetus, the
19 presence of cardiac activity, and the presence of external members
20 and internal organs; and

21 (D) the physician who is to perform the abortion
22 or an agent of the physician who is also a sonographer certified by
23 a national registry of medical sonographers makes audible the heart
24 auscultation for the pregnant woman to hear, if present, in a
25 quality consistent with current medical practice and provides, in a
26 manner understandable to a layperson, a simultaneous verbal
27 explanation of the heart auscultation;

1 (5) before receiving a sonogram under Subdivision
2 (4)(A) and before the abortion is performed and before any sedative
3 or anesthesia is administered, the pregnant woman completes and
4 certifies with her signature an election form that states as
5 follows:

6 "ABORTION AND SONOGRAM ELECTION

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

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

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

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

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

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

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

1 person who provides or explains the information required under this
2 subsection.

3 (b) The information required to be provided under
4 Subsections (a)(1) and (2) may not be provided by audio or video
5 recording and must be provided, ~~[at least 24 hours]~~ before the
6 abortion is to be performed, ~~[+~~

7 ~~[(1)]~~ orally and in person in a private and
8 confidential setting ~~[if the pregnant woman currently lives less
9 than 100 miles from the nearest abortion provider that is a facility
10 licensed under Chapter 245 or a facility that performs more than 50
11 abortions in any 12-month period; or~~

12 ~~[(2)]~~ orally by telephone or in person in a private and
13 confidential setting ~~if the pregnant woman certifies that the woman
14 currently lives 100 miles or more from the nearest abortion
15 provider that is a facility licensed under Chapter 245 or a facility
16 that performs more than 50 abortions in any 12-month period].~~

17 SECTION 2. Section 171.013(a), Health and Safety Code, is
18 amended to read as follows:

19 (a) The physician or the physician's agent shall furnish
20 copies of the materials described by Section 171.014 to the
21 pregnant woman ~~[at least 24 hours]~~ before the abortion is to be
22 performed and shall direct the pregnant woman to the Internet
23 website required to be published under Section 171.014(e). The
24 physician or the physician's agent may furnish the materials to the
25 pregnant woman by mailing ~~[mail if]~~ the materials ~~[are mailed,]~~
26 restricted delivery to the addressee ~~[, at least 72 hours before the
27 abortion is to be performed].~~

1 SECTION 3. Section 171.017, Health and Safety Code, is
2 repealed.

3 SECTION 4. The change in law made by this Act applies only
4 to an abortion performed on or after the effective date of this Act.
5 An abortion performed before the effective date of this Act is
6 governed by the law in effect on the date the abortion is performed,
7 and that law continues in effect for that purpose.

8 SECTION 5. This Act takes effect immediately if it receives
9 a vote of two-thirds of all the members elected to each house, as
10 provided by Section 39, Article III, Texas Constitution. If this
11 Act does not receive the vote necessary for immediate effect, this
12 Act takes effect on the 91st day after the last day of the
13 legislative session.