

By: Rodriguez of Travis

H.B. No. 51

A BILL TO BE ENTITLED

AN ACT

relating to human sexuality and health, including the regulation of abortion; providing a civil penalty.

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

SECTION 1. Section 28.004, Education Code, is amended by amending Subsections (e) and (i) and adding Subsection (o) to read as follows:

(e) Any course materials and instruction relating to human sexuality, sexually transmitted diseases, or human immunodeficiency virus or acquired immune deficiency syndrome shall be selected by the board of trustees with the advice of the local school health advisory council and ~~[must]~~:

(1) must present abstinence from sexual activity as the preferred choice of behavior in relationship to all sexual activity for ~~[unmarried]~~ persons of school age;

(2) must devote sufficient ~~[more]~~ attention to abstinence from sexual activity to emphasize the importance of abstinence from sexual activity ~~[than to any other behavior]~~;

(3) must emphasize that abstinence from sexual activity, if used consistently and correctly, is the only method that is 100 percent effective in preventing pregnancy, sexually transmitted infections ~~[diseases]~~, sexually transmitted infection with human immunodeficiency virus, ~~[or]~~ acquired immune deficiency syndrome resulting from sexual activity, and the emotional distress

1 that may be [~~trauma~~] associated with adolescent sexual activity
2 that results in a sexually transmitted infection or an unintended
3 pregnancy;

4 (4) must direct adolescents to a standard of behavior
5 in which abstinence from sexual activity [~~before marriage~~] is the
6 most effective way to prevent pregnancy, sexually transmitted
7 infections [~~diseases~~], sexually transmitted [~~and~~] infection with
8 human immunodeficiency virus, and [~~or~~] acquired immune deficiency
9 syndrome resulting from sexual activity; and

10 (5) must present age-appropriate information;

11 (6) must be evidence-based;

12 (7) must provide information about the effectiveness
13 of methods approved by the United States Food and Drug
14 Administration for reducing the risk of contracting sexually
15 transmitted infections, including human immunodeficiency virus,
16 and preventing pregnancy;

17 (8) must include strategies to promote effective
18 communication between adolescents and their parents and other
19 family members about values and healthy relationships;

20 (9) must encourage students to develop healthy life
21 skills, including goal setting, responsible decision making,
22 refusal and negotiation, and effective communication;

23 (10) must teach skills for making responsible
24 decisions about sexual activity, including how to avoid unwanted
25 verbal or physical sexual advances and how to avoid making unwanted
26 verbal or physical sexual advances; and

27 (11) may not promote bias against:

1 (A) students of any race, gender, sexual
2 orientation, or ethnic or cultural background;

3 (B) sexually active students; or

4 (C) children with disabilities ~~[teach~~
5 ~~contraception and condom use in terms of human use reality rates~~
6 ~~instead of theoretical laboratory rates, if instruction on~~
7 ~~contraception and condoms is included in curriculum content]~~.

8 (i) Before each school year, a school district shall provide
9 written notice to a parent of each student enrolled in the district
10 of the board of trustees' decision regarding whether the district
11 will provide human sexuality instruction to district students. If
12 instruction will be provided, the notice must include:

13 (1) a summary of the basic content of the district's
14 human sexuality instruction to be provided to the student,
15 including a statement informing the parent that the instruction is
16 required by ~~[of the instructional requirements under]~~ state law to:

17 (A) present abstinence from sexual activity as
18 the preferred choice of behavior in relationship to all sexual
19 activity for persons of school age; and

20 (B) devote sufficient attention to abstinence
21 from sexual activity to emphasize the importance of abstinence from
22 sexual activity;

23 (2) a statement of whether the instruction is
24 considered by the district to be abstinence-only instruction or
25 comprehensive instruction, including an explanation of the
26 difference between those types of instruction and a specific
27 statement regarding whether the student will receive information on

contraception and condom use;

(3) ~~[(2)]~~ a statement of the parent's right to:

(A) review curriculum materials as provided by Subsection (j); and

(B) remove the student from any part of the district's human sexuality instruction without subjecting the student to any disciplinary action, academic penalty, or other sanction imposed by the district or the student's school; and

(4) ~~[(3)]~~ information describing the opportunities for parental involvement in the development of the curriculum to be used in human sexuality instruction, including information regarding the local school health advisory council established under Subsection (a).

(o) In this section:

(1) "Abstinence-only instruction" means instruction that does not include information about preventing pregnancy, sexually transmitted infections, infection with human immunodeficiency virus, or acquired immune deficiency syndrome through any means other than total abstinence from sexual activity.

(2) "Age-appropriate information" means information, including topics, messages, and teaching methods, that is suitable for the particular ages or age groups of children and adolescents to whom the information is to be presented based on the developing cognitive, emotional, and behavioral capacity of children or adolescents of that age or age group.

(3) "Evidence-based" means:

(A) verified or supported by research that is:

1 (i) in compliance with accepted scientific
2 methods;
3 (ii) published in peer-reviewed journals,
4 if appropriate; and
5 (iii) recognized as medically accurate,
6 objective, and complete by mainstream professional organizations
7 and agencies with expertise in the relevant field, including the
8 Centers for Disease Control and Prevention and the United States
9 Department of Health and Human Services' Office of Adolescent
10 Health; and
11 (B) proven, through rigorous scientific
12 evaluation, to achieve positive outcomes concerning sexually risky
13 behavior or negative health consequences of sexually risky
14 behavior.

15 SECTION 2. Section 32.003(a), Family Code, is amended to
16 read as follows:

17 (a) A child may consent to medical, dental, psychological,
18 and surgical treatment for the child by a licensed physician or
19 dentist if the child:

20 (1) is on active duty with the armed services of the
21 United States of America;

22 (2) is:

23 (A) 16 years of age or older and resides separate
24 and apart from the child's parents, managing conservator, or
25 guardian, with or without the consent of the parents, managing
26 conservator, or guardian and regardless of the duration of the
27 residence; and

(B) managing the child's own financial affairs, regardless of the source of the income;

(3) consents to the diagnosis and treatment of an infectious, contagious, or communicable disease that is required by law or a rule to be reported by the licensed physician or dentist to a local health officer or the ~~[Texas]~~ Department of State Health Services, including all diseases within the scope of Section 81.041, Health and Safety Code;

(4) is unmarried and pregnant and consents to hospital, medical, or surgical treatment, other than abortion, related to the pregnancy;

(5) consents to examination and treatment for drug or chemical addiction, drug or chemical dependency, or any other condition directly related to drug or chemical use;

(6) is unmarried, is the parent of a child, and has actual custody of his or her child and consents to medical, dental, psychological, or surgical treatment for the child; ~~[or]~~

(7) is serving a term of confinement in a facility operated by or under contract with the Texas Department of Criminal Justice, unless the treatment would constitute a prohibited practice under Section 164.052(a)(19), Occupations Code; or

(8) is 16 years of age or older, has given birth to a child, and consents to an examination or medical treatment, other than abortion or emergency contraception, related to contraception.

SECTION 3. Section 33.002(a), Family Code, is amended to read as follows:

1 (a) A physician may not perform an abortion on a pregnant
2 unemancipated minor unless:

3 (1) the physician performing the abortion gives at
4 least 48 hours actual notice, in person or by telephone, of the
5 physician's intent to perform the abortion to:

6 (A) a parent of the minor, if the minor has no
7 managing conservator or guardian; or

8 (B) a court-appointed managing conservator or
9 guardian;

10 (2) the judge of a court having probate jurisdiction,
11 the judge of a county court at law, the judge of a district court,
12 including a family district court, or a court of appellate
13 jurisdiction issues an order authorizing the minor to consent to
14 the abortion as provided by Section 33.003 or 33.004;

15 (3) a probate court, county court at law, district
16 court, including a family district court, or court of appeals, by
17 its inaction, constructively authorizes the minor to consent to the
18 abortion as provided by Section 33.003 or 33.004;

19 (3-a) a medical professional described by Section
20 33.0045 constructively authorizes the minor to consent to the
21 abortion as provided by Section 33.0045; or

22 (4) the physician performing the abortion:

23 (A) concludes that on the basis of the
24 physician's good faith clinical judgment, a condition exists that
25 complicates the medical condition of the pregnant minor and
26 necessitates the immediate abortion of her pregnancy to avert her
27 death or to avoid a serious risk of substantial and irreversible

1 impairment of a major bodily function; and

2 (B) certifies in writing to the ~~[Texas]~~
3 Department of State Health Services and in the patient's medical
4 record the medical indications supporting the physician's judgment
5 that the circumstances described by Paragraph (A) exist.

6 SECTION 4. Chapter 33, Family Code, is amended by adding
7 Section 33.0045 to read as follows:

8 Sec. 33.0045. COUNSELOR APPROVAL. (a) In this section,
9 "medical professional" means a physician, physician assistant,
10 nurse, or psychologist licensed in this state to provide medical,
11 health, or mental health services.

12 (b) A pregnant minor who wants to have an abortion without
13 the written consent of and notification to one of her parents, her
14 managing conservator, or her guardian may obtain counseling from a
15 medical professional.

16 (c) A medical professional conducting counseling under this
17 section shall inform the minor of alternatives to abortion and
18 advise the minor on the option of involving the minor's parents,
19 managing conservator, or guardian in her decision to have an
20 abortion.

21 (d) A medical professional conducting counseling under this
22 section may not notify a parent, managing conservator, or guardian
23 that the minor is pregnant or that the minor wants to have an
24 abortion. Counseling between the minor and the medical
25 professional is confidential and privileged and is not subject to
26 disclosure under Chapter 552, Government Code, or to discovery,
27 subpoena, or other legal processes.

1 (e) The Department of State Health Services shall develop a
2 standard form for purposes of certifying that the medical
3 professional has conducted counseling under this section.

4 (f) A medical professional conducting counseling shall
5 complete the form described by Subsection (e) on completion of
6 counseling. A completed form constructively authorizes the minor
7 to obtain an abortion without the written consent of and
8 notification to the minor's parents, managing conservator, or
9 guardian.

10 SECTION 5. Section 501.012, Government Code, is amended to
11 read as follows:

12 Sec. 501.012. FAMILY LIAISON OFFICER. The director of the
13 institutional division shall designate one employee at each
14 facility operated by the institutional division to serve as family
15 liaison officer for that facility. The family liaison officer
16 shall facilitate the maintenance of ties between inmates and their
17 families for the purpose of reducing recidivism. Each family
18 liaison officer shall:

19 (1) provide inmates' relatives with information about
20 the classification status, location, and health of inmates in the
21 facility;

22 (2) notify inmates about emergencies involving their
23 families and provide inmates with other necessary information
24 relating to their families; ~~and~~

25 (3) assist inmates' relatives and other persons during
26 visits with inmates and aid those persons in resolving problems
27 that may affect permitted contact with inmates; and

1 (4) inform inmates of family planning services
2 available after release and assist female inmates in obtaining
3 those services.

4 SECTION 6. Subchapter A, Chapter 501, Government Code, is
5 amended by adding Section 501.024 to read as follows:

6 Sec. 501.024. MINIMUM STANDARDS FOR PREGNANT OFFENDERS.
7 The department shall adopt reasonable rules and procedures
8 establishing minimum standards for a correctional facility to:

9 (1) determine if an offender is pregnant; and
10 (2) for females confined in the facility who are known
11 or determined to be pregnant, ensure that the facility's health
12 services plan:

13 (A) provides pregnant offenders with
14 nondirective counseling and written material, in a form easily
15 understandable by each offender, on pregnancy options and
16 correctional facility policies and practices regarding care and
17 labor for pregnant offenders;

18 (B) provides prenatal and postpartum medical
19 care and monitoring, including nutritional and exercise
20 requirements; and

21 (C) addresses any special housing or work
22 assignments.

23 SECTION 7. Section 511.009, Government Code, is amended by
24 amending Subsection (a) and adding Subsection (a-1) to read as
25 follows:

26 (a) The commission shall:

27 (1) adopt reasonable rules and procedures

1 establishing minimum standards for the construction, equipment,
2 maintenance, and operation of county jails;

3 (2) adopt reasonable rules and procedures
4 establishing minimum standards for the custody, care, and treatment
5 of prisoners;

6 (3) adopt reasonable rules establishing minimum
7 standards for the number of jail supervisory personnel and for
8 programs and services to meet the needs of prisoners;

9 (4) adopt reasonable rules and procedures
10 establishing minimum requirements for programs of rehabilitation,
11 education, and recreation in county jails;

12 (5) revise, amend, or change rules and procedures if
13 necessary;

14 (6) provide to local government officials
15 consultation on and technical assistance for county jails;

16 (7) review and comment on plans for the construction
17 and major modification or renovation of county jails;

18 (8) require that the sheriff and commissioners of each
19 county submit to the commission, on a form prescribed by the
20 commission, an annual report on the conditions in each county jail
21 within their jurisdiction, including all information necessary to
22 determine compliance with state law, commission orders, and the
23 rules adopted under this chapter;

24 (9) review the reports submitted under Subdivision (8)
25 and require commission employees to inspect county jails regularly
26 to ensure compliance with state law, commission orders, and rules
27 and procedures adopted under this chapter;

1 (10) adopt a classification system to assist sheriffs
2 and judges in determining which defendants are low-risk and
3 consequently suitable participants in a county jail work release
4 program under Article 42.034, Code of Criminal Procedure;

5 (11) adopt rules relating to requirements for
6 segregation of classes of inmates and to capacities for county
7 jails;

8 (12) require that the chief jailer of each municipal
9 lockup submit to the commission, on a form prescribed by the
10 commission, an annual report of persons under 17 years of age
11 securely detained in the lockup, including all information
12 necessary to determine compliance with state law concerning secure
13 confinement of children in municipal lockups;

14 (13) at least annually determine whether each county
15 jail is in compliance with the rules and procedures adopted under
16 this chapter;

17 (14) require that the sheriff and commissioners court
18 of each county submit to the commission, on a form prescribed by the
19 commission, an annual report of persons under 17 years of age
20 securely detained in the county jail, including all information
21 necessary to determine compliance with state law concerning secure
22 confinement of children in county jails;

23 (15) schedule announced and unannounced inspections
24 of jails under the commission's jurisdiction using the risk
25 assessment plan established under Section 511.0085 to guide the
26 inspections process;

27 (16) adopt a policy for gathering and distributing to

jails under the commission's jurisdiction information regarding:

(A) common issues concerning jail administration;

(B) examples of successful strategies for maintaining compliance with state law and the rules, standards, and procedures of the commission; and

(C) solutions to operational challenges for jails;

(17) report to the Texas Correctional Office on Offenders with Medical or Mental Impairments on a jail's compliance with Article 16.22, Code of Criminal Procedure;

(18) adopt reasonable rules and procedures establishing minimum requirements for jails to:

(A) determine if a prisoner is pregnant; and

(B) ensure that the jail's health services plan addresses medical and mental health care, including nutritional requirements, and any special housing or work assignment needs for persons who are confined in the jail and are known or determined to be pregnant; ~~and~~

(19) provide guidelines to sheriffs regarding contracts between a sheriff and another entity for the provision of food services to or the operation of a commissary in a jail under the commission's jurisdiction, including specific provisions regarding conflicts of interest and avoiding the appearance of impropriety; and

(20) adopt reasonable rules and procedures for providing to female prisoners on release family planning

information and services.

(a-1) The minimum requirements adopted under Subsection (a)(18) must meet or exceed the minimum standards adopted under Section 501.024.

SECTION 8. Section 171.002, Health and Safety Code, is amended to read as follows:

Sec. 171.002. DEFINITION [~~DEFINITIONS~~]. In this chapter, "abortion" [÷

[~~(1) "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 9. Sections 171.012(a), (b), and (c), Health and Safety Code, are amended to read as follows:

(a) Except in the case of a medical emergency, consent

1 ~~[Consent]~~ to an abortion is voluntary and informed only if:

2 (1) the physician who is to perform the abortion or the
3 referring physician informs the ~~[pregnant]~~ woman on whom the
4 abortion is to be performed of:

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

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

10 (i) the risks of infection and hemorrhage;

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

13 (iii) the possibility of increased risk of
14 breast cancer following an induced abortion and the natural
15 protective effect of a completed pregnancy in avoiding breast
16 cancer;

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

19 (D) the medical risks associated with carrying
20 the child to term;

21 (2) the physician who is to perform the abortion or the
22 physician's agent informs the ~~[pregnant]~~ woman that:

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

25 (B) the father is liable for assistance in the
26 support of the child without regard to whether the father has
27 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

(D) the woman has the right to review [(3) the physician who is to perform the abortion or the physician's agent].

~~[(A) provides the pregnant woman with]~~ the printed materials described by Section 171.014, and

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

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

~~[(ii)]~~ are accessible on an Internet website sponsored by the department, and that the materials~~+~~

~~[(iii)]~~ 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 that is a facility licensed under Chapter 245 or a facility that performs more than 50 abortions in any 12-month period.]~~

~~[(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];~~

(3) the woman certifies in writing [(5) before receiving a sonogram under Subdivision (4)(A) and] before the abortion is performed 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 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 ~~[(1) THE INFORMATION AND PRINTED MATERIALS~~
2 ~~DESCRIBED BY SECTIONS 171.012(a)(1)-(3), TEXAS HEALTH~~
3 ~~AND SAFETY CODE, HAVE BEEN PROVIDED AND EXPLAINED TO~~
4 ~~ME.~~

5 ~~[(2) I UNDERSTAND THE NATURE AND~~
6 ~~CONSEQUENCES OF AN ABORTION.~~

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

9 ~~[(4) I UNDERSTAND THAT I HAVE THE OPTION TO~~
10 ~~VIEW THE SONOGRAM IMAGES.~~

11 ~~[(5) I UNDERSTAND THAT I HAVE THE OPTION TO~~
12 ~~HEAR THE HEARTBEAT.~~

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

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

22 ~~[____ I AM A MINOR AND OBTAINING AN ABORTION~~
23 ~~IN ACCORDANCE WITH JUDICIAL BYPASS PROCEDURES UNDER~~
24 ~~CHAPTER 33, TEXAS FAMILY CODE.~~

25 ~~[____ MY FETUS HAS AN IRREVERSIBLE MEDICAL~~
26 ~~CONDITION OR ABNORMALITY, AS IDENTIFIED BY RELIABLE~~
27 ~~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 THAT IS A
FACILITY LICENSED UNDER CHAPTER 245 OR A FACILITY THAT
PERFORMS MORE THAN 50 ABORTIONS IN ANY 12-MONTH PERIOD
ONLY.~~

~~[I CERTIFY THAT, BECAUSE I CURRENTLY LIVE
100 MILES OR MORE FROM THE NEAREST ABORTION PROVIDER
THAT IS A FACILITY LICENSED UNDER CHAPTER 245 OR A
FACILITY THAT PERFORMS MORE THAN 50 ABORTIONS IN ANY
12-MONTH PERIOD, 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"]; and~~

~~(4) [(6)] before the abortion is performed, the
physician who is to perform the abortion receives a copy of the
[signed,] written certification required by Subdivision (3) [(5),
and~~

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

(b) The information required to be provided under
Subsections (a)(1) and (2) ~~[may not be provided by audio or video~~

1 ~~recording and~~] must be provided [~~at least 24 hours before the~~
2 ~~abortion is to be performed~~]:

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

8 (2) at least 24 hours before the abortion is to be
9 performed [~~orally by telephone or in person in a private and~~
10 ~~confidential setting if the pregnant woman certifies that the woman~~
11 ~~currently lives 100 miles or more from the nearest abortion~~
12 ~~provider that is a facility licensed under Chapter 245 or a facility~~
13 ~~that performs more than 50 abortions in any 12-month period~~].

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

19 SECTION 10. Section 171.013(a), Health and Safety Code, is
20 amended to read as follows:

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

1 to the [~~pregnant~~] woman by mail if the materials are mailed,
2 restricted delivery to addressee, at least 72 hours before the
3 abortion is to be performed.

4 SECTION 11. Section 171.015, Health and Safety Code, is
5 amended to read as follows:

6 Sec. 171.015. INFORMATION RELATING TO PUBLIC AND PRIVATE
7 AGENCIES. The informational materials must include either:

8 (1) geographically indexed materials designed to
9 inform the [~~pregnant~~] woman of public and private agencies and
10 services that:

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

13 (i) a comprehensive list of adoption
14 agencies;

15 (ii) a description of the services the
16 adoption agencies offer; and

17 (iii) a description of the manner,
18 including telephone numbers, in which an adoption agency may be
19 contacted[~~, and~~

20 [~~(iv) a comprehensive list of agencies and~~
21 ~~organizations that offer sonogram services at no cost to the~~
22 ~~pregnant woman~~];

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

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

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

5 SECTION 12. Section 245.006(a), Health and Safety Code, is
6 amended to read as follows:

7 (a) The department may ~~[shall]~~ inspect an abortion facility
8 at ~~[random, unannounced, and]~~ reasonable times as necessary to
9 ensure compliance with this chapter ~~[and Subchapter B, Chapter~~
10 ~~171]~~.

11 SECTION 13. Section 323.004(b), Health and Safety Code, as
12 amended by S.B. No. 1191, Acts of the 83rd Legislature, Regular
13 Session, 2013, is amended to read as follows:

14 (b) A health care facility providing care to a sexual
15 assault survivor shall provide the survivor with comprehensive
16 medical treatment and:

17 (1) subject to Subsection (b-1), a forensic medical
18 examination in accordance with Subchapter B, Chapter 420,
19 Government Code, if the examination has been requested by a law
20 enforcement agency under Article 56.06, Code of Criminal Procedure,
21 or is conducted under Article 56.065, Code of Criminal Procedure;

22 (2) a private area, if available, to wait or speak with
23 the appropriate medical, legal, or sexual assault crisis center
24 staff or volunteer until a physician, nurse, or physician assistant
25 is able to treat the survivor;

26 (3) access to a sexual assault program advocate, if
27 available, as provided by Article 56.045, Code of Criminal

1 Procedure;

2 (4) the information form required by Section 323.005;

3 (5) a private treatment room, if available;

4 (6) if indicated by the history of contact, access to
5 appropriate prophylaxis for exposure to sexually transmitted
6 infections; ~~and~~

7 (7) the name and telephone number of the nearest
8 sexual assault crisis center;

9 (8) emergency contraceptive services described by
10 Section 323.0052;

11 (9) an assessment described by Section 323.0054;

12 (10) counseling and treatment described by Section
13 323.0055; and

14 (11) follow-up care information described by Section
15 323.0056.

16 SECTION 14. Chapter 323, Health and Safety Code, is amended
17 by adding Sections 323.0051, 323.0052, 323.0053, 323.0054,
18 323.0055, 323.0056, and 323.0057 to read as follows:

19 Sec. 323.0051. EMERGENCY CONTRACEPTIVE INFORMATION. (a)
20 The department shall develop a standard information form for sexual
21 assault survivors that includes information regarding emergency
22 contraception.

23 (b) Emergency contraception information contained in the
24 form must be medically and factually accurate and unbiased. The
25 department may use appropriate medical organizations and
26 associations, including the American Congress of Obstetricians and
27 Gynecologists, as resources in developing the form.

1 (c) The information form must be published in:

2 (1) an easily comprehensible form; and

3 (2) a typeface large enough to be clearly legible.

4 (d) The department shall annually review the information
5 form to determine if changes to the contents of the form are
6 necessary.

7 (e) A health care facility shall use the standard form
8 developed under this section.

9 Sec. 323.0052. EMERGENCY CONTRACEPTIVE SERVICES. In
10 addition to the other services and information required under this
11 chapter, after a sexual assault survivor arrives at a health care
12 facility for emergency care following an alleged sexual assault,
13 the facility shall promptly:

14 (1) provide the sexual assault survivor with the
15 information form required under Section 323.0051;

16 (2) orally communicate to the sexual assault survivor
17 the information regarding emergency contraception contained in the
18 information form provided under Subdivision (1);

19 (3) if indicated by the history of contact, orally
20 inform the sexual assault survivor that the survivor may request
21 and be provided with emergency contraception at the facility; and

22 (4) if not medically contraindicated and if the
23 survivor agrees to submit to a pregnancy test and that pregnancy
24 test produces a negative result, provide the sexual assault
25 survivor with emergency contraception immediately on request of the
26 survivor.

27 Sec. 323.0053. SEXUAL ASSAULT SURVIVOR ASSESSMENT

1 STANDARDS. (a) The department shall establish standards for
2 assessing sexual assault survivors for the risk of contracting a
3 sexually transmitted disease.

4 (b) In developing the standards, the department shall use as
5 resources appropriate:

6 (1) recommendations by the United States Centers for
7 Disease Control and Prevention;

8 (2) peer-reviewed clinical studies;

9 (3) research using in vitro and nonhuman primate
10 models of infection; and

11 (4) medical organizations and associations described
12 by Section 323.0051(b).

13 (c) The department shall annually review the standards to
14 determine if changes to the standards are necessary.

15 Sec. 323.0054. SEXUAL ASSAULT SURVIVOR ASSESSMENT. (a) A
16 health care facility shall promptly provide a sexual assault
17 survivor with an assessment of the survivor's risk of contracting a
18 sexually transmitted disease.

19 (b) An assessment described by Subsection (a) may be
20 conducted only by a physician, physician assistant, or advanced
21 practice nurse. An individual conducting the assessment shall base
22 the assessment on:

23 (1) the available information regarding the sexual
24 assault; and

25 (2) the risk assessment standards established under
26 Section 323.0053.

27 Sec. 323.0055. SEXUAL ASSAULT SURVIVOR COUNSELING AND

1 TREATMENT FOR SEXUALLY TRANSMITTED DISEASES. (a) After completion
2 of an assessment described by Section 323.0054(a), a health care
3 facility shall provide a sexual assault survivor with counseling on
4 the sexually transmitted diseases for which:

5 (1) the assessment described by Section 323.0054(a)
6 determines the sexual assault survivor may be at risk;

7 (2) postexposure treatment exists; and

8 (3) deferral of treatment would significantly reduce
9 the effectiveness of the treatment or pose a substantial risk to the
10 sexual assault survivor's health.

11 (b) The counseling may be conducted only by an individual
12 described by Section 323.0054(b) and must be provided in clear and
13 concise language.

14 (c) After providing the assessment under Section 323.0054
15 and the counseling described by this section, a health care
16 facility shall:

17 (1) inform the sexual assault survivor that the
18 survivor may request and be provided with treatment for sexually
19 transmitted diseases for which the survivor may be at risk as
20 determined by the assessment described by Section 323.0054(a); and

21 (2) provide the survivor with treatment for the
22 sexually transmitted diseases described by Subdivision (1)
23 immediately on request of the survivor.

24 Sec. 323.0056. FOLLOW-UP CARE INFORMATION. A health care
25 facility shall provide in clear and concise language to a sexual
26 assault survivor information on the physical and mental health
27 benefits of follow-up medical care or other health services from a

1 health care provider capable of providing follow-up care to
2 survivors of sexual assault. The information must include the
3 names and contact information of health care providers in the
4 survivor's community that are capable of providing the follow-up
5 care.

6 Sec. 323.0057. CIVIL PENALTY. (a) A health care facility
7 that violates Section 323.0052, 323.0054, 323.0055, or 323.0056 is
8 liable for a civil penalty of not less than \$10,000 for each day of
9 violation and for each act of violation.

10 (b) In determining the amount of the penalty, the district
11 court shall consider:

- 12 (1) the health care facility's previous violations;
13 (2) the seriousness of the violation, including the
14 nature, circumstances, extent, and gravity of the violation;
15 (3) the demonstrated good faith of the health care
16 facility;
17 (4) the amount necessary to deter future violations;
18 and
19 (5) any other matter that should, as a matter of
20 justice or equity, be considered.

21 (c) A penalty collected under this section by the attorney
22 general shall be deposited to the credit of the general revenue
23 fund. A penalty collected under this section by a district or
24 county attorney shall be deposited to the credit of the general fund
25 in the district or county in which the suit was heard.

26 SECTION 15. Subchapter B, Chapter 32, Human Resources Code,
27 is amended by adding Section 32.0523 to read as follows:

1 Sec. 32.0523. WAIVER PROGRAM FOR WOMEN'S HEALTH. (a) In
2 this section, "Texas women's health program" means the program
3 operated by the Department of State Health Services that began
4 operating in 2013, is substantially similar to the demonstration
5 project operated under former Section 32.0248, and is intended to
6 expand access to preventive health and family planning services for
7 women in this state.

8 (b) If the Department of State Health Services ceases
9 operation of the Texas women's health program, the Health and Human
10 Services Commission shall immediately apply for a waiver under
11 Section 1115 of the federal Social Security Act (42 U.S.C. Section
12 1315) to obtain authorization for and any federal matching money
13 available to support a women's health program.

14 (c) A women's health program operated under a waiver
15 described by Subsection (b) must be identical to the demonstration
16 project formerly operated under Section 32.0248.

17 SECTION 16. Section 164.052(a), Occupations Code, is
18 amended to read as follows:

19 (a) A physician or an applicant for a license to practice
20 medicine commits a prohibited practice if that person:

21 (1) submits to the board a false or misleading
22 statement, document, or certificate in an application for a
23 license;

24 (2) presents to the board a license, certificate, or
25 diploma that was illegally or fraudulently obtained;

26 (3) commits fraud or deception in taking or passing an
27 examination;

1 (4) uses alcohol or drugs in an intemperate manner
2 that, in the board's opinion, could endanger a patient's life;

3 (5) commits unprofessional or dishonorable conduct
4 that is likely to deceive or defraud the public, as provided by
5 Section 164.053, or injure the public;

6 (6) uses an advertising statement that is false,
7 misleading, or deceptive;

8 (7) advertises professional superiority or the
9 performance of professional service in a superior manner if that
10 advertising is not readily subject to verification;

11 (8) purchases, sells, barters, or uses, or offers to
12 purchase, sell, barter, or use, a medical degree, license,
13 certificate, or diploma, or a transcript of a license, certificate,
14 or diploma in or incident to an application to the board for a
15 license to practice medicine;

16 (9) alters, with fraudulent intent, a medical license,
17 certificate, or diploma, or a transcript of a medical license,
18 certificate, or diploma;

19 (10) uses a medical license, certificate, or diploma,
20 or a transcript of a medical license, certificate, or diploma that
21 has been:

22 (A) fraudulently purchased or issued;

23 (B) counterfeited; or

24 (C) materially altered;

25 (11) impersonates or acts as proxy for another person
26 in an examination required by this subtitle for a medical license;

27 (12) engages in conduct that subverts or attempts to

1 subvert an examination process required by this subtitle for a
2 medical license;

3 (13) impersonates a physician or permits another to
4 use the person's license or certificate to practice medicine in
5 this state;

6 (14) directly or indirectly employs a person whose
7 license to practice medicine has been suspended, canceled, or
8 revoked;

9 (15) associates in the practice of medicine with a
10 person:

11 (A) whose license to practice medicine has been
12 suspended, canceled, or revoked; or

13 (B) who has been convicted of the unlawful
14 practice of medicine in this state or elsewhere;

15 (16) performs or procures a criminal abortion, aids or
16 abets in the procuring of a criminal abortion, attempts to perform
17 or procure a criminal abortion, or attempts to aid or abet the
18 performance or procurement of a criminal abortion;

19 (17) directly or indirectly aids or abets the practice
20 of medicine by a person, partnership, association, or corporation
21 that is not licensed to practice medicine by the board;

22 (18) performs an abortion on a woman who is pregnant
23 with a viable unborn child during the third trimester of the
24 pregnancy unless:

25 (A) the abortion is necessary to prevent the
26 death of the woman;

27 (B) the viable unborn child has a severe,

1 irreversible brain impairment; or

2 (C) the woman is diagnosed with a significant
3 likelihood of suffering imminent severe, irreversible brain damage
4 or imminent severe, irreversible paralysis; or

5 (19) performs an abortion on an unemancipated minor
6 without the written consent of the child's parent, managing
7 conservator, or legal guardian, without the written consent of a
8 medical professional, as provided by Section 33.0045, Family Code,
9 or without a court order, as provided by Section 33.003 or 33.004,
10 Family Code, authorizing the minor to consent to the abortion,
11 unless the physician concludes that on the basis of the physician's
12 good faith clinical judgment, a condition exists that complicates
13 the medical condition of the pregnant minor and necessitates the
14 immediate abortion of her pregnancy to avert her death or to avoid a
15 serious risk of substantial impairment of a major bodily function
16 and that there is insufficient time to obtain the consent of the
17 child's parent, managing conservator, or legal guardian.

18 SECTION 17. Section 164.055(a), Occupations Code, is
19 amended to read as follows:

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

25 SECTION 18. The following laws are repealed:

26 (1) Sections 171.012(a-1), 171.0121, 171.0122,
27 171.0123, 171.0124, 243.017, and 245.024, Health and Safety Code;

1 (2) Section 241.007, Health and Safety Code, as added
2 by Chapter 73 (H.B. 15), Acts of the 82nd Legislature, Regular
3 Session, 2011; and

4 (3) Section 164.0551, Occupations Code.

5 SECTION 19. (a) The Health and Human Services Commission
6 shall conduct a joint study of existing peer-reviewed scholarly
7 evidence regarding the age at which fetal perception of pain
8 occurs.

9 (b) The joint study shall be conducted by the Health and
10 Human Services Commission and:

11 (1) Texas A&M University System Health Science Center;

12 (2) Texas Tech University Health Sciences Center;

13 (3) the University of North Texas Health Science
14 Center at Fort Worth;

15 (4) The University of Texas Health Science Center at
16 Houston;

17 (5) The University of Texas Health Science Center at
18 San Antonio;

19 (6) The University of Texas Health Science Center at
20 Tyler;

21 (7) The University of Texas Medical Branch at
22 Galveston; and

23 (8) The University of Texas Southwestern Medical
24 Center.

25 (c) The Health and Human Services Commission shall complete
26 the joint study and provide copies of the study to the governor, the
27 lieutenant governor, the speaker of the house of representatives,

1 and members of the legislature not later than December 1, 2014.

2 SECTION 20. (a) A school district that uses instructional
3 materials that do not reflect the requirements prescribed by
4 Section 28.004(e), Education Code, as amended by this Act, shall
5 also use appropriate supplemental instructional materials as
6 necessary to comply with those requirements.

7 (b) A school district that permits a person not employed by
8 the district to present one or more components of the district's
9 human sexuality instruction must require the person to comply with
10 the requirements prescribed by Section 28.004(e), Education Code,
11 as amended by this Act.

12 (c) Section 28.004(e), Education Code, as amended by this
13 Act, applies beginning with the 2014-2015 school year.

14 (d) Section 33.002, Family Code, as amended by this Act,
15 Section 164.052, Occupations Code, as amended by this Act, and
16 Section 33.0045, Family Code, as added by this Act, apply only to an
17 abortion performed on an unemancipated minor on or after the
18 effective date of this Act. An abortion performed before the
19 effective date of this Act is governed by the law in effect on the
20 date the abortion was performed, and that law is continued in effect
21 for that purpose.

22 SECTION 21. This Act takes effect November 1, 2013.