

By: Rodriguez, et al.

S.B. No. 34

A BILL TO BE ENTITLED

AN ACT

relating to informed consent to an abortion.

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

SECTION 1. 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 2. Sections 171.012(a), (b), and (c), Health and

1 Safety Code, are amended to read as follows:

2 (a) Except in the case of a medical emergency, consent
3 ~~[Consent]~~ to an abortion is voluntary and informed only if:

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

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

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

12 (i) the risks of infection and hemorrhage;

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

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

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

21 (D) the medical risks associated with carrying
22 the child to term;

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

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

27 (B) the father is liable for assistance in the

1 support of the child without regard to whether the father has
2 offered to pay for the abortion; ~~and~~

3 (C) public and private agencies provide
4 pregnancy prevention counseling and medical referrals for
5 obtaining pregnancy prevention medications or devices, including
6 emergency contraception for victims of rape or incest; and

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

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

11 ~~[(B) informs the pregnant woman]~~ that those
12 materials ~~[,~~

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

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

17 ~~[(iii)]~~ describe the unborn child and list
18 agencies that offer alternatives to abortion ~~[, and~~

19 ~~[(iv) include a list of agencies that offer~~
20 ~~sonogram services at no cost to the pregnant woman,~~

21 ~~[(4) before any sedative or anesthesia is administered~~
22 ~~to the pregnant woman and at least 24 hours before the abortion or~~
23 ~~at least two hours before the abortion if the pregnant woman waives~~
24 ~~this requirement by certifying that she currently lives 100 miles~~
25 ~~or more from the nearest abortion provider that is a facility~~
26 ~~licensed under Chapter 245 or a facility that performs more than 50~~
27 ~~abortions in any 12-month period.~~

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

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

8 ~~[(C) the physician who is to perform the abortion~~
9 ~~provides, in a manner understandable to a layperson, a verbal~~
10 ~~explanation of the results of the sonogram images, including a~~
11 ~~medical description of the dimensions of the embryo or fetus, the~~
12 ~~presence of cardiac activity, and the presence of external members~~
13 ~~and internal organs; and~~

14 ~~[(D) the physician who is to perform the abortion~~
15 ~~or an agent of the physician who is also a sonographer certified by~~
16 ~~a national registry of medical sonographers makes audible the heart~~
17 ~~auscultation for the pregnant woman to hear, if present, in a~~
18 ~~quality consistent with current medical practice and provides, in a~~
19 ~~manner understandable to a layperson, a simultaneous verbal~~
20 ~~explanation of the heart auscultation];~~

21 (3) the woman certifies in writing [(5) before
22 receiving a sonogram under Subdivision (4)(A) and] before the
23 abortion is performed that the information described by
24 Subdivisions (1) and (2) has been provided to her and that she has
25 been informed of her opportunity to review the information
26 described by Section 171.014 [and before any sedative or anesthesia
27 is administered, the pregnant woman completes and certifies with

1 ~~her signature an election form that states as follows:~~

2 ~~["ABORTION AND SONOGRAM ELECTION~~

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

7 ~~[(2) I UNDERSTAND THE NATURE AND~~
8 ~~CONSEQUENCES OF AN ABORTION.~~

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

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

13 ~~[(5) I UNDERSTAND THAT I HAVE THE OPTION TO~~
14 ~~HEAR THE HEARTBEAT.~~

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

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

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

27 ~~[___ 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 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].~~

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

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

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

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

21 SECTION 3. Section 171.013(a), Health and Safety Code, is
22 amended to read as follows:

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

1 ~~website required to be published under Section 171.014(e)]. A~~
2 ~~[The]~~ physician or the physician's agent may furnish the materials
3 to the ~~[pregnant]~~ woman by mail if the materials are mailed,
4 restricted delivery to addressee, at least 72 hours before the
5 abortion is to be performed.

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

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

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

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

15 (i) a comprehensive list of adoption
16 agencies;

17 (ii) a description of the services the
18 adoption agencies offer; and

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

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

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

27 (C) are not affiliated with organizations that

1 provide abortions or abortion-related services or make referrals to
2 abortion providers; or ~~and~~

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

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

9 (a) The department may ~~shall~~ inspect an abortion facility
10 at ~~[random, unannounced, and]~~ reasonable times as necessary to
11 ensure compliance with this chapter ~~[and Subchapter B, Chapter~~
12 ~~171]~~.

13 SECTION 6. Section 164.055(a), Occupations Code, is amended
14 to read as follows:

15 (a) The board may ~~shall~~ take an appropriate disciplinary
16 action against a physician who violates Section 170.002 ~~[or Chapter~~
17 ~~171]~~, Health and Safety Code. The board may ~~shall~~ refuse to
18 admit to examination or refuse to issue a license or renewal license
19 to a person who violates that section ~~[or chapter]~~.

20 SECTION 7. The following laws are repealed:

21 (1) Sections 171.012(a-1), 171.0121, 171.0122,
22 171.0123, 171.0124, 243.017, and 245.024, Health and Safety Code;

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

26 (3) Section 164.0551, Occupations Code.

27 SECTION 8. This Act takes effect immediately if it receives

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1 a vote of two-thirds of all the members elected to each house, as
2 provided by Section 39, Article III, Texas Constitution. If this
3 Act does not receive the vote necessary for immediate effect, this
4 Act takes effect on the 91st day after the last day of the
5 legislative session.