

By: Farrar

H.B. No. 3744

A BILL TO BE ENTITLED

AN ACT

relating to the repeal of the 24 hour waiting period before an abortion.

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

SECTION 1. Section 171.012, Health and Safety Code, is amended to read as follows:

Sec. 171.012. VOLUNTARY AND INFORMED CONSENT.

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

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

(A) the physician's name;

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

(i) the risks of infection and hemorrhage;

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

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

(C) the probable gestational age of the unborn 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 or~~
3 ~~at least two hours before the abortion if the pregnant woman waives~~
4 ~~this requirement by certifying that she currently lives 100 miles~~
5 ~~or more from the nearest abortion provider that is a facility~~
6 ~~licensed under Chapter 245 or a facility that performs more than 50~~
7 ~~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 DESCRIBED BY
8 SECTIONS 171.012(a)(1)-(3), TEXAS HEALTH AND SAFETY CODE, HAVE BEEN
9 PROVIDED AND EXPLAINED TO ME.

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

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

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

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

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

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

26 ___ I AM A MINOR AND OBTAINING AN ABORTION IN ACCORDANCE
27 WITH JUDICIAL BYPASS PROCEDURES UNDER CHAPTER 33, TEXAS FAMILY

1 CODE.

2 _____ MY FETUS HAS AN IRREVERSIBLE MEDICAL CONDITION OR
3 ABNORMALITY, AS IDENTIFIED BY RELIABLE DIAGNOSTIC PROCEDURES AND
4 DOCUMENTED IN MY MEDICAL FILE.

5 (7) I AM MAKING THIS ELECTION OF MY OWN FREE WILL AND
6 WITHOUT COERCION.

7 ~~(8) FOR A WOMAN WHO LIVES 100 MILES OR MORE FROM THE
8 NEAREST ABORTION PROVIDER THAT IS A FACILITY LICENSED UNDER CHAPTER
9 245 OR A FACILITY THAT PERFORMS MORE THAN 50 ABORTIONS IN ANY
10 12-MONTH PERIOD ONLY.~~

11 ~~I CERTIFY THAT, BECAUSE I CURRENTLY LIVE 100 MILES OR
12 MORE FROM THE NEAREST ABORTION PROVIDER THAT IS A FACILITY LICENSED
13 UNDER CHAPTER 245 OR A FACILITY THAT PERFORMS MORE THAN 50 ABORTIONS
14 IN ANY 12-MONTH PERIOD, I WAIVE THE REQUIREMENT TO WAIT 24 HOURS
15 AFTER THE SONOGRAM IS PERFORMED BEFORE RECEIVING THE ABORTION
16 PROCEDURE. MY PLACE OF RESIDENCE IS: _____.~~

17 _____
18 SIGNATURE DATE";

19 (6) before the abortion is performed, the physician
20 who is to perform the abortion receives a copy of the signed,
21 written certification required by Subdivision (5); and

22 (7) the pregnant woman is provided the name of each
23 person who provides or explains the information required under this
24 subsection.

25 (a-1) During a visit made to a facility to fulfill the
26 requirements of Subsection (a), the facility and any person at the
27 facility may not accept any form of payment, deposit, or exchange or

1 make any financial agreement for an abortion or abortion-related
2 services other than for payment of a service required by Subsection
3 (a). The amount charged for a service required by Subsection (a)
4 may not exceed the reimbursement rate established for the service
5 by the Health and Human Services Commission for statewide medical
6 reimbursement programs.

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

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

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

21 (c) When providing the information under Subsection (a)(3),
22 the physician or the physician's agent must provide the pregnant
23 woman with the address of the Internet website on which the printed
24 materials described by Section 171.014 may be viewed as required by
25 Section 171.014(e).

26 (d) The information provided to the woman under Subsection
27 (a)(2)(B) must include, based on information available from the

1 Office of the Attorney General and the United States Department of
2 Health and Human Services Office of Child Support Enforcement for
3 the three-year period preceding the publication of the information,
4 information regarding the statistical likelihood of collecting
5 child support.

6 (e) The department is not required to republish
7 informational materials described by Subsection (a)(2)(B) because
8 of a change in information described by Subsection (d) unless the
9 statistical information in the materials changes by five percent or
10 more.

11 SECTION 2. This Act takes effect immediately if it receives
12 a vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution. If this
14 Act does not receive the vote necessary for immediate effect, this
15 Act takes effect September 1, 2013.