

By: Farrar

H.B. No. 746

A BILL TO BE ENTITLED

AN ACT

relating to the medical accuracy of informational materials given to a woman seeking an abortion.

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

SECTION 1. Section 171.002(4), Health and Safety Code, is amended to read as follows:

(4) "Sonogram" means the use of ultrasonic waves for diagnostic or therapeutic purposes, specifically to monitor an embryo or fetus [~~unborn child~~].

SECTION 2. Section 171.012(a), Health and Safety Code, is amended to read as follows:

(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;

and

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

1                   ~~[(iii) the possibility of increased risk of~~  
2 ~~breast cancer following an induced abortion and the natural~~  
3 ~~protective effect of a completed pregnancy in avoiding breast~~  
4 ~~cancer.]~~

5                   (C) the probable gestational age of the embryo or  
6 fetus ~~[unborn child]~~ at the time the abortion is to be performed;  
7 and

8                   (D) the medical risks associated with carrying  
9 the child to term;

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

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

14                   (B) the father is liable for assistance in the  
15 support of the child without regard to whether the father has  
16 offered to pay for the abortion; and

17                   (C) public and private agencies provide  
18 pregnancy prevention counseling and medical referrals for  
19 obtaining pregnancy prevention medications or devices, including  
20 emergency contraception for victims of rape or incest;

21                  (3) the physician who is to perform the abortion or the  
22 physician's agent:

23                   (A) provides the pregnant woman with the  
24 printed materials described by Section [171.014](#); and

25                   (B) informs the pregnant woman that those  
26 materials:

27                   (i) have been provided by the Department of

1 State Health Services;

2 (ii) are accessible on an Internet website  
3 sponsored by the department;

4 (iii) describe the embryo or fetus [~~unborn~~  
5 ~~child~~] and list agencies that offer alternatives to abortion; and

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

8 (4) before any sedative or anesthesia is administered  
9 to the pregnant woman and at least 24 hours before the abortion or  
10 at least two hours before the abortion if the pregnant woman waives  
11 this requirement by certifying that she currently lives 100 miles  
12 or more from the nearest abortion provider that is a facility  
13 licensed under Chapter 245 or a facility that performs more than 50  
14 abortions in any 12-month period:

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

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

22 (C) the physician who is to perform the abortion  
23 provides, in a manner understandable to a layperson, a verbal  
24 explanation of the results of the sonogram images, including a  
25 medical description of the dimensions of the embryo or fetus, the  
26 presence of cardiac activity, and the presence of external members  
27 and internal organs; and

1 (D) 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 makes audible the heart  
4 auscultation for the pregnant woman to hear, if present, in a  
5 quality consistent with current medical practice and provides, in a  
6 manner understandable to a layperson, a simultaneous verbal  
7 explanation of the heart auscultation;

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

13 "ABORTION AND SONOGRAM ELECTION

14 (1) THE INFORMATION AND PRINTED MATERIALS  
15 DESCRIBED BY SECTIONS [171.012\(a\)\(1\)-\(3\)](#), TEXAS HEALTH  
16 AND SAFETY CODE, HAVE BEEN PROVIDED AND EXPLAINED TO  
17 ME.

18 (2) I UNDERSTAND THE NATURE AND  
19 CONSEQUENCES OF AN ABORTION.

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

22 (4) I UNDERSTAND THAT I HAVE THE OPTION TO  
23 VIEW THE SONOGRAM IMAGES.

24 (5) I UNDERSTAND THAT I HAVE THE OPTION TO  
25 HEAR THE HEARTBEAT.

26 (6) I UNDERSTAND THAT I AM REQUIRED BY LAW  
27 TO HEAR AN EXPLANATION OF THE SONOGRAM IMAGES UNLESS I

1 CERTIFY IN WRITING TO ONE OF THE FOLLOWING:

2 \_\_\_\_\_ I AM PREGNANT AS A RESULT OF A SEXUAL  
3 ASSAULT, INCEST, OR OTHER VIOLATION OF THE TEXAS PENAL  
4 CODE THAT HAS BEEN REPORTED TO LAW ENFORCEMENT  
5 AUTHORITIES OR THAT HAS NOT BEEN REPORTED BECAUSE I  
6 REASONABLY BELIEVE THAT DOING SO WOULD PUT ME AT RISK  
7 OF RETALIATION RESULTING IN SERIOUS BODILY INJURY.

8 \_\_\_\_\_ I AM A MINOR AND OBTAINING AN ABORTION  
9 IN ACCORDANCE WITH JUDICIAL BYPASS PROCEDURES UNDER  
10 CHAPTER 33, TEXAS FAMILY CODE.

11 \_\_\_\_\_ MY FETUS HAS AN IRREVERSIBLE MEDICAL  
12 CONDITION OR ABNORMALITY, AS IDENTIFIED BY RELIABLE  
13 DIAGNOSTIC PROCEDURES AND DOCUMENTED IN MY MEDICAL  
14 FILE.

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

17 (8) FOR A WOMAN WHO LIVES 100 MILES OR MORE  
18 FROM THE NEAREST ABORTION PROVIDER THAT IS A FACILITY  
19 LICENSED UNDER CHAPTER 245 OR A FACILITY THAT PERFORMS  
20 MORE THAN 50 ABORTIONS IN ANY 12-MONTH PERIOD ONLY:

21 I CERTIFY THAT, BECAUSE I CURRENTLY LIVE 100  
22 MILES OR MORE FROM THE NEAREST ABORTION PROVIDER THAT  
23 IS A FACILITY LICENSED UNDER CHAPTER 245 OR A FACILITY  
24 THAT PERFORMS MORE THAN 50 ABORTIONS IN ANY 12-MONTH  
25 PERIOD, I WAIVE THE REQUIREMENT TO WAIT 24 HOURS AFTER  
26 THE SONOGRAM IS PERFORMED BEFORE RECEIVING THE  
27 ABORTION PROCEDURE. MY PLACE OF RESIDENCE

1 IS:\_\_\_\_\_.

2 \_\_\_\_\_

3 SIGNATURE DATE";

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

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

10 SECTION 3. Section 171.014(f), Health and Safety Code, is  
11 amended to read as follows:

12 (f) In addition to any other organization or entity, the  
13 department shall use the American College of Obstetricians and  
14 Gynecologists as the resource in developing information required to  
15 be provided under Sections 171.012(a)(1)(B) and (D), Sections  
16 171.012(a)(2)(A), (B), and (C), and Section 171.016, and in  
17 maintaining the department's Internet website. Information  
18 described by this subsection must be verified and supported by  
19 research that is recognized as medically accurate, objective, and  
20 complete by the National Institutes of Health and affiliated  
21 organizations.

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

24 Sec. 171.015. INFORMATION RELATING TO PUBLIC AND PRIVATE  
25 AGENCIES. The informational materials must include:

26 (1) geographically indexed materials designed to  
27 inform the pregnant woman of public and private agencies and

1 services that:

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

4 (i) a comprehensive list of adoption  
5 agencies;

6 (ii) a description of the services the  
7 adoption agencies offer;

8 (iii) a description of the manner,  
9 including telephone numbers, in which an adoption agency may be  
10 contacted; and

11 (iv) a comprehensive list of agencies and  
12 organizations that offer sonogram services at no cost to the  
13 pregnant woman; and

14 (B) are available to provide information and  
15 services related to family planning [~~do not provide abortions or~~  
16 ~~abortion-related services or make referrals to abortion providers,~~  
17 ~~and~~

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

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

25 SECTION 5. Section 171.016, Health and Safety Code, is  
26 amended to read as follows:

27 Sec. 171.016. INFORMATION RELATING TO CHARACTERISTICS OF

1 EMBRYO OR FETUS [~~UNBORN CHILD~~]. (a) The informational materials  
2 must include materials designed to inform the woman of the probable  
3 anatomical and physiological characteristics of the embryo or fetus  
4 [~~unborn child~~] at two-week gestational increments from the time  
5 when a woman can be known to be pregnant to full term, including any  
6 relevant information on the possibility of the embryo's or fetus's  
7 [~~unborn child's~~] survival.

8 (b) The materials must include color pictures representing  
9 the development of the embryo or fetus [~~child~~] at two-week  
10 gestational increments. The pictures must contain the dimensions  
11 of the embryo or fetus [~~unborn child~~] and must be realistic.

12 (c) The materials provided under this section must be  
13 objective and nonjudgmental and be designed to convey only accurate  
14 scientific information about the embryo or fetus [~~unborn child~~] at  
15 the various gestational ages. Information in the materials must be  
16 verified and supported by research that is recognized as medically  
17 accurate, objective, and complete by the National Institutes of  
18 Health and affiliated organizations.

19 SECTION 6. (a) By not later than December 1, 2017, the  
20 Department of State Health Services shall:

21 (1) revise the informational materials the department  
22 is required to publish under Section 171.014, Health and Safety  
23 Code, as amended by this Act; and

24 (2) make the materials available for distribution.

25 (b) The changes in law made by this Act apply only to the  
26 information a physician is required to provide under Section  
27 171.012, Health and Safety Code, as amended by this Act, on or after

1 January 1, 2018.

2 SECTION 7. This Act takes effect September 1, 2017.