

By: Springer, Cook, Capriglione, Burkett,
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H.B. No. 1936

Substitute the following for H.B. No. 1936:

By: Cook

C.S.H.B. No. 1936

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting certain transactions between a governmental entity and an abortion provider or affiliate of the provider.

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

SECTION 1. Subtitle F, Title 10, Government Code, is amended by adding Chapter 2270 to read as follows:

CHAPTER 2270. PROHIBITED TRANSACTIONS

Sec. 2270.001. DEFINITIONS. In this chapter:

(1) "Abortion" means an act or procedure performed after pregnancy has been medically verified and with the intent to cause the termination of a pregnancy other than for the purpose of either the birth of a live fetus or removing a dead fetus. The term does not include birth control devices or oral contraceptives.

(2) "Abortion provider" means:

(A) a facility licensed under Chapter 245, Health and Safety Code; or

(B) an ambulatory surgical center licensed under Chapter 243, Health and Safety Code, that is used substantially for the purpose of performing abortions.

(3) "Affiliate" means a person or entity who has a legal relationship with another person or entity that is created or governed by at least one written instrument, including a certificate of formation, a franchise agreement, standards of

1 affiliation, bylaws, or a license, that demonstrates:

2 (A) common ownership, management, or control;

3 (B) a franchise; or

4 (C) the granting or extension of a license or
5 other agreement authorizing the person or entity to use the other
6 person's or entity's brand name, trademark, service mark, or other
7 registered identification mark.

8 (4) "Governmental entity" means this state, a state
9 agency in the executive, judicial, or legislative branch of state
10 government, or a political subdivision of this state.

11 (5) "Taxpayer resource transaction" means a sale,
12 purchase, lease, donation of money, goods, services, or real
13 property, or any other transaction between a governmental entity
14 and a private entity that provides to the private entity something
15 of value derived directly or indirectly from state or local tax
16 revenue, regardless of whether the governmental entity receives
17 something of value in return. The term does not include the
18 provision of basic governmental services, including fire and police
19 protection.

20 Sec. 2270.002. APPLICABILITY. For purposes of this
21 chapter, a facility is not considered to be an abortion provider
22 solely on the basis that an abortion is performed at the facility
23 during a medical emergency in accordance with Section 245.016,
24 Health and Safety Code.

25 Sec. 2270.003. ABORTION PROVIDER AND AFFILIATE
26 TRANSACTIONS PROHIBITED; EXCEPTION. (a) Except as provided by
27 Subsection (b), a governmental entity may not enter into a taxpayer

1 resource transaction or contract with an abortion provider or an
2 affiliate of an abortion provider.

3 (b) This section does not apply to a taxpayer resource
4 transaction that involves a federal law that conflicts with
5 Subsection (a) as determined by the executive commissioner of the
6 Health and Human Services Commission and confirmed in writing by
7 the attorney general.

8 Sec. 2270.004. INJUNCTION. (a) The attorney general may
9 bring an action in the name of the state to enjoin a violation of
10 Section 2270.003. The attorney general may recover reasonable
11 attorney's fees and costs incurred in bringing an action under this
12 subsection.

13 (b) Sovereign or governmental immunity, as applicable, of a
14 governmental entity to suit and from liability is waived to the
15 extent of liability created by Subsection (a).

16 SECTION 2. Chapter 2270, Government Code, as added by this
17 Act, applies only to a taxpayer resource transaction or contract
18 entered into on or after the effective date of this Act.

19 SECTION 3. This Act takes effect immediately if it receives
20 a vote of two-thirds of all the members elected to each house, as
21 provided by Section 39, Article III, Texas Constitution. If this
22 Act does not receive the vote necessary for immediate effect, this
23 Act takes effect September 1, 2017.