

By: Campbell, et al. S.B. No. 22
(Noble, Morrison, King of Parker, Klick, Springer, et al.)

A BILL TO BE ENTITLED

1 AN ACT
2 relating to prohibiting certain transactions between a
3 governmental entity and an abortion provider or affiliate of the
4 provider.

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

6 SECTION 1. Subtitle F, Title 10, Government Code, is
7 amended by adding Chapter 2272 to read as follows:

8 CHAPTER 2272. PROHIBITED TRANSACTIONS

9 Sec. 2272.001. DEFINITIONS. In this chapter:

10 (1) "Abortion" has the meaning assigned by Section
11 245.002, Health and Safety Code.

12 (2) "Abortion provider" means:

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

15 (B) an ambulatory surgical center licensed under
16 Chapter 243, Health and Safety Code, that is used to perform more
17 than 50 abortions in any 12-month period.

18 (3) "Affiliate" means a person or entity who enters
19 into with another person or entity a legal relationship created or
20 governed by at least one written instrument, including a
21 certificate of formation, a franchise agreement, standards of
22 affiliation, bylaws, or a license, that demonstrates:

23 (A) common ownership, management, or control
24 between the parties to the relationship;

1 (B) a franchise granted by the person or entity
2 to the affiliate; or

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

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

10 (5) "Taxpayer resource transaction" means a sale,
11 purchase, lease, donation of money, goods, services, or real
12 property, or any other transaction between a governmental entity
13 and a private entity that provides to the private entity something
14 of value derived from state or local tax revenue, regardless of
15 whether the governmental entity receives something of value in
16 return. The term does not include the provision of basic public
17 services, including fire and police protection and utilities, by a
18 governmental entity to an abortion provider or affiliate in the
19 same manner as the entity provides the services to the general
20 public. The term includes advocacy or lobbying by or on behalf of a
21 governmental entity on behalf of the interests of an abortion
22 provider or affiliate, but does not include:

23 (A) an officer or employee of a governmental
24 entity providing information to a member of the legislature or
25 appearing before a legislative committee at the request of the
26 member or committee;

27 (B) an elected official advocating for or against

1 or otherwise influencing or attempting to influence the outcome of
2 legislation pending before the legislature while acting in the
3 capacity of an elected official; or

4 (C) an individual speaking as a private citizen
5 on a matter of public concern.

6 Sec. 2272.002. APPLICABILITY. (a) This chapter does not
7 apply to:

8 (1) a hospital licensed under Chapter 241, Health and
9 Safety Code;

10 (2) the office of a physician licensed under Subtitle
11 B, Title 3, Occupations Code, that performs 50 or fewer abortions in
12 any 12-month period;

13 (3) a state hospital as defined by Section 552.0011,
14 Health and Safety Code;

15 (4) a teaching hospital of a public or private
16 institution of higher education; or

17 (5) an accredited residency program providing
18 training to resident physicians.

19 (b) For purposes of this chapter, a facility is not
20 considered to be an abortion provider solely based on the
21 performance of an abortion at the facility during a medical
22 emergency as defined by Section 171.002, Health and Safety Code.

23 Sec. 2272.003. ABORTION PROVIDER AND AFFILIATE
24 TRANSACTIONS PROHIBITED; EXCEPTION. (a) Except as provided by
25 Subsection (b), a governmental entity may not enter into a taxpayer
26 resource transaction with an abortion provider or an affiliate of
27 an abortion provider.

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

6 Sec. 2272.004. INJUNCTION; WAIVER OF IMMUNITY. (a) The
7 attorney general may bring an action in the name of the state to
8 enjoin a violation of Section 2272.003. The attorney general may
9 recover reasonable attorney's fees and costs incurred in bringing
10 an action under this subsection.

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

14 SECTION 2. Chapter 2272, Government Code, as added by this
15 Act, applies only to a taxpayer resource transaction entered into
16 on or after the effective date of this Act.

17 SECTION 3. This Act takes effect immediately if it receives
18 a vote of two-thirds of all the members elected to each house, as
19 provided by Section 39, Article III, Texas Constitution. If this
20 Act does not receive the vote necessary for immediate effect, this
21 Act takes effect September 1, 2019.