

By: Paxton, et al.

S.B. No. 2243

A BILL TO BE ENTITLED

AN ACT

relating to required counseling before an abortion is performed.

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

SECTION 1. 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;

(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

(D) the medical risks associated with carrying

1 the child to term;

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

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

6 (B) the father is liable for assistance in the  
7 support of the child without regard to whether the father has  
8 offered to pay for the abortion; and

9 (C) public and private agencies provide  
10 pregnancy prevention counseling and medical referrals for  
11 obtaining pregnancy prevention medications or devices, including  
12 emergency contraception for victims of rape or incest;

13 (3) the physician who is to perform the abortion or the  
14 physician's agent:

15 (A) provides the pregnant woman with the printed  
16 materials described by Section 171.014; and

17 (B) informs the pregnant woman that those  
18 materials:

19 (i) have been provided by the commission  
20 [~~Department of State Health Services~~];

21 (ii) are accessible on an Internet website  
22 sponsored by the commission [~~department~~];

23 (iii) describe the unborn child and list  
24 agencies that offer alternatives to abortion; and

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

27 (4) before any sedative or anesthesia is administered

1 to the pregnant woman and at least 24 hours before the abortion or  
2 at least two hours before the abortion if the pregnant woman waives  
3 this requirement by certifying that she currently lives 100 miles  
4 or more from the nearest abortion provider that is a facility  
5 licensed under Chapter 245 or a facility that performs more than 50  
6 abortions in any 12-month period:

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

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

14 (C) the physician who is to perform the abortion  
15 provides, in a manner understandable to a layperson, a verbal  
16 explanation of the results of the sonogram images, including a  
17 medical description of the dimensions of the embryo or fetus, the  
18 presence of cardiac activity, and the presence of external members  
19 and internal organs; and

20 (D) the physician who is to perform the abortion  
21 or an agent of the physician who is also a sonographer certified by  
22 a national registry of medical sonographers makes audible the heart  
23 auscultation for the pregnant woman to hear, if present, in a  
24 quality consistent with current medical practice and provides, in a  
25 manner understandable to a layperson, a simultaneous verbal  
26 explanation of the heart auscultation;

27 (5) before receiving a sonogram under Subdivision

1 (4)(A) and before the abortion is performed and before any sedative  
2 or anesthesia is administered, the pregnant woman completes and  
3 certifies with her signature an election form that states as  
4 follows:

5 "ABORTION AND SONOGRAM ELECTION

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

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

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

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

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

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

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

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

27 \_\_\_ MY FETUS HAS AN IRREVERSIBLE MEDICAL CONDITION OR

1 ABNORMALITY, AS IDENTIFIED BY RELIABLE DIAGNOSTIC PROCEDURES AND  
2 DOCUMENTED IN MY MEDICAL FILE.

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

5 (8) FOR A WOMAN WHO LIVES 100 MILES OR MORE FROM THE  
6 NEAREST ABORTION PROVIDER THAT IS A FACILITY LICENSED UNDER CHAPTER  
7 245, TEXAS HEALTH AND SAFETY CODE, OR A FACILITY THAT PERFORMS MORE  
8 THAN 50 ABORTIONS IN ANY 12-MONTH PERIOD ONLY:

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

16 \_\_\_\_\_

17 SIGNATURE DATE";

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

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

24 (8) except during a medical emergency and before the  
25 abortion is performed, the physician certifies using a unique  
26 identifying number, devoid of personally identifying information  
27 of the pregnant woman, that:

1           (A) the pregnant woman received pre-abortion  
2 counseling at no cost to the pregnant woman from a counselor who:

3                   (i) meets the qualifications established by  
4 commission rule;

5                   (ii) is not employed by, contracted with,  
6 or has a pecuniary interest in a facility licensed under Chapter  
7 245, Health Safety Code;

8                   (iii) is authorized under a contract with  
9 the commission to provide counseling services in accordance with  
10 this subdivision; and

11           (B) the counselor provided the pregnant woman in  
12 accordance with commission rules:

13                   (i) medically accurate information using  
14 the informational materials described by Section 171.014;

15                   (ii) an assessment of and offer of  
16 assistance in obtaining support services other than abortion that  
17 the pregnant woman may need or be eligible for, including housing,  
18 employment, resume development, child care, medical care, adoption  
19 services, and health benefit plan coverage;

20                   (iii) education on available state and  
21 local resources to address the pregnant woman's socioeconomic  
22 needs;

23                   (iv) screening for domestic violence,  
24 coercion of abortion, or human trafficking; and

25           (C) the counselor certified using a unique  
26 identifying number, devoid of personally identifying information  
27 of the pregnant woman, that the pregnant woman completed the

1 counseling.

2 (D) the counselor reported to the commission  
3 de-identified demographic information to assist the commission in  
4 determining the supply and demand of social services in the  
5 pregnant woman's geographic region.

6 SECTION 2. Section 171.0121, Health and Safety Code, is  
7 amended to read as follows:

8 Sec. 171.0121. MEDICAL RECORD. (a) Before the abortion  
9 begins, a copy of the signed, written certification received by the  
10 physician under Section 171.012(a)(6) and documentation of the  
11 completed counseling required under Section 171.012(a)(8) must be  
12 placed in the pregnant woman's medical records.

13 (b) A copy of the signed, written certification required  
14 under Sections 171.012(a)(5) and (6), and documentation of the  
15 completed counseling required under Section 171.012(a)(8) shall be  
16 retained by the facility where the abortion is performed until:

17 (1) the seventh anniversary of the date it is signed;

18 or

19 (2) if the pregnant woman is a minor, the later of:

20 (A) the seventh anniversary of the date it is  
21 signed; or

22 (B) the woman's 21st birthday.

23 SECTION 3. (a) Notwithstanding Sections 171.012 and  
24 171.0121, Health and Safety Code, as amended by this Act, a  
25 physician is not required to comply with the changes in law made by  
26 this Act before March 1, 2020.

27 (b) Not later than December 1, 2020, the executive

1 commissioner of the Health and Human Services Commission shall  
2 adopt rules as necessary to implement this Act.

3 (c) Not later than March 1, 2020, the Health and Human  
4 Services Commission shall contract with one or more counseling  
5 providers throughout the state to provide the services described by  
6 Section 171.012, Health and Safety Code, as amended by this Act.

7 SECTION 4. The changes in law made by this Act apply only to  
8 an abortion performed on or after March 1, 2020. An abortion  
9 performed before March 1, 2020, is governed by the law applicable to  
10 the abortion immediately before the effective date of this Act, and  
11 that law is continued in effect for that purpose.

12 SECTION 5. It is the intent of the legislature that every  
13 provision, section, subsection, sentence, clause, phrase, or word  
14 in this Act, and every application of the provisions in this Act to  
15 each person or entity, are severable from each other. If any  
16 application of any provision in this Act to any person, group of  
17 persons, or circumstances is found by a court to be invalid for any  
18 reason, the remaining applications of that provision to all other  
19 persons and circumstances shall be severed and may not be affected.

20 SECTION 6. This Act takes effect September 1, 2019.