

By: Perry

S.B. No. 33

A BILL TO BE ENTITLED

AN ACT

relating to abortion reporting and exemptions to abortion facility
licensing; creating a criminal offense.

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

SECTION 1. Subchapter A, Chapter 171, Health and Safety
Code, is amended by adding Section 171.009 to read as follows:

Sec. 171.009. REPORTING REQUIREMENTS FOR ABORTIONS
PERFORMED OUTSIDE ABORTION FACILITY; CRIMINAL OFFENSE. (a) A
physician who performs an abortion at a location other than an
abortion facility licensed under Chapter 245 must complete and
submit a monthly report to the commission on each abortion
performed by the physician. The report must be submitted on a form
provided by the commission.

(b) The report may not identify by any means the patient.

(c) The report must include:

(1) the type of facility at which the abortion was
performed and the licensing status of that facility;

(2) the patient's year of birth, race, marital status,
and state and county of residence;

(3) the type of abortion procedure performed;

(4) the date the abortion was performed;

(5) whether the patient survived the abortion, and if
the patient did not survive, the cause of death;

(6) the probable post-fertilization age of the unborn

1 child based on the best medical judgment of the attending physician
2 at the time of the procedure;

3 (7) the date, if known, of the patient's last menstrual
4 cycle;

5 (8) the number of previous live births of the patient;

6 (9) the number of previous induced abortions of the
7 patient; and

8 (10) the county in which the abortion was performed.

9 (d) All information and records held by the commission under
10 this section are confidential and are not open records for the
11 purposes of Chapter 552, Government Code. That information may not
12 be released or made public on subpoena or otherwise, except that
13 release may be made:

14 (1) for statistical purposes, but only if a person,
15 patient, or physician performing an abortion is not identified;

16 (2) with the consent of each person, patient, and
17 physician identified in the information released;

18 (3) to medical personnel, appropriate state agencies,
19 or county and district courts to enforce this chapter; or

20 (4) to appropriate state licensing boards to enforce
21 state licensing laws.

22 (e) A person commits an offense if the person violates
23 Subsection (b), (c), or (d). An offense under this subsection is a
24 Class A misdemeanor.

25 (f) Not later than the 15th day of each month, a physician
26 shall submit to the commission the report required by this section
27 for each abortion performed by the physician at a location other

1 than an abortion facility in the preceding calendar month.

2 (g) The commission shall establish and maintain a secure
3 electronic reporting system for the submission of the reports
4 required by this section. The commission shall adopt procedures to
5 enforce this section and to ensure that only physicians who perform
6 one or more abortions during the preceding calendar month are
7 required to file the reports under this section for that month.

8 SECTION 2. Section 245.004, Health and Safety Code, as
9 amended by Chapters 198 (H.B. 2292) and 999 (H.B. 15), Acts of the
10 78th Legislature, Regular Session, 2003, is reenacted and amended
11 to read as follows:

12 Sec. 245.004. EXEMPTIONS FROM LICENSING REQUIREMENT. (a)
13 The following facilities need not be licensed under this chapter:

14 (1) a hospital licensed under Chapter 241 (Texas
15 Hospital Licensing Law); ~~[or]~~

16 (2) the office of a physician licensed under Subtitle
17 B, Title 3, Occupations Code, unless the office is used
18 substantially for the purpose of performing ~~[more than 50]~~
19 abortions; or

20 (3) an ambulatory surgical center licensed under
21 Chapter 243.

22 (b) For purposes of this section, a facility is used
23 substantially for the purpose of performing abortions if the
24 facility:

25 (1) is a provider for performing:

26 (A) at least five ~~[10]~~ abortion procedures during
27 any month; or

1 (B) at least 50 [~~100~~] abortion procedures in a
2 12-month period [~~year~~];

3 (2) operates less than 20 days in a month and the
4 facility, in any month, is a provider for performing a number of
5 abortion procedures that would be equivalent to at least five [~~10~~]
6 procedures in a month if the facility were operating at least 20
7 days in a month;

8 (3) holds itself out to the public as an abortion
9 provider by advertising by any public means, including advertising
10 placed in a newspaper, telephone directory, magazine, or electronic
11 medium, that the facility performs abortions; or

12 (4) applies for an abortion facility license.

13 (b-1) In computing the number of abortions performed for
14 purposes of Subsections (b)(1) and (2), an abortion performed in
15 accordance with Section 245.016 is not included.

16 (c) For purposes of this section, an abortion facility is
17 operating if the facility is open for any period of time during a
18 day and has on site at the facility or on call a physician available
19 to perform abortions.

20 SECTION 3. Section 245.011(c), Health and Safety Code, as
21 effective September 1, 2021, is amended to read as follows:

22 (c) The report must include:

23 (1) whether the abortion facility at which the
24 abortion is performed is licensed under this chapter;

25 (2) the patient's year of birth, race, marital status,
26 and state and county of residence;

27 (3) the type of abortion procedure performed;

- 1 (4) the date the abortion was performed;
- 2 (5) whether the patient survived the abortion, and if
3 the patient did not survive, the cause of death;
- 4 (6) the probable post-fertilization age of the unborn
5 child based on the best medical judgment of the attending physician
6 at the time of the procedure;
- 7 (7) the date, if known, of the patient's last menstrual
8 cycle;
- 9 (8) the number of previous live births of the patient;
- 10 (9) the number of previous induced abortions of the
11 patient;
- 12 (10) whether the abortion was performed or induced
13 because of a medical emergency and any medical condition of the
14 pregnant woman that required the abortion; ~~and~~
- 15 (11) the county in which the abortion was performed;
16 and
- 17 (12) the information required under Sections
18 171.008(a) and (c).

19 SECTION 4. Section 245.002, Health and Safety Code, is
20 amended by adding Subdivision (3) to read as follows:

21 (3) "Commission" means the Health and Human Services
22 Commission.

23 SECTION 5. Section 245.0116, Health and Safety Code, is
24 amended to read as follows:

25 Sec. 245.0116. COMMISSION ~~[DEPARTMENT]~~ REPORT. (a) The
26 commission ~~[department]~~ shall publish on its Internet website a
27 monthly report containing aggregate data of the information in the

1 reports submitted under Sections [~~Section~~] 171.009 and 245.011. The
2 report must specify the number of abortions performed in each
3 county during the reporting period.

4 (b) The commission's [~~department's~~] monthly report may not
5 identify by any means an abortion facility, a physician performing
6 the abortion, or a patient.

7 SECTION 6. The changes in law made by this Act apply only to
8 an abortion performed on or after the effective date of this Act.

9 SECTION 7. This Act takes effect December 1, 2021.