

BILL ANALYSIS

Senate Research Center

C.S.S.B. 802
By: Paxton et al.
State Affairs
3/16/2021
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The current informed consent law codified in Chapter 171 of the Health and Safety Code requires an abortion provider to provide the "Women's Right to Know" printed materials, to inform her that a father is legally liable for child support, and to notify a woman who is seeking an abortion that medical assistance benefits "may be available" to her.

S.B. 802 is aimed at connecting Texas women with tangible resources to effectively provide them actual support. Providing this support is crucial for women in securing care for not only their prenatal and postpartum health but their mental health as well. The bill also bolsters protections for this often vulnerable population by providing screening for family violence, abuse, neglect, victimization, coercion, and human trafficking.

(Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 802 amends current law relating to a required resource access assistance offer before an abortion is performed.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 3 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 171, Health and Safety Code, by adding Section 171.01205, as follows:

Sec. 171.01205. REQUIRED PRE-ABORTION RESOURCE ACCESS ASSISTANCE OFFER. (a) Requires the physician who is to perform or induce an abortion, in addition to the informed consent requirements under Section 171.012 (Voluntary and Informed Consent), except during a medical emergency, and before the abortion is performed or induced, to confirm the pregnant woman received a pre-abortion resource access assistance offer, as required by this section, by verifying the unique identifying number provided to the woman as required by Subsection (d) is recorded in a secure database maintained by the Health and Human Services Commission (HHSC), and documenting the pregnant woman's unique identifying number in the woman's medical record.

(b) Provides that a care agent providing a resource access assistance offer under this section:

(1) is required to be:

(A) licensed as a counselor, doctor, psychologist, social worker, nurse, advanced practice registered nurse, community health worker, physician's assistant, or marriage and family therapist; or

(B) acting under the supervision of an individual described by Paragraph (A);

(2) is required to:

(A) be authorized under a contract with HHSC to provide resource access assistance offers and support services on behalf of this state in accordance with this section;

(B) complete a training program on identifying and assisting victims of human trafficking using a standardized curriculum created by the human trafficking prevention task force established under Section 402.035 (Human Trafficking Prevention Task Force), Government Code; and

(C) comply with medical records privacy laws under Chapter 181 (Medical Records Privacy);

(3) in the last two years, may not:

(A) have performed or induced an abortion; or

(B) have served as a director, board member, officer, volunteer, or employee for an abortion facility licensed under Chapter 245 (Abortion Facilities); and

(4) is prohibited from referring women to an abortion provider, recommending abortion, or taking any other action that directly or indirectly advises or assists a woman in obtaining an abortion.

(c) Requires that the resource access assistance offer be provided by and on behalf of this state at no cost to the pregnant woman from a care agent who meets the qualifications described by Subsection (b). Requires the care agent during a resource access assistance offer to provide:

(1) medically accurate information using the informational materials described by Section 171.014 (Informational Materials);

(2) an assessment of eligibility for and offer of assistance in obtaining support services other than abortion for the woman or unborn child's biological father, including housing, employment, resume development, child care, prenatal and postpartum medical care, mental health or behavioral counselling, adoption services, financial assistance, abuse or neglect prevention assistance, substance or alcohol abuse prevention assistance, and health benefit plan coverage;

(3) education on available public and private resources to address the woman's or biological father's socioeconomic needs; and

(4) screening for family violence, abuse, and neglect victimization; coercion of abortion; and human trafficking victimization.

(d) Requires the care agent or the contracting agency that employs the care agent, after providing the resource access assistance offer, to:

(1) certify to HHSC using a unique identifying number, devoid of personally identifying information of the pregnant woman, that the woman received the resource access assistance offer; and

(2) provide to the pregnant woman the identifying number described by Subdivision (1).

(e) Requires a care agent to report to HHSC de-identified demographic information obtained through a resource access assistance offer provided under this section to assist HHSC in determining the supply and demand of social services in the pregnant woman's geographic region.

(f) Requires HHSC to develop and maintain on HHSC's Internet website a secure database to store the unique identifying numbers provided under Subsection (d) and that allows the care agent to submit the de-identified information required under Subsection (e).

(g) Requires HHSC to establish a single toll-free telephone number through which a woman seeking an abortion in Texas may receive a resource access assistance offer on a 24-hour basis. Requires HHSC to ensure the placed call automatically routes the woman to a care agent at a contracting agency to provide the resource access assistance offer.

(h) Provides that the pregnant woman:

(1) is not required to:

(A) provide any information to the care agent or agency; or

(B) initiate or complete services offered under this section to obtain an abortion;

(2) is authorized to decline services under this section at any time; and

(3) if accepting a resource assistance offer, is required to retain access to the offer until the second anniversary of the date of acceptance, regardless of the woman's pregnancy.

SECTION 2. Amends Section 171.0121, Health and Safety Code, as follows:

Sec. 171.0121. MEDICAL RECORD. (a) Requires that documentation of the receipt of the resource access assistance offer required under Section 171.01205 be placed in the pregnant woman's medical records before the abortion begins.

(b) Requires that documentation of the receipt of the resource access assistance offer required under Section 171.01205 be retained by the facility where the abortion is performed until a certain date.

SECTION 3. (a) Provides that, notwithstanding Section 171.01205, Health and Safety Code, as added by this Act, and Section 171.0121, Health and Safety Code, as amended by this Act, a physician is not required to comply with the changes in law made by this Act before April 1, 2023.

(b) Requires the executive commissioner of HHSC to adopt rules as necessary to implement this Act not later than August 31, 2022.

(c) Requires HHSC, not later than April 1, 2023, to contract with one or more contracting agencies that employ care agents throughout Texas to provide the pre-abortion resource access assistance offer and assistance in obtaining support services described by Section 171.01205, Health and Safety Code, as added by this Act.

SECTION 4. Makes application of this Act prospective to April 1, 2023.

SECTION 5. Severability clause.

SECTION 6. Requires HHSC to implement this Act only if the legislature appropriates money specifically for that purpose. Authorizes, but does not require, HHSC, if the legislature does not

appropriate money specifically for that purpose, to implement the Act using other appropriations available for that purpose.

SECTION 7. Effective date: September 1, 2021.