87R6105 MWC-D

By:  Leach H.B. No. 1909

A BILL TO BE ENTITLED

AN ACT

relating to the protection of pregnancy resource centers as essential businesses.

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

SECTION 1.  Subtitle H, Title 10, Government Code, is amended by adding Chapter 2402 to read as follows:

CHAPTER 2402. PROTECTION OF PREGNANCY RESOURCE CENTERS

Sec. 2402.001.  DEFINITIONS. In this chapter:

(1)  "Disaster" has the meaning assigned by Section 418.004.

(2)  "Governmental entity" has the meaning assigned by Section 2252.001.

(3)  "Public health disaster" has the meaning assigned by Section 81.003, Health and Safety Code.

Sec. 2402.002.  ESSENTIAL BUSINESS; PROHIBITED RESTRICTIONS. (a) A pregnancy resource center is considered an essential business at all times in this state, including during a declared state of disaster or public health disaster, and the center's services are considered essential regardless of whether the services are listed as essential or included in a category of services allowed to operate in an order issued under Chapter 418 or Chapter 81, Health and Safety Code.

(b)  An order issued under Chapter 418 or Chapter 81, Health and Safety Code, may not:

(1)  prohibit a pregnancy resource center from continuing to operate in the discharge of the center's purpose; or

(2)  require a pregnancy resource center to close.

(c)  This section does not prohibit a governmental entity from closing an individual pregnancy resource center in relation to an allegation of criminal activity at the center or a violation of law protecting public health and safety by the center.

Sec. 2402.003.  RELIEF AVAILABLE. (a) A person may assert an actual or threatened violation of Section 2402.002 as a claim or defense in a judicial or administrative proceeding and obtain:

(1)  injunctive relief;

(2)  declaratory relief; and

(3)  court costs and reasonable attorney's fees.

(b)  Notwithstanding any other law, a person may commence an action under this section and relief may be granted regardless of whether the person has sought or exhausted available administrative remedies.

Sec. 2402.004.  IMMUNITY WAIVED. A person who alleges a violation of Section 2402.002 may sue for the relief provided under Section 2402.003. Sovereign or governmental immunity, as applicable, is waived and abolished to the extent of liability for that relief.

Sec. 2402.005.  ATTORNEY GENERAL ACTION; INTERVENTION IN PROCEEDING. (a) The attorney general may bring an action for injunctive or declaratory relief to enforce compliance with this chapter.

(b)  This section may not be construed to deny, impair, or otherwise affect any authority of the attorney general or a governmental entity acting under other law to institute or intervene in a proceeding.

(c)  The attorney general may not recover expenses incurred in bringing, instituting, or intervening in an action under this section.

SECTION 2.  Chapter 2402, Government Code, as added by this Act, applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrued before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.