By:  Paxton, et al. S.B. No. 802

(In the Senate - Filed February 25, 2021; March 11, 2021, read first time and referred to Committee on State Affairs; March 22, 2021, reported adversely, with favorable Committee Substitute by the following vote: Yeas 8, Nays 1; March 22, 2021, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Hughes          X

Birdwell        X

Campbell        X

Hall            X

Lucio           X

Nelson          X

Powell              X

Schwertner      X

Zaffirini       X

COMMITTEE SUBSTITUTE FOR S.B. No. 802 By:  Birdwell

A BILL TO BE ENTITLED

AN ACT

relating to a required resource access assistance offer before an abortion is performed or induced.

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

SECTION 1.  Subchapter B, Chapter 171, Health and Safety Code, is amended by adding Section 171.01205 to read as follows:

Sec. 171.01205.  REQUIRED PRE-ABORTION RESOURCE ACCESS ASSISTANCE OFFER. (a) In addition to the informed consent requirements under Section 171.012, except during a medical emergency, and before the abortion is performed or induced, the physician who is to perform or induce an abortion shall confirm the pregnant woman received a pre-abortion resource access assistance offer, as required by this section, by:

(1)  verifying the unique identifying number provided to the woman as required by Subsection (d) is recorded in a secure database maintained by the commission; and

(2)  documenting the pregnant woman's unique identifying number in the woman's medical record.

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

(1)  must 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)  must:

(A)  be authorized under a contract with the commission 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, Government Code; and

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

(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; and

(4)  may not refer a woman to an abortion provider, recommend abortion, or take any other action that directly or indirectly advises or assists a woman in obtaining an abortion.

(c)  The resource access assistance offer must 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). The care agent during a resource access assistance offer shall provide:

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

(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:

(A)  family violence, abuse, and neglect victimization;

(B)  coercion of abortion; and

(C)  human trafficking victimization.

(d)  After providing the resource access assistance offer, the care agent or the contracting agency that employs the care agent shall:

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

(f)  The commission shall develop and maintain on the commission'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)  The commission shall establish a single toll-free telephone number through which a woman seeking an abortion in this state may receive a resource access assistance offer on a 24-hour basis. The commission must ensure the placed call automatically routes the woman to a care agent at a contracting agency to provide the resource access assistance offer.

(h)  The pregnant woman:

(1)  is not required to:

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

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

(2)  may decline services under this section at any time; and

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

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

Sec. 171.0121.  MEDICAL RECORD. (a) Before the abortion begins, a copy of the signed, written certification received by the physician under Section 171.012(a)(6) and documentation of the receipt of the resource access assistance offer required under Section 171.01205 must be placed in the pregnant woman's medical records.

(b)  A copy of the signed, written certification required under Sections 171.012(a)(5) and (6) and documentation of the receipt of the resource access assistance offer required under Section 171.01205 shall be retained by the facility where the abortion is performed until:

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

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

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

(B)  the woman's 21st birthday.

SECTION 3.  (a)  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)  Not later than August 31, 2022, the executive commissioner of the Health and Human Services Commission shall adopt rules as necessary to implement this Act.

(c)  Not later than April 1, 2023, the Health and Human Services Commission shall contract with one or more contracting agencies that employ care agents throughout this state 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.  The changes in law made by this Act apply only to an abortion performed or induced on or after April 1, 2023. An abortion performed or induced before April 1, 2023, is governed by the law applicable to the abortion immediately before the effective date of this Act, and that law is continued in effect for that purpose.

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

SECTION 6.  The Health and Human Services Commission is required to implement this Act only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the commission may, but is not required to, implement the Act using other appropriations available for the purpose.

SECTION 7.  This Act takes effect September 1, 2021.

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