

By: Paxton, et al.

S.B. No. 802

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 verifying the unique identifying number, devoid of the woman's personally identifiable information, as provided by the commission.

(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);

1 (2) must:

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

5 (B) complete a training program on identifying
6 and assisting victims of human trafficking using a standardized
7 curriculum created by the human trafficking prevention task force
8 established under Section 402.035, Government Code; and

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

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

12 (A) have performed or induced an abortion; or

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

16 (4) may not refer a woman to an abortion provider.

17 (c) The resource access assistance offer must be provided by
18 and on behalf of this state at no cost to the pregnant woman from a
19 care agent who meets the qualifications described by Subsection
20 (b). The care agent during a resource access assistance offer shall
21 provide:

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

24 (2) an assessment of eligibility for and offer of
25 assistance in obtaining support services other than abortion for
26 the woman or unborn child's biological father, including housing,
27 employment, resume development, child care, prenatal and

1 postpartum medical care, mental health or behavioral counselling,
2 adoption services, financial assistance, abuse or neglect
3 prevention assistance, substance or alcohol abuse prevention
4 assistance, and health benefit plan coverage;

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

8 (4) screening for:

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

11 (B) coercion of abortion; and

12 (C) human trafficking victimization.

13 (d) A care agent who obtains information that the pregnant
14 woman is a victim of human trafficking or coercion of abortion may:

15 (1) submit a report to the appropriate law enforcement
16 agency of the suspected human trafficking or coercion of abortion,
17 if, before submitting the report, the care agent:

18 (A) provides a written disclosure to the pregnant
19 woman that the woman's identifying information will be provided in
20 the report; and

21 (B) after receiving the written disclosure
22 described by Paragraph (A), the pregnant woman consents to the care
23 agent submitting the report; or

24 (2) provide to the pregnant woman information on the
25 methods available for the woman to report human trafficking or
26 coercion of abortion to the appropriate law enforcement agency.

27 (e) A care agent shall request a unique identifying number,

1 devoid of the pregnant woman's personally identifiable
2 information, from the system developed by the commission to certify
3 that the woman received the resource access assistance offer.

4 (f) The commission shall develop and maintain an
5 authentication system that provides the pregnant woman a unique
6 identifying number required under this section. The system must:

7 (1) allow a care agent to request a unique identifying
8 number for the pregnant woman;

9 (2) allow a physician who is to perform or induce an
10 abortion to verify the unique identifying number;

11 (3) ensure that the identity of an individual pregnant
12 woman, care agent, or physician who is to perform or induce the
13 abortion is not disclosed in the authentication system; and

14 (4) remove any personal information for the pregnant
15 woman, care agent, or physician as soon as the information is not
16 needed to verify the unique identifying number.

17 (g) The commission shall establish a single toll-free
18 telephone number through which a woman seeking an abortion in this
19 state may receive a resource access assistance offer on a 24-hour
20 basis. The commission must ensure the placed call automatically
21 routes the woman to a care agent at a contracting agency to provide
22 the resource access assistance offer.

23 (h) The pregnant woman:

24 (1) is not required to:

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

27 (B) initiate or complete services offered under

1 this section to obtain an abortion;

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

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

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

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

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

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

21 or

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

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

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

26 SECTION 3. (a) Notwithstanding Section 171.01205, Health
27 and Safety Code, as added by this Act, and Section 171.0121, Health

1 and Safety Code, as amended by this Act, a physician is not required
2 to comply with the changes in law made by this Act before April 1,
3 2023.

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

7 (c) Not later than April 1, 2023, the Health and Human
8 Services Commission shall contract with one or more contracting
9 agencies that employ care agents throughout this state to provide
10 the pre-abortion resource access assistance offer and assistance in
11 obtaining support services described by Section 171.01205, Health
12 and Safety Code, as added by this Act.

13 SECTION 4. The changes in law made by this Act apply only to
14 an abortion performed or induced on or after April 1, 2023. An
15 abortion performed or induced before April 1, 2023, is governed by
16 the law applicable to the abortion immediately before the effective
17 date of this Act, and that law is continued in effect for that
18 purpose.

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

27 SECTION 6. The Health and Human Services Commission is

1 required to implement this Act only if the legislature appropriates
2 money specifically for that purpose. If the legislature does not
3 appropriate money specifically for that purpose, the commission
4 may, but is not required to, implement the Act using other
5 appropriations available for the purpose.

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