

BILL ANALYSIS

Senate Research Center

S.B. 490
By: Patterson
Health & Human Services
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As Filed

DIGEST

Currently, Texas law contains no provisions regarding informed consent to the performance of an abortion. This legislation prohibits a physician from performing an abortion without the voluntary and informed consent of the patient at least 72 hours before the performance of an abortion. In addition, S.B. 490 provides that consent to an abortion involves the oral communication of information between physician and patient relating to the abortion procedure to be used, alternatives to the procedure, the medical and psychological risks involved, the medical risks of carrying the child to term, and the probable development of the fetus at the time of the abortion date. Finally, this bill requires the Texas Department of Human Services to publish and disseminate abortion-related informational materials in an attempt to better educate women considering abortion and allows for disciplinary action against a physician for the violation of specific subsections.

PURPOSE

As proposed, S.B. 490 establishes informed consent to the performance of an abortion.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Texas Department of Human Services in SECTION 2 (Section 166.001, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 4.011, Article 4495b, V.T.C.S. (Medical Practice Act), by adding Subsections (b-1), (b-2), and (g), and amending Subsections (c) and (e), to prohibit a physician, except in the case of a medical emergency, from intentionally or knowingly performing an abortion without the voluntary and informed consent of the woman on whom the abortion is to be performed. Provides that consent to an abortion is voluntary and informed only if at least 72 hours before the abortion is performed, the physician or a registered nurse orally informs the woman on whom the abortion is to be performed of certain information; the woman certifies her informed consent in writing; and the physician receives a copy of the written certification before the abortion is performed. Requires the Texas Department of Health to adopt the form and content of the information to be provided under Subsection (b-2)(1) of this section. Makes conforming changes.

SECTION 2. Amends Title 2H, Health and Safety Code, by adding Chapter 166, as follows:

CHAPTER 166. INFORMATION TO BE PROVIDED TO WOMEN CONSIDERING ABORTION

Sec. 166.001. INFORMATIONAL MATERIALS. Sets forth the terms by which the Texas Department of Human Services (department) is required to publish certain abortion-related informational materials. Requires the department to adopt rules necessary for considering and making changes to the materials.

Sec. 166.002. INFORMATION RELATING TO PUBLIC AND PRIVATE AGENCIES. Requires the informational materials to include either geographically indexed materials designed to inform the woman of public and private agencies and services available to assist a woman through pregnancy, childbirth, and the child's dependency; or a toll-free, 24-hour

telephone number that may be called to obtain an oral list and description of such agencies and the services they offer.

Sec. 166.003. INFORMATION RELATING TO CHARACTERISTICS OF THE UNBORN CHILD. Sets forth the terms by which the informational materials are required to include certain materials designed to inform the woman of the probable anatomical and physiological characteristics of the unborn child at various gestational increments, including information on the possibility of the unborn child's survival.

Sec. 166.004. INFORMATION RELATING TO ABORTION METHODS. Requires the informational materials to include an objective description of abortion procedures commonly used; medical risks commonly associated with each procedure; possible psychological effects of an abortion; and medical risks associated with carrying a child to term.

SECTION 3. Effective date: September 1, 1997.

Makes application of this Act prospective to January 1, 1998.

SECTION 4. Requires the Texas Department of Health, not later than December 15, 1997, to adopt the form and content of the information to be provided under Chapter 166, Health and Safety Code, as added by this Act.

SECTION 5. Emergency clause.