

BILL ANALYSIS

Senate Research Center

S.B. 540
By: Ogden
Health & Human Services
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As Filed

DIGEST

Currently, standard medical practice requires all patients to give their "informed consent" before a physician can provide any medical treatment. Patients must give their voluntary consent to the procedure based upon adequate information about the nature, risks, and alternatives to the medical treatment. The purpose of the practice has been to protect the patient by providing full information about the procedure. For the first 20 years after abortion was legalized, physicians were subject to the general doctrine of informed consent; however, states were prohibited from enacting specific information requirements for abortion procedures. In 1992, the U.S. Supreme Court upheld the constitutional authority of states to enact detailed informed-consent laws for abortion. At least 28 states have since done so. This legislation will guarantee that women who are considering an abortion procedure will receive comprehensive information about the procedure and its risks at least 24 hours before the abortion, in an effort to ensure that they have enough information to make the right decision in regard to their health. S.B. 540 also prohibits a physician from performing an abortion unless the pregnant woman has signed a statement acknowledging receipt of the information and giving consent to the abortion.

PURPOSE

As proposed, S.B. 540 establishes informed consent to the performance of an abortion.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

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), (d-1), and (g), and amending Subsections (c) and (e), to prohibit a physician from intentionally or knowingly performing an abortion unless the pregnant woman on whom the abortion is performed has received, at least 24 hours before the time the abortion is performed, the information described by Subsection (b-2); and signed a written acknowledgment of receipt of the information and consent to the abortion. Sets forth the terms by which the physician, or another person on the physician's behalf, before performing an abortion, is required, in person, to describe the procedure; fully inform the pregnant woman of the medical risks involved and the alternatives to the procedure; inform the woman of the development of the fetus as of the abortion date; and provide a list of governmental agencies that provide assistance to pregnant women. Authorizes a physician to perform an abortion before expiration of the 24 hour rule if the physician concludes that an immediate abortion is necessary to prevent death or serious impairment to the physical health of the pregnant woman. Requires the Texas Board of Health to adopt the form and content of the information to be provided under Subsection (b-2) of this section. Makes conforming changes.

SECTION 2. Effective date: September 1, 1997.

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

SECTION 3. Provides that not later than December 15, 1997, the Texas Board of Health is required to adopt the form and content of the information to be provided under Section 4.011(b-2), Article 4495b, V.T.C.S. (Medical Practice Act), as added by this Act.

SECTION 4. Emergency clause.