

BILL ANALYSIS

Senate Research Center

S.B. 2243
By: Paxton et al.
Health & Human Services
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Codified in Chapter 171, Health and Safety Code, the Texas informed consent law requires a woman who is seeking an abortion to receive printed information regarding the medical conditions and the understanding of receiving a sonogram and to agree to the receipt of this information in writing prior to an abortion. This information is currently provided by the physician hired by an abortion facility.

S.B. 2243 is aimed to assist the woman with assessing her options, caring for her physical and mental health, and linking the woman (and baby) to local and state resources that can provide for her family needs prior to performing an abortion.

S.B. 2243 requires a pregnant woman to receive counseling by a third party prior to abortion. The counseling will provide the woman with medically accurate information, assessment and offer of support services including housing, employment, resume development, child care, medical care, adoption services, health benefit plan coverage, education on available state and local resources for socioeconomic needs, and screening for human trafficking and domestic violence.

As proposed, S.B. 2243 amends current law relating to required counseling before an abortion is performed.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 3 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 171.012(a), Health and Safety Code, as follows:

(a) Provides that consent to an abortion is voluntary and informed only if:

(1)–(2) makes no changes to these subdivisions;

(3) the physician who is to perform the abortion or the physician's agent:

(A) makes no changes to this paragraph;

(B) informs the pregnant woman that those materials:

(i) have been provided by the Health and Human Services Commission (HHSC), rather than by the Department of State Health Services (DSHS);

(ii) are accessible on an Internet website sponsored by HHSC, rather than by DSHS;

(iii)–(iv) makes no changes to these subparagraphs;

(4) makes no changes to this subdivision;

(5)–(7) makes nonsubstantive changes to these subdivisions; and

(8) except during a medical emergency and before the abortion is performed, the physician certifies using a unique identifying number, devoid of personally identifying information of the pregnant woman, that:

(A) the pregnant woman received pre-abortion counseling at no cost to the pregnant woman from a counselor who:

(i) meets the qualifications established by HHSC rule;

(ii) is not employed by, contracted with, or has a pecuniary interest in a facility licensed under Chapter 245 (Abortion Facilities), Health Safety Code;

(iii) is authorized under a contract with HHSC to provide counseling services in accordance with this subdivision; and

(B) the counselor provided the pregnant woman in accordance with HHSC rules:

(i) medically accurate information using the informational materials described by Section 171.014 (Informational Materials);

(ii) an assessment of and offer of assistance in obtaining support services other than abortion that the pregnant woman may need or be eligible for, including housing, employment, resume development, child care, medical care, adoption services, and health benefit plan coverage;

(iii) education on available state and local resources to address the pregnant woman's socioeconomic needs;

(iv) screening for domestic violence, coercion of abortion, or human trafficking; and

(C) the counselor certified using a unique identifying number, devoid of personally identifying information of the pregnant woman, that the pregnant woman completed the counseling.

(D) the counselor reported to HHSC de-identified demographic information to assist HHSC in determining the supply and demand of social services in the pregnant woman's geographic region.

SECTION 2. Amends Section 171.0121, Health and Safety Code, as follows:

Sec.171.0121. MEDICAL RECORD. (a) Requires a copy of the signed, written certification received by the physician under Section 171.012(a)(6) and documentation of the completed counseling required under Section 171.012(a)(8), before the abortion begins, to be placed in the pregnant woman's medical records, rather than requiring a copy of the signed, written certification received by the physician under Section 171.012(a)(6), before the abortion begins, to be placed in the pregnant woman's medical records.

(b) Makes conforming changes to this subsection.

SECTION 3. (a) Provides that, notwithstanding Sections 171.012 and 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 March 1, 2020.

(b) Requires the executive commissioner of HHSC, not later than December 1, 2020, to adopt rules as necessary to implement this Act.

(c) Requires HHSC, not later than March 1, 2020, to contract with one or more counseling providers throughout the state to provide the services described by Section 171.012, Health and Safety Code, as amended by this Act.

SECTION 4. Makes application of this Act prospective to March 1, 2020.

SECTION 5. Severability clause.

SECTION 6. Effective date: September 1, 2019.