

- SUBJECT:** Requiring review of ultrasound before an abortion
- COMMITTEE:** State Affairs — committee substitute recommended
- VOTE:** 5 ayes — Swinford, Van Arsdale, B. Cook, Flynn, Parker
2 nays — Farrar, Veasey
2 absent — Paxton, Christian
- SENATE VOTE:** On final passage, May 3 — 22–8 (Ellis, Gallegos, Hinojosa, Shapleigh, Watson, Wentworth, West, Whitmire; present not voting: Seliger)
- WITNESSES:** No public hearing
- BACKGROUND:** During the 2003 regular session, the 78th Legislature enacted HB 15 by Corte, which added Health and Safety Code, ch. 171, the Woman’s Right to Know Act. Under the act, an abortion provider must obtain the voluntary and informed consent of a woman receiving an abortion, except in a medical emergency. Prior to an abortion, a woman must be informed of:
- the name of the physician performing the abortion;
 - medical risks associated with abortion, including infection and hemorrhage;
 - danger to subsequent pregnancy and risk of infertility;
 - increased risk of breast cancer and the natural protective effect of a completed pregnancy in avoiding breast cancer;
 - probable gestational age of the unborn child at the time of abortion;
 - medical risks associated with carrying a child to term;
 - medical assistance that might be available for prenatal, childbirth, and neonatal care;
 - the father’s liability for paying child support;
 - contraception counseling and referrals to public and private agencies; and

- the woman's right to review Department of State Health Services (DSHS) materials that describe the unborn child and that list agencies offering alternatives to abortion.

Before an abortion, the woman must certify in writing that she has received the above information, and the physician who performs the abortion must retain a copy of the written certification.

A physician found intentionally in violation of the act commits a misdemeanor punishable by fine of up to \$10,000.

DIGEST:

CSSB 920 would amend Health and Safety Code, sec. 171.012, to require a physician who performed an abortion to take an obstetric ultrasound image of the unborn child and review the image with the woman.

When a woman certified that she had given informed consent for the abortion procedure, she also would have to certify that she had been provided with and had the opportunity to review the obstetric ultrasound image.

The bill would stipulate that while the ultrasound images would have to be explained to the woman, nothing would require that the woman look at or view the images. The physician would be responsible for informing the woman that she was not required to view the images, and neither the physician nor the woman would be penalized if the woman refused to look at the images presented.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007, and would apply only to an offense committed on or after the effective date..

SUPPORTERS
SAY:

CSSB 920 would help to ensure that a woman making a decision about abortion had access to all medical information pertaining to the decision, including an ultrasound. An ultrasound gives a woman a clearer view of what she is choosing with abortion and who is affected by that choice. A detailed study by *A Woman's Concern Pregnancy Health Services* demonstrated that 83 percent of women who received an ultrasound and reviewed the image after nine weeks of pregnancy changed their minds about abortion and chose to deliver. Through counseling and without the review of an ultrasound image, only 34 percent chose to deliver. The study

also indicated that a pregnant woman develops a powerful bond with her unborn child once she actually sees the fetus in the womb. This study provides a strong showing that ultrasound images can assist a woman seeking an abortion in making an informed decision.

Abortion is the most common surgical procedure performed on women and has been for at least 20 years. The Woman's Right to Know Act ensures that women seeking an abortion receive the same kind of medically accurate information they would receive for any surgical procedure, including risks, benefits, and the chance for a second opinion. The act aims to protect women's health by making sure that if a woman chooses abortion, she does so in a fully informed manner. Requiring that a physician take an obstetric ultrasound image and present it to a woman considering an abortion only would provide an additional measure of informed consent. If a woman did not choose to view the image, she would not be required to do so.

Thirty-two states have adopted informed-consent laws. In their most basic form, they require a woman to be offered pamphlets explaining fetal development and describing alternatives to abortion. Four states require that doctors perform ultrasounds on all patients and allow the woman the option to view the image. South Carolina and Missouri are currently considering similar legislation.

Women should be able to change their minds, and all medical treatments pertaining to an abortion procedure, including an ultrasound, should be made available to a woman in her decision-making process. Clinics often conduct only perfunctory counseling sessions before abortions and rush women through the process without ensuring that they understand the information and have considered their options. Some women say they would not have had an abortion if they had known more about the procedure and the development of the unborn child. Informing a woman fully of her unborn child's gestational development through ultrasound images could reduce the number of abortions because it would demonstrate more graphically the humanity of the child in the womb.

**OPPONENTS
SAY:**

SB 920 is based on the erroneous and patronizing assumption that women are making uninformed choices about abortion. The Texas Medical Practice Act requires informed consent for all surgical procedures, including abortion, and most women already have an ultrasound procedure before an abortion and the opportunity to view the ultrasound images.

DSHS also inspects abortion clinics once a year and verifies that pre-surgery counseling complies with the law.

The medical necessity of an ultrasound is best determined by a woman's doctor. The bill would require that physicians perform ultrasounds for every woman prior to her receiving abortion care, even if the woman did not want one and her doctor did not think one was necessary. The state already has precautions in statute that delay abortion services, and in some cases, an ultrasound only would serve as a medically unnecessary requirement. This is particularly true for low-income women or women from rural areas who may have to travel hundreds of miles to access health care.

The bill would infringe unnecessarily on the relationship between a woman and her doctor. A doctor, in consultation with the patient, should determine whether a woman should undergo an ultrasound before receiving an abortion. In addition, the bill would place physicians in the difficult and contradictory position of having to provide a woman with an image and review that image with her, while informing her that she was not required to view it.

Requiring a woman to review an ultrasound image with her physician would emotionalize her decision inappropriately. Choosing to end a pregnancy is a very difficult choice. A woman who had wanted to become pregnant but who chose to terminate her pregnancy when she discovered that the fetus had a severe and life-threatening abnormality should not be faced with reviewing an image that would have no bearing on her decision and only would make a tragic situation even more painful. Making informed decisions is a solid policy goal. However, the real intent of this legislation would not be to help a woman make an informed choice, but to shame a woman for her choice to terminate her pregnancy.

NOTES:

The committee substitute corrected the section number of a reference to the Health and Safety Code.

SB 920 originally was set on the Major State Calendar for May 17, but was recommitted to committee on May 16. The committee made no changes to the bill when it was reported again.