

BILL ANALYSIS

Senate Research Center

C.S.S.B. 16
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State Affairs
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

C.S.S.B. 16 amends the Women's Right to Know Act (H.B. 15, 78th Legislature, Regular Session, 2003) by requiring physicians to perform a sonogram on a pregnant woman before performing an abortion. This better informs the physician about the safest procedure to follow and provides the woman with additional information for making important choices about her reproductive health. The legislation also defines a medical emergency in the event that a pregnancy puts a woman's life at risk.

Current law requires a physician performing an abortion to provide the probable gestational age of the unborn child but does not require the physician to use sonogram images. By requiring a sonogram, the physician will have tools to provide a more accurate age, which will allow the safest method for performing the procedure.

Under the Women's Right to Know Act, physicians performing an abortion are required to provide certain information and materials, including the health risks involved and other options that may be available.

A sonogram would be required on a pregnant woman prior to terminating the pregnancy. The physician would provide access to the audible heartbeat and a description of the sonogram image as well. This legislation also requires a physician to provide a list of agencies offering ultrasounds at no cost to the pregnant woman.

C.S.S.B. 16 amends current law relating to informed consent to an abortion.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 171.002, Health and Safety Code, as follows:

Sec. 171.002. New heading: DEFINITIONS. Defines "medical emergency" in this chapter and makes a nonsubstantive change.

SECTION 2. Amends Sections 171.012(a)-(c), Health and Safety Code, as follows:

(a) Deletes existing text providing for an exception in the case of a medical emergency. Provides that consent to an abortion is voluntary and informed only if certain actions are taken.

(1) Deletes existing text relating to the referring physician. Changes references to the woman on whom the abortion is to be performed to the pregnant woman on whom the abortion is to be performed. Provides that consent to an abortion is voluntary and informed only if the physician who is to perform the abortion informs the pregnant woman on whom the abortion is to be performed of the physician's name, rather than the name of the physician who will perform the

abortion; the particular medical risks associated with the particular abortion procedure to be employed, including, when medically accurate, certain information relating to certain risks and potential dangers; the probable gestational age of the unborn child at the time the abortion is to be performed; and the medical risks associated with carrying the child to term.

(2) Makes conforming and nonsubstantive changes.

(3) Creates this subdivision from existing text. Provides that consent to an abortion is voluntary and informed only if the physician who is to perform the abortion or the physician's agent provides the pregnant woman with the printed materials described by Section 171.014 (Informational Materials), rather than that the woman has the right to review the printed materials described by Section 171.014, and informs her that those materials have been provided by the Department of State Health Services (DSHS), are accessible on an Internet website sponsored by DSHS, describe the unborn child and list agencies that offer alternatives to abortion, and include a list of agencies that offer sonogram services at no cost to the pregnant woman. Changes references to the Texas Department of Health to DSHS. Makes nonsubstantive changes.

(4) Provides that consent to an abortion is voluntary and informed only if, at least 24 hours before the abortion:

(A) the physician who is to perform the abortion or an agent of the physician who is also a sonographer certified by a national registry of medical sonographers performs a sonogram on the pregnant woman on whom the abortion is to be performed;

(B) the physician who is to perform the abortion displays the sonogram images in a quality consistent with current medical practice in a manner that the pregnant woman may view them;

(C) the physician who is to perform the abortion provides, in a manner understandable to a layperson, a simultaneous verbal explanation of the results of the sonogram images, including a medical description of the dimensions of the embryo or fetus, the presence of cardiac activity, and the presence of external members and internal organs; and

(D) makes audible the heart auscultation for the pregnant woman to hear, if present, in a quality consistent with current medical practice and provides, in a manner understandable to a layperson, a simultaneous verbal explanation of the heart auscultation.

(5) Provides that consent to an abortion is voluntary and informed only if the pregnant woman certifies in a signed, written statement, rather than certifies in writing, before the abortion is performed that the information and the printed materials described by Subdivisions (1), (2), and (3) have been provided and explained to her, rather than have been provided to her and that she has been informed of her opportunity to review the information described in Section 171.014; she has been provided with and has had the opportunity to review the sonogram images and hear the heart auscultation required by Subdivision (4); and she understands the nature and consequences of an abortion. Makes nonsubstantive changes.

(6) Makes conforming and nonsubstantive changes.

(7) Provides that consent to an abortion is voluntary and informed only if the pregnant woman is provided the name of each person who provides or explains the information required under this subsection. Makes a nonsubstantive change.

(b) Prohibits the information required to be provided under Subsections (a)(1) and (2) from being provided by audio or video recording and requires that it be provided orally and in person, rather than orally by telephone or in person, and at least 24 hours before the abortion is to be performed.

(c) Requires the physician or the physician's agent, when providing the information under Subsection (a)(3), rather than Subsection (a)(2)(D), to provide the pregnant woman with the address of the Internet website on which the printed materials described by Section 171.014 may be viewed as required by Section 171.014(e) (relating to developing and maintaining an Internet website).

SECTION 3. Amends Subchapter B, Chapter 171, Health and Safety Code, by adding Sections 171.0121-171.0122, as follows:

Sec. 171.0121. VIEWING PRINTED MATERIALS AND SONOGRAM IMAGE; HEARING HEART AUSCULTATION OR VERBAL EXPLANATION. (a) Provides that a pregnant woman may choose not to view the printed materials provided under Section 171.012(a)(3) after she has been provided the materials.

(b) Provides that a pregnant woman may choose not to view the sonogram images required to be provided to and reviewed with the pregnant woman under Section 171.012(a)(4).

(c) Provides that a pregnant woman may choose not to hear the heart auscultation required to be provided to and reviewed with the pregnant woman under Section 171.012(a)(4).

(d) Provides that a pregnant woman may choose not to receive the verbal explanation of the results of the sonogram images under Section 171.012(a)(4)(C) if:

(1) the woman's pregnancy is a result of sexual assault, as defined by Section 22.011 (Sexual Assault), Penal Code, that been reported to law enforcement authorities;

(2) the woman's pregnancy is a result of incest; or

(3) the fetus has an irreversible medical condition or abnormality, as previously identified by reliable diagnostic procedures and documented in the woman's medical file.

(e) Provides that the physician and the pregnant woman are not subject to a penalty under this chapter solely because the pregnant woman chooses not to view the printed materials or the sonogram images, hear the heart auscultation, or receive the verbal explanation, as described by this section.

Sec. 171.0122. EXCEPTION FOR MEDICAL EMERGENCY. Authorizes a physician to perform an abortion without obtaining informed consent under this subchapter in a medical emergency. Requires a physician who performs an abortion in a medical emergency to include in the patient's medical records a statement signed by the physician certifying the nature of the medical emergency, and, not later than the 30th day after the date the abortion is performed, to certify to DSHS the specific medical condition that constituted the emergency.

SECTION 4. Amends Section 171.013(a), Health and Safety Code, as follows:

(a) Requires the physician or the physician's agent to furnish copies of the materials described by Section 171.014 to the pregnant woman at least 24 hours before the abortion is performed and to direct the pregnant woman to the Internet website required to be published under Section 171.014(e). Deletes existing text making this requirement

contingent upon the woman choosing to view the materials described by Section 171.014. Makes conforming and nonsubstantive changes.

SECTION 5. Amends Section 171.015, Health and Safety Code, as follows:

Sec. 171.015. INFORMATION RELATING TO PUBLIC AND PRIVATE AGENCIES. Requires that the informational materials include geographically indexed materials designed to inform the pregnant woman of public and private agencies and services that are available to assist a woman through pregnancy, childbirth, and the child's dependency, including among certain information, a comprehensive list of agencies and organizations that offer sonogram services at no cost to the pregnant woman, and a toll-free, 24-hour telephone number that may be called to obtain an oral list and description of agencies described by Subdivision (1) (relating to geographically indexed materials) that are located near the caller and of the services the agencies offer. Makes conforming and nonsubstantive changes.

SECTION 6. Amends Section 164.055(a), Occupations Code, as follows:

(a) Authorizes the Texas Medical Board (TMB) to take appropriate disciplinary action against a physician who violates Section 170.002 (Prohibited Acts; Exemption) or Chapter 171 (Abortion), Health and Safety Code. Authorizes TMB to refuse to admit to examination or refuse to issue a license or renewal license to a person who violates that section or chapter.

SECTION 7. Sets forth, but does not limit, the purposes of this Act.

SECTION 8. Effective date: upon passage or September 1, 2011.