

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 2243
By: Paxton et al.
Health & Human Services
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Committee Report (Substituted)

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. (Original Author's/Sponsor's Statement of Intent)

C.S.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 Subchapter B, Chapter 171, Health and Safety Code, by adding Section 171.01205, as follows:

Sec. 171.01205. PRE-ABORTION COUNSELING REQUIRED. (a) Requires a physician who is to perform an abortion, in addition to the informed consent requirements under Section 171.012 (Voluntary and Informed Consent), except during a medical emergency, and before the abortion is performed, to certify using a unique identification number, devoid of personally identifying information of the pregnant woman on whom the abortion is to be performed, that:

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

(A) meets the qualifications established by Health and Human Services Commission (HHSC) rule;

(B) is not employed by, is not contracted with, and does not have a pecuniary interest in a facility licensed under Chapter 245 (Abortion Facilities); and

(C) is authorized under a contract with HHSC to provide counseling services in accordance with this subsection;

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

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

(B) 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;

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

(D) screening for family violence, coercion of abortion, and human trafficking; and

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

(b) Requires a counselor described by Subsection (a) to report to HHSC de-identified demographic information obtained through counseling provided under that subsection 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) (relating to providing that consent to an abortion is voluntary and informed only if before the abortion is performed, the physician who is to perform the abortion receives a copy of a certain signed, written certification) and documentation of the completed counseling required under Section 171.0125, rather than 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) Requires a copy of the signed, written certification required under Sections 171.012(a)(5) (relating to providing that consent to an abortion is voluntary and informed only if the pregnant woman completes and certifies with her signature a certain election form that states certain information) and (6) and documentation of the completed counseling required under Section 171.01205, rather than the signed, written certification required under Sections 171.012(a)(5) and (6), to be retained by the facility where the abortion is performed until a certain date.

SECTION 3. (a) Provides that, notwithstanding Section 171.01205, Health and Safety Code, as added by this Act, and Section 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, 2021.

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

(c) Requires HHSC, not later than March 1, 2021, to contract with one or more counseling providers throughout the state to provide the services described by Section 171.01205, Health and Safety Code, as added by this Act.

SECTION 4. Makes application of this Act prospective to March 1, 2021.

SECTION 5. Severability clause.

SECTION 6. Requires HHSC to implement a provision of this Act only if the legislature appropriates money specifically for that purpose. Authorizes, but does not require, HHSC, if the legislature does not appropriate money specifically for that purpose, to implement a provision of this Act using other appropriations available for that purpose.

SECTION 7. Effective date: September 1, 2019.