

By: Farrar

H.B. No. 745

A BILL TO BE ENTITLED

AN ACT

relating to the waiting period before a physician may perform an abortion.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 171.012(a) and (b), Health and Safety Code, are amended to read as follows:

(a) Consent to an abortion is voluntary and informed only if:

(1) the physician who is to perform the abortion informs the pregnant woman on whom the abortion is to be performed of:

(A) the physician's name;

(B) the particular medical risks associated with the particular abortion procedure to be employed, including, when medically accurate:

(i) the risks of infection and hemorrhage;

(ii) the potential danger to a subsequent pregnancy and of infertility; and

(iii) the possibility of increased risk of breast cancer following an induced abortion and the natural protective effect of a completed pregnancy in avoiding breast cancer;

(C) the probable gestational age of the unborn child at the time the abortion is to be performed; and

(D) the medical risks associated with carrying the child to term;

(2) the physician who is to perform the abortion or the physician's agent informs the pregnant woman that:

(A) medical assistance benefits may be available for prenatal care, childbirth, and neonatal care;

(B) the father is liable for assistance in the support of the child without regard to whether the father has offered to pay for the abortion; and

(C) public and private agencies provide pregnancy prevention counseling and medical referrals for obtaining pregnancy prevention medications or devices, including emergency contraception for victims of rape or incest;

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

(A) provides the pregnant woman with the printed materials described by Section [171.014](#); and

(B) informs the pregnant woman that those materials:

(i) have been provided by the Department of State Health Services;

(ii) are accessible on an Internet website sponsored by the department;

(iii) describe the unborn child and list agencies that offer alternatives to abortion; and

(iv) include a list of agencies that offer sonogram services at no cost to the pregnant woman;

1 (4) before any sedative or anesthesia is administered
2 to the pregnant woman and [~~at least 24 hours~~] before the abortion is
3 performed [~~or at least two hours before the abortion if the pregnant~~
4 ~~woman waives this requirement by certifying that she currently~~
5 ~~lives 100 miles or more from the nearest abortion provider that is a~~
6 ~~facility licensed under Chapter 245 or a facility that performs~~
7 ~~more than 50 abortions in any 12-month period~~]:

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

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

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

21 (D) the physician who is to perform the abortion
22 or an agent of the physician who is also a sonographer certified by
23 a national registry of medical sonographers makes audible the heart
24 auscultation for the pregnant woman to hear, if present, in a
25 quality consistent with current medical practice and provides, in a
26 manner understandable to a layperson, a simultaneous verbal
27 explanation of the heart auscultation;

1 (5) before receiving a sonogram under Subdivision
2 (4)(A) and before the abortion is performed and before any sedative
3 or anesthesia is administered, the pregnant woman completes and
4 certifies with her signature an election form that states as
5 follows:

6 "ABORTION AND SONOGRAM ELECTION

7 (1) THE INFORMATION AND PRINTED MATERIALS
8 DESCRIBED BY SECTIONS 171.012(a)(1)-(3), TEXAS HEALTH
9 AND SAFETY CODE, HAVE BEEN PROVIDED AND EXPLAINED TO
10 ME.

11 (2) I UNDERSTAND THE NATURE AND CONSEQUENCES OF
12 AN ABORTION.

13 (3) TEXAS LAW REQUIRES THAT I RECEIVE A SONOGRAM
14 PRIOR TO RECEIVING AN ABORTION.

15 (4) I UNDERSTAND THAT I HAVE THE OPTION TO VIEW
16 THE SONOGRAM IMAGES.

17 (5) I UNDERSTAND THAT I HAVE THE OPTION TO HEAR
18 THE HEARTBEAT.

19 (6) I UNDERSTAND THAT I AM REQUIRED BY LAW TO
20 HEAR AN EXPLANATION OF THE SONOGRAM IMAGES UNLESS I
21 CERTIFY IN WRITING TO ONE OF THE FOLLOWING:

22 ___ I AM PREGNANT AS A RESULT OF A SEXUAL ASSAULT,
23 INCEST, OR OTHER VIOLATION OF THE TEXAS PENAL CODE THAT
24 HAS BEEN REPORTED TO LAW ENFORCEMENT AUTHORITIES OR
25 THAT HAS NOT BEEN REPORTED BECAUSE I REASONABLY
26 BELIEVE THAT DOING SO WOULD PUT ME AT RISK OF
27 RETALIATION RESULTING IN SERIOUS BODILY INJURY.

1 ___ I AM A MINOR AND OBTAINING AN ABORTION IN
2 ACCORDANCE WITH JUDICIAL BYPASS PROCEDURES UNDER
3 CHAPTER 33, TEXAS FAMILY CODE.

4 ___ MY FETUS HAS AN IRREVERSIBLE MEDICAL
5 CONDITION OR ABNORMALITY, AS IDENTIFIED BY RELIABLE
6 DIAGNOSTIC PROCEDURES AND DOCUMENTED IN MY MEDICAL
7 FILE.

8 (7) I AM MAKING THIS ELECTION OF MY OWN FREE WILL
9 AND WITHOUT COERCION.

10 ~~[(8) FOR A WOMAN WHO LIVES 100 MILES OR MORE FROM~~
11 ~~THE NEAREST ABORTION PROVIDER THAT IS A FACILITY~~
12 ~~LICENSED UNDER CHAPTER 245 OR A FACILITY THAT PERFORMS~~
13 ~~MORE THAN 50 ABORTIONS IN ANY 12-MONTH PERIOD ONLY:]~~

14 ~~[I CERTIFY THAT, BECAUSE I CURRENTLY LIVE 100~~
15 ~~MILES OR MORE FROM THE NEAREST ABORTION PROVIDER THAT~~
16 ~~IS A FACILITY LICENSED UNDER CHAPTER 245 OR A FACILITY~~
17 ~~THAT PERFORMS MORE THAN 50 ABORTIONS IN ANY 12-MONTH~~
18 ~~PERIOD, I WAIVE THE REQUIREMENT TO WAIT 24 HOURS AFTER~~
19 ~~THE SONOGRAM IS PERFORMED BEFORE RECEIVING THE~~
20 ~~ABORTION PROCEDURE. MY PLACE OF RESIDENCE~~
21 ~~IS:_____.]~~

22 _____
23 SIGNATURE

DATE";

24 (6) before the abortion is performed, the physician
25 who is to perform the abortion receives a copy of the signed,
26 written certification required by Subdivision (5); and

27 (7) the pregnant woman is provided the name of each

1 person who provides or explains the information required under this
2 subsection.

3 (b) The information required to be provided under
4 Subsections (a)(1) and (2) may not be provided by audio or video
5 recording and must be provided, ~~[at least 24 hours]~~ before the
6 abortion is to be performed, ~~[+~~

7 ~~[(1)] orally and in person in a private and~~
8 ~~confidential setting [if the pregnant woman currently lives less~~
9 ~~than 100 miles from the nearest abortion provider that is a facility~~
10 ~~licensed under Chapter 245 or a facility that performs more than 50~~
11 ~~abortions in any 12-month period; or~~

12 ~~[(2) orally by telephone or in person in a private and~~
13 ~~confidential setting if the pregnant woman certifies that the woman~~
14 ~~currently lives 100 miles or more from the nearest abortion~~
15 ~~provider that is a facility licensed under Chapter 245 or a facility~~
16 ~~that performs more than 50 abortions in any 12-month period].~~

17 SECTION 2. Section 171.017, Health and Safety Code, is
18 amended to read as follows:

19 Sec. 171.017. PERIODS RUN CONCURRENTLY. If the woman is an
20 unemancipated minor subject to Chapter 33, Family Code, the 24-hour
21 period ~~[periods]~~ established under Section ~~[Sections 171.012(b)~~
22 ~~and] 171.013(a)~~ may run concurrently with the period during which
23 actual or constructive notice is provided under Section 33.002,
24 Family Code.

25 SECTION 3. The change in law made by this Act applies only
26 to an abortion performed on or after the effective date of this Act.
27 An abortion performed before the effective date of this Act is

1 governed by the law in effect on the date the abortion is performed,
2 and that law continues in effect for that purpose.

3 SECTION 4. This Act takes effect immediately if it receives
4 a vote of two-thirds of all the members elected to each house, as
5 provided by Section 39, Article III, Texas Constitution. If this
6 Act does not receive the vote necessary for immediate effect, this
7 Act takes effect September 1, 2017.