

## **BILL ANALYSIS**

Senate Research Center  
85R1679 SCL-D

S.B. 258  
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Health & Human Services  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently, medical facilities throughout the state are disposing of the remains of unborn children by way of landfills and sewage lines. Moreover, recent reporting has revealed that fetal tissue resulting from abortions are being sold for profit by abortion providers. The commoditization of these unborn children occurs without the consent or notification of the unborn child's mother. These acts take place because current state regulations prohibit mothers of aborted babies from determining how their unborn child should be laid to rest.

S.B. 258 requires a physician, prior to performing an abortion, to provide the pregnant woman with a form describing the options available for the disposition of the unborn child's remains. It explains that, should the woman exercise discretion in the disposition of her child, she may be financially liable for the cost associated with the respective disposition. However, a woman may defer to the disposition procedures of the medical facility, observing Department of State Health Services (DSHS) rules. Should an indigent woman elect to undertake the disposition of her child, the form allows the woman to authorize access to her contact information by non-profits registered with DSHS. These non-profits may pay for the costs associated with interments and cremations. The form must be completed and returned to the physician prior to the abortion.

As proposed, S.B. 258 amends current law relating to the disposition of an unborn child's remains after an abortion.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 7 (Section 171.0161, Health and Safety Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 171.002, Health and Safety Code, by adding Subdivision (2-a), to define "indigent."

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

(a) Includes that consent to an abortion is voluntary and informed only if the physician who is to perform the abortion or the physician's agent:

(4)(A) provides the pregnant woman with a disposition of remains form described by Section 171.0161, and;

(B) informs the pregnant woman that the form:

(i) is provided by the Department of State Health Services (DSHS);

(ii) is accessible on DSHS's Internet website;

(iii) describes the options for the disposition of the unborn child's remains and the pregnant woman's possible responsibility for the costs incurred in the selected disposition;

(iv) includes a section that allows the pregnant woman to authorize the physician or physician's agents to release the pregnant woman's contact information to a nonprofit organization that has registered with DSHS to pay the costs of the selected disposition for pregnant women who are indigent; and

(v) must be completed by the pregnant woman and received by the physician before the abortion.

Redesignates subsequent subsections accordingly. Makes conforming and nonsubstantive changes.

SECTION 3. Amends Section 171.0121, Health and Safety Code, as follows:

Sec. 171.0121. **MEDICAL RECORD.** (a) Requires a copy of both the completed disposition of remains form required under Section 171.012(a)(4) and the signed, written certification received by the physician under Section 171.012(a)(7), rather than 171.012(a)(6), to be placed in the pregnant woman's medical records before the abortion begins.

(b) Requires a copy of the signed, written certification required under Sections 171.012(a)(6) and (7), rather than Sections 171.012(a)(5) and (6), to be retained by the facility where the abortion is performed for a certain time.

SECTION 4. Amends Sections 171.0122(b), (c), and (d), Health and Safety Code, as follows:

(b) Authorizes a pregnant woman to choose not to view the sonogram images required to be provided to and reviewed with the pregnant woman under Section 171.012(a)(5), rather than 171.012(a)(4).

(c) Authorizes a pregnant woman to choose not to hear the heart auscultation required to be provided to and reviewed with the pregnant woman under Section 171.012(a)(5), rather than Section 171.012(a)(4).

(d) Authorizes a pregnant woman to choose not to receive the verbal explanation of the results of the sonogram images under Section 171.012(a)(5)(C), rather than Section 171.012(a)(4)(C), under certain circumstances.

SECTION 5. Amends the heading to Section 171.013, Health and Safety Code, to read as follows:

Sec. 171.013. New heading: **DISTRIBUTION OF STATE MATERIALS AND FORM.**

SECTION 6. 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 (Informational Materials) and the form described by Section 171.0161 to the pregnant woman at a certain time and direct the pregnant woman to the website required to be published under Section 171.014(e) (relating to a website to display information). Makes conforming changes.

SECTION 7. Amends Subchapter B, Chapter 171, Health and Safety Code, by adding Section 171.0161, as follows:

Sec. 171.0161. **DISPOSITION OF UNBORN CHILD'S REMAINS: FORM; NONPROFIT ORGANIZATION ASSISTANCE REGISTRY; RULES.** (a) Authorizes a

pregnant woman to decide to inter or cremate the remains of an unborn child who is aborted.

(b) Requires DSHS to develop and maintain a form for a pregnant woman to select the method of disposition of the unborn child's remains.

(c) Requires the form to include:

(1) burial and cremation as methods of disposition of the unborn child's remains;

(2) a statement that if the pregnant woman selects burial or cremation of the unborn child's remains, the pregnant woman may be responsible for the burial or cremation costs;

(3) a space for a pregnant woman who is indigent to choose to provide her contact information and to authorize the physician or the physician's agent to release the woman's contact information to a private nonprofit organization that has registered with DSHS to provide financial assistance for the burial or cremation costs;

(4) a statement that the pregnant woman may elect to have the abortion provider dispose of the unborn child's remains in accordance with DSHS rules; and

(5) a statement that the pregnant woman may privately dispose of the unborn child's remains in a manner that complies with DSHS rules but may be held financially responsible for the abortion provider's costs of preparing the remains for transport.

(d) Requires the form to be:

(1) in English and Spanish;

(2) easily comprehensible; and

(3) in a typeface large enough to be clearly legible.

(e) Requires DSHS to post the form on the DSHS website.

(f) Requires DSHS to establish and maintain a registry of private nonprofit organizations that register with DSHS to provide financial assistance for the costs associated with burial or cremation of an unborn child's remains for indigent pregnant women and make the registry available upon request to certain individuals.

(g) Requires the executive commissioner (commissioner) of the Health and Human Services Commission to adopt rules to implement this section.

SECTION 8. (a) Makes application of this Act prospective to January 1, 2018.

(b) Provides that not later than December 1, 2017, the commissioner shall adopt the rules required to implement this Act and DSHS shall adopt the forms and procedures necessary to implement this Act.

SECTION 9. Effective date: September 1, 2017.

