

By: Huffines

S.B. No. 258

A BILL TO BE ENTITLED

AN ACT

relating to the disposition of an unborn child's remains after an abortion.

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

SECTION 1. Section 171.002, Health and Safety Code, is amended by adding Subdivision (2-a) to read as follows:

(2-a) "Indigent" means an individual who earns not more than 155 percent of the income standard established by applicable federal poverty guidelines.

SECTION 2. Section 171.012(a), Health and Safety Code, is 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

1 breast cancer following an induced abortion and the natural
2 protective effect of a completed pregnancy in avoiding breast
3 cancer;

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

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

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

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

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

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

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

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

23 (B) informs the pregnant woman that those
24 materials:

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

27 (ii) are accessible on an Internet website

1 sponsored by the department;

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

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

6 (4) the physician who is to perform the abortion or the
7 physician's agent:

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

10 (B) informs the pregnant woman that the form:

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

13 (ii) is accessible on the department's
14 Internet website;

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

19 (iv) includes a section that allows the
20 pregnant woman to authorize the physician or physician's agent to
21 release the pregnant woman's contact information to a nonprofit
22 organization that has registered with the department to pay the
23 costs of the selected disposition for pregnant women who are
24 indigent; and

25 (v) must be completed by the pregnant woman
26 and received by the physician before the abortion is performed;

27 (5) before any sedative or anesthesia is administered

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

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

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

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

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

27 (6) [~~(5)~~] before receiving a sonogram under

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

5 "ABORTION AND SONOGRAM ELECTION

6 (1) THE INFORMATION AND PRINTED MATERIALS
7 DESCRIBED BY SECTIONS 171.012(a)(1)-(4)
8 [~~171.012(a)(1)-(3)~~], TEXAS HEALTH AND SAFETY CODE,
9 HAVE BEEN PROVIDED AND EXPLAINED TO ME.

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

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

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

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

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

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

27 I AM A MINOR AND OBTAINING AN ABORTION IN

1 ACCORDANCE WITH JUDICIAL BYPASS PROCEDURES UNDER
2 CHAPTER 33, TEXAS FAMILY CODE.

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

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

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

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

21 _____
22 SIGNATURE DATE";

23 (7) [~~(6)~~] before the abortion is performed, the
24 physician who is to perform the abortion receives:

25 (A) a copy of the completed disposition of
26 remains form required by Subdivision (4); and

27 (B) a copy of the signed, written certification

1 required by Subdivision (6) [~~(5)~~]; and

2 (8) [~~(7)~~] the pregnant woman is provided the name of
3 each person who provides or explains the information required under
4 this subsection.

5 SECTION 3. Section 171.0121, Health and Safety Code, is
6 amended to read as follows:

7 Sec. 171.0121. MEDICAL RECORD. (a) Before the abortion
8 begins, a copy of both the completed disposition of remains form
9 required under Section 171.012(a)(4) and the signed, written
10 certification received by the physician under Section
11 171.012(a)(7) [~~171.012(a)(6)~~] must be placed in the pregnant
12 woman's medical records.

13 (b) A copy of the signed, written certification required
14 under Sections 171.012(a)(6) [~~171.012(a)(5)~~] and (7) [~~(6)~~] shall be
15 retained by the facility where the abortion is performed until:

16 (1) the seventh anniversary of the date it is signed;

17 or

18 (2) if the pregnant woman is a minor, the later of:

19 (A) the seventh anniversary of the date it is
20 signed; or

21 (B) the woman's 21st birthday.

22 SECTION 4. Sections 171.0122(b), (c), and (d), Health and
23 Safety Code, are amended to read as follows:

24 (b) A pregnant woman may choose not to view the sonogram
25 images required to be provided to and reviewed with the pregnant
26 woman under Section 171.012(a)(5) [~~171.012(a)(4)~~].

27 (c) A pregnant woman may choose not to hear the heart

1 auscultation required to be provided to and reviewed with the
2 pregnant woman under Section 171.012(a)(5) [~~171.012(a)(4)~~].

3 (d) A pregnant woman may choose not to receive the verbal
4 explanation of the results of the sonogram images under Section
5 171.012(a)(5)(C) [~~171.012(a)(4)(C)~~] if:

6 (1) the woman's pregnancy is a result of a sexual
7 assault, incest, or other violation of the Penal Code that has been
8 reported to law enforcement authorities or that has not been
9 reported because she has a reason that she declines to reveal
10 because she reasonably believes that to do so would put her at risk
11 of retaliation resulting in serious bodily injury;

12 (2) the woman is a minor and obtaining an abortion in
13 accordance with judicial bypass procedures under Chapter 33, Family
14 Code; or

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

18 SECTION 5. The heading to Section 171.013, Health and
19 Safety Code, is amended to read as follows:

20 Sec. 171.013. DISTRIBUTION OF STATE MATERIALS AND FORM.

21 SECTION 6. Section 171.013(a), Health and Safety Code, is
22 amended to read as follows:

23 (a) The physician or the physician's agent shall furnish
24 copies of the materials described by Section 171.014 and the form
25 described by Section 171.0161 to the pregnant woman at least 24
26 hours before the abortion is to be performed and shall direct the
27 pregnant woman to the Internet website required to be published

1 under Section 171.014(e). The physician or the physician's agent
2 may furnish the materials and form to the pregnant woman by mail if
3 the materials and form are mailed, restricted delivery to
4 addressee, at least 72 hours before the abortion is to be performed.

5 SECTION 7. Subchapter B, Chapter 171, Health and Safety
6 Code, is amended by adding Section 171.0161 to read as follows:

7 Sec. 171.0161. DISPOSITION OF UNBORN CHILD'S REMAINS: FORM;
8 NONPROFIT ORGANIZATION ASSISTANCE REGISTRY; RULES. (a) A pregnant
9 woman may decide to inter or cremate the remains of an unborn child
10 who is aborted.

11 (b) The department shall develop and maintain a form for a
12 pregnant woman to select the method of disposition of the unborn
13 child's remains.

14 (c) The form must include:

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

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

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

26 (4) a statement that the pregnant woman may elect to
27 have the abortion provider dispose of the unborn child's remains in

1 accordance with department rules; and

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

6 (d) The form must be:

7 (1) in English and Spanish;

8 (2) easily comprehensible; and

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

10 (e) The department shall post the form on the department's
11 Internet website.

12 (f) The department shall:

13 (1) establish and maintain a registry of private
14 nonprofit organizations that register with the department to
15 provide financial assistance for the costs associated with burial
16 or cremation of an unborn child's remains for indigent pregnant
17 women; and

18 (2) make the registry information available on request
19 to a physician, physician's agent, or pregnant woman.

20 (g) The executive commissioner shall adopt rules to
21 implement this section.

22 SECTION 8. (a) The changes in law made by this Act apply
23 only to an abortion performed on or after January 1, 2018. An
24 abortion performed before that date is governed by the law in effect
25 immediately before the effective date of this Act, and that law is
26 continued in effect for that purpose.

27 (b) Not later than December 1, 2017:

1 (1) the executive commissioner of the Health and Human
2 Services Commission shall adopt the rules required to implement
3 this Act; and

4 (2) the Department of State Health Services shall
5 adopt the forms and procedures necessary to implement this Act.

6 SECTION 9. This Act takes effect September 1, 2017.