

1-1 By: Miller of Erath, et al. (Senate Sponsor - Patrick) H.B. No. 15
1-2 (In the Senate - Received from the House March 8, 2011;
1-3 April 5, 2011, read first time and referred to Committee on State
1-4 Affairs; April 13, 2011, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 7, Nays 2;
1-6 April 13, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. NO. 15 By: Huffman

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to informed consent to an abortion.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 171.002, Health and Safety Code, is
1-13 amended to read as follows:

1-14 Sec. 171.002. DEFINITIONS [DEFINITION]. In this chapter:

1-15 (1) "Abortion" [~~"abortion"~~] means the use of any
1-16 means to terminate the pregnancy of a female known by the attending
1-17 physician to be pregnant with the intention that the termination of
1-18 the pregnancy by those means will, with reasonable likelihood,
1-19 cause the death of the fetus.

1-20 (2) "Abortion provider" means a facility where an
1-21 abortion is performed, including the office of a physician and a
1-22 facility licensed under Chapter 241, 243, or 245.

1-23 (3) "Medical emergency" means a life-threatening
1-24 physical condition aggravated by, caused by, or arising from a
1-25 pregnancy that, as certified by a physician, places the woman in
1-26 danger of death or a serious risk of substantial impairment of a
1-27 major bodily function unless an abortion is performed.

1-28 (4) "Rural county" means a county with a population of
1-29 60,000 or less.

1-30 (5) "Sonogram" means the use of ultrasonic waves for
1-31 diagnostic or therapeutic purposes, specifically to monitor an
1-32 unborn child.

1-33 SECTION 2. Section 171.012, Health and Safety Code, is
1-34 amended by amending Subsections (a), (b), and (c) and adding
1-35 Subsection (a-1) to read as follows:

1-36 (a) Consent [~~Except in the case of a medical emergency,~~
1-37 ~~consent~~] to an abortion is voluntary and informed only if:

1-38 (1) the physician who is to perform the abortion [~~or~~
1-39 ~~the referring physician~~] informs the pregnant woman on whom the
1-40 abortion is to be performed of:

1-41 (A) the physician's name [~~of the physician who~~
1-42 ~~will perform the abortion~~];

1-43 (B) the particular medical risks associated with
1-44 the particular abortion procedure to be employed, including, when
1-45 medically accurate:

1-46 (i) the risks of infection and hemorrhage;
1-47 (ii) the potential danger to a subsequent
1-48 pregnancy and of infertility; and
1-49 (iii) the possibility of increased risk of
1-50 breast cancer following an induced abortion and the natural
1-51 protective effect of a completed pregnancy in avoiding breast
1-52 cancer;

1-53 (C) the probable gestational age of the unborn
1-54 child at the time the abortion is to be performed; and
1-55 (D) the medical risks associated with carrying
1-56 the child to term;

1-57 (2) the physician who is to perform the abortion or the
1-58 physician's agent informs the pregnant woman that:

1-59 (A) medical assistance benefits may be available
1-60 for prenatal care, childbirth, and neonatal care;

1-61 (B) the father is liable for assistance in the
1-62 support of the child without regard to whether the father has
1-63 offered to pay for the abortion; and

2-1 (C) public and private agencies provide
 2-2 pregnancy prevention counseling and medical referrals for
 2-3 obtaining pregnancy prevention medications or devices, including
 2-4 emergency contraception for victims of rape or incest; [and]

2-5 (3) the physician who is to perform the abortion or the
 2-6 physician's agent:

2-7 (A) provides [D] the pregnant woman with [has
 2-8 the right to review] the printed materials described by Section
 2-9 171.014; and

2-10 (B) informs the pregnant woman[–] that those
 2-11 materials:

2-12 (i) have been provided by the [Texas]
 2-13 Department of State Health Services;

2-14 (ii) [and] are accessible on an Internet
 2-15 website sponsored by the department;

2-16 (iii) [, and that the materials] describe
 2-17 the unborn child and list agencies that offer alternatives to
 2-18 abortion; and

2-19 (iv) include a list of agencies that offer
 2-20 sonogram services at no cost to the pregnant woman;

2-21 (4) before any sedative or anesthesia is administered
 2-22 to the pregnant woman and at least 24 hours before the abortion or
 2-23 at least two hours before the abortion if the pregnant woman waives
 2-24 this right by certifying that she currently resides in a rural
 2-25 county or lives 100 miles or more from the nearest abortion
 2-26 provider:

2-27 (A) the physician who is to perform the abortion
 2-28 or an agent of the physician who is also a sonographer certified by
 2-29 a national registry of medical sonographers performs a sonogram on
 2-30 the pregnant woman on whom the abortion is to be performed;

2-31 (B) the physician who is to perform the abortion
 2-32 displays the sonogram images in a quality consistent with current
 2-33 medical practice in a manner that the pregnant woman may view them;

2-34 (C) the physician who is to perform the abortion
 2-35 provides, in a manner understandable to a layperson, a verbal
 2-36 explanation of the results of the sonogram images, including a
 2-37 medical description of the dimensions of the embryo or fetus, the
 2-38 presence of cardiac activity, and the presence of external members
 2-39 and internal organs; and

2-40 (D) the physician who is to perform the abortion
 2-41 or an agent of the physician who is also a sonographer certified by
 2-42 a national registry of medical sonographers makes audible the heart
 2-43 auscultation for the pregnant woman to hear, if present, in a
 2-44 quality consistent with current medical practice and provides, in a
 2-45 manner understandable to a layperson, a simultaneous verbal
 2-46 explanation of the heart auscultation;

2-47 (5) before receiving a sonogram under Subdivision
 2-48 (4)(A) and [–3) the woman certifies in writing] before the abortion
 2-49 is performed and before any sedative or anesthesia is administered,
 2-50 the pregnant woman completes and certifies with her signature an
 2-51 election form that states as follows:

2-52 "ABORTION AND SONOGRAF ELECTION

2-53 (1) THE INFORMATION AND PRINTED MATERIALS
 2-54 DESCRIBED BY SECTIONS 171.012(a)(1)-(3), TEXAS HEALTH
 2-55 AND SAFETY CODE, HAVE BEEN PROVIDED AND EXPLAINED TO
 2-56 ME.

2-57 (2) I UNDERSTAND THE NATURE AND CONSEQUENCES OF
 2-58 AN ABORTION.

2-59 (3) TEXAS LAW REQUIRES THAT I RECEIVE A SONOGRAF
 2-60 PRIOR TO RECEIVING AN ABORTION.

2-61 (4) I UNDERSTAND THAT I HAVE A RIGHT TO VIEW THE
 2-62 SONOGRAF IMAGES. I ELECT TO VIEW NOT TO VIEW
 2-63 THE SONOGRAF IMAGES.

2-64 (5) I UNDERSTAND THAT I HAVE A RIGHT TO HEAR THE
 2-65 HEARTBEAT. I ELECT TO HEAR NOT TO HEAR THE
 2-66 HEARTBEAT.

2-67 (6) I UNDERSTAND THAT I AM REQUIRED BY LAW TO
 2-68 HEAR AN EXPLANATION OF THE SONOGRAF IMAGES UNLESS I
 2-69 CERTIFY IN WRITING TO ONE OF THE FOLLOWING:

3-1 I AM PREGNANT AS A RESULT OF A SEXUAL ASSAULT,
 3-2 INCEST, OR OTHER VIOLATION OF THE TEXAS PENAL CODE THAT
 3-3 HAS BEEN REPORTED TO LAW ENFORCEMENT AUTHORITIES OR
 3-4 THAT HAS NOT BEEN REPORTED BECAUSE I REASONABLY
 3-5 BELIEVE THAT DOING SO WOULD PUT ME AT RISK OF
 3-6 RETALIATION RESULTING IN SERIOUS BODILY INJURY.

3-7 I AM A MINOR AND OBTAINING AN ABORTION IN
 3-8 ACCORDANCE WITH JUDICIAL BYPASS PROCEDURES UNDER
 3-9 CHAPTER 33, TEXAS FAMILY CODE.

3-10 MY FETUS HAS AN IRREVERSIBLE MEDICAL
 3-11 CONDITION OR ABNORMALITY, AS IDENTIFIED BY RELIABLE
 3-12 DIAGNOSTIC PROCEDURES AND DOCUMENTED IN MY MEDICAL
 3-13 FILE.

3-14 I AM MAKING THIS ELECTION OF MY OWN FREE WILL
 3-15 AND WITHOUT COERCION OR SUGGESTION FROM THE DOCTOR,
 3-16 THE DOCTOR'S AGENT, OR THE SONOGRAPHER.

3-17 FOR A RESIDENT OF A RURAL COUNTY ONLY:

3-18 I CERTIFY THAT, BECAUSE I CURRENTLY RESIDE IN A
 3-19 RURAL COUNTY WITH A POPULATION OF 60,000 OR LESS OR I
 3-20 LIVE 100 MILES OR MORE FROM THE NEAREST ABORTION
 3-21 PROVIDER, I WAIVE MY RIGHT TO WAIT 24 HOURS AFTER THE
 3-22 SONOGRAM IS PERFORMED BEFORE RECEIVING THE ABORTION
 3-23 PROCEDURE. MY COUNTY OF RESIDENCE IS: _____.

3-25 SIGNATURE

3-26 DATE"

3-27 ~~[that the information described by Subdivisions (1) and (2) has~~
 3-28 ~~been provided to her and that she has been informed of her~~
 3-29 ~~opportunity to review the information described by Section~~
 3-30 ~~171.014]; [and]~~

3-31 (6) [44] before the abortion is performed, the
 3-32 physician who is to perform the abortion receives a copy of the
 3-33 signed, written certification required by Subdivision (5); and

3-34 (7) the pregnant woman is provided the name of each
 3-35 person who provides or explains the information required under this
 3-36 subsection [3].

3-37 (a-1) During a visit made to a facility to fulfill the
 3-38 requirements of Subsection (a), the facility and any person at the
 3-39 facility may not accept any form of payment, deposit, or exchange or
 3-40 make any financial agreement for an abortion or abortion-related
 3-41 services other than for payment of a service required by Subsection
 3-42 (a). The amount charged for a service required by Subsection (a)
 3-43 may not exceed the reimbursement rate established for the service
 3-44 by the Health and Human Services Commission for statewide medical
 3-45 reimbursement programs.

3-46 (b) The information required to be provided under
 3-47 Subsections (a)(1) and (2) may not be provided by audio or video
 3-48 recording and must be provided at least 24 hours before the abortion
 3-49 is to be performed:

3-50 (1) orally and [by telephone or] in person in a private
 3-51 and confidential setting if the pregnant woman does not reside in a
 3-52 rural county; or [and]

3-53 (2) orally by telephone or in person in a private and
 3-54 confidential setting if the pregnant woman certifies that the woman
 3-55 currently resides in a rural county or lives 100 miles or more from
 3-56 the nearest abortion provider [at least 24 hours before the
 3-57 abortion is to be performed].

3-58 (c) When providing the information under Subsection (a)(3)
 3-59 [(a)(2)(D)], the physician or the physician's agent must provide
 3-60 the pregnant woman with the address of the Internet website on which
 3-61 the printed materials described by Section 171.014 may be viewed as
 3-62 required by Section 171.014(e).

3-63 SECTION 3. Subchapter B, Chapter 171, Health and Safety
 3-64 Code, is amended by adding Sections 171.0121, 171.0122, 171.0123,
 3-65 and 171.0124 to read as follows:

3-66 Sec. 171.0121. MEDICAL RECORD. (a) Before the abortion
 3-67 begins, a copy of the signed, written certification received by the
 3-68 physician under Section 171.012(a)(6) must be placed in the
 3-69 pregnant woman's medical records.

4-1 (b) A copy of the signed, written certification required
 4-2 under Sections 171.012(a)(5) and (6) shall be retained by the
 4-3 abortion provider until:

4-4 (1) the seventh anniversary of the date it is signed;

4-5 or

4-6 (2) if the pregnant woman is a minor, the later of:

4-7 (A) the seventh anniversary of the date it is
 4-8 signed; or

4-9 (B) the woman's 21st birthday.

4-10 Sec. 171.0122. VIEWING PRINTED MATERIALS AND SONOGRA
 4-11 IMAGE; HEARING HEART AUSCULTATION OR VERBAL EXPLANATION. (a) A
 4-12 pregnant woman may choose not to view the printed materials
 4-13 provided under Section 171.012(a)(3) after she has been provided
 4-14 the materials.

4-15 (b) A pregnant woman may choose not to view the sonogram
 4-16 images required to be provided to and reviewed with the pregnant
 4-17 woman under Section 171.012(a)(4).

4-18 (c) A pregnant woman may choose not to hear the heart
 4-19 auscultation required to be provided to and reviewed with the
 4-20 pregnant woman under Section 171.012(a)(4).

4-21 (d) A pregnant woman may choose not to receive the verbal
 4-22 explanation of the results of the sonogram images under Section
 4-23 171.012(a)(4)(C) if:

4-24 (1) the woman's pregnancy is a result of a sexual
 4-25 assault, incest, or other violation of the Penal Code that has been
 4-26 reported to law enforcement authorities or that has not been
 4-27 reported because she has a reason that she declines to reveal
 4-28 because she reasonably believes that to do so would put her at risk
 4-29 of retaliation resulting in serious bodily injury;

4-30 (2) the woman is a minor and obtaining an abortion in
 4-31 accordance with judicial bypass procedures under Chapter 33, Family
 4-32 Code; or

4-33 (3) the fetus has an irreversible medical condition or
 4-34 abnormality, as previously identified by reliable diagnostic
 4-35 procedures and documented in the woman's medical file.

4-36 (e) The physician and the pregnant woman are not subject to
 4-37 a penalty under this chapter solely because the pregnant woman
 4-38 chooses not to view the printed materials or the sonogram images,
 4-39 hear the heart auscultation, or receive the verbal explanation, if
 4-40 waived as provided by this section.

4-41 Sec. 171.0123. PATERNITY AND CHILD SUPPORT INFORMATION.
 4-42 If, after being provided with a sonogram and the information
 4-43 required under this subchapter, the pregnant woman chooses not to
 4-44 have an abortion, the physician or an agent of the physician shall
 4-45 provide the pregnant woman with a publication developed by the
 4-46 Title IV-D agency that provides information about paternity
 4-47 establishment and child support, including:

4-48 (1) the steps necessary for unmarried parents to
 4-49 establish legal paternity;

4-50 (2) the benefits of paternity establishment for
 4-51 children;

4-52 (3) the steps necessary to obtain a child support
 4-53 order;

4-54 (4) the benefits of establishing a legal parenting
 4-55 order; and

4-56 (5) financial and legal responsibilities of

4-57 parenting.

4-58 Sec. 171.0124. EXCEPTION FOR MEDICAL EMERGENCY. A
 4-59 physician may perform an abortion without obtaining informed
 4-60 consent under this subchapter in a medical emergency. A physician
 4-61 who performs an abortion in a medical emergency shall:

4-62 (1) include in the patient's medical records a
 4-63 statement signed by the physician certifying the nature of the
 4-64 medical emergency; and

4-65 (2) not later than the 30th day after the date the
 4-66 abortion is performed, certify to the Department of State Health
 4-67 Services the specific medical condition that constituted the
 4-68 emergency.

4-69 SECTION 4. Section 171.013(a), Health and Safety Code, is

5-1 amended to read as follows:

5-2 (a) ~~The [If the woman chooses to view the materials~~
 5-3 ~~described by Section 171.014, the] physician or the physician's~~
 5-4 ~~agent shall furnish copies of the materials described by Section~~
 5-5 ~~171.014 to the pregnant woman [her] at least 24 hours before the~~
 5-6 ~~abortion is to be performed and shall direct the pregnant woman to~~
 5-7 ~~the Internet website required to be published under Section~~
 5-8 ~~171.014(e). The [A] physician or the physician's agent may furnish~~
 5-9 ~~the materials to the pregnant woman by mail if the materials are~~
 5-10 ~~mailed, restricted delivery to addressee, at least 72 hours before~~
 5-11 ~~the abortion is to be performed.~~

5-12 SECTION 5. Section 171.015, Health and Safety Code, is
 5-13 amended to read as follows:

5-14 Sec. 171.015. INFORMATION RELATING TO PUBLIC AND PRIVATE
 5-15 AGENCIES. The informational materials must include ~~either~~:

5-16 (1) geographically indexed materials designed to
 5-17 inform the pregnant woman of public and private agencies and
 5-18 services that:

5-19 (A) are available to assist a woman through
 5-20 pregnancy, childbirth, and the child's dependency, including:

5-21 (i) a comprehensive list of adoption
 5-22 agencies;

5-23 (ii) a description of the services the
 5-24 adoption agencies offer; ~~and~~

5-25 (iii) a description of the manner,
 5-26 including telephone numbers, in which an adoption agency may be
 5-27 contacted; and

5-28 (iv) a comprehensive list of agencies and
 5-29 organizations that offer sonogram services at no cost to the
 5-30 pregnant woman;

5-31 (B) do not provide abortions or abortion-related
 5-32 services or make referrals to abortion providers; and

5-33 (C) are not affiliated with organizations that
 5-34 provide abortions or abortion-related services or make referrals to
 5-35 abortion providers; ~~and~~ ~~or~~

5-36 (2) a toll-free, 24-hour telephone number that may be
 5-37 called to obtain an oral list and description of agencies described
 5-38 by Subdivision (1) that are located near the caller and of the
 5-39 services the agencies offer.

5-40 SECTION 6. Subchapter A, Chapter 241, Health and Safety
 5-41 Code, is amended by adding Section 241.007 to read as follows:

5-42 Sec. 241.007. COMPLIANCE WITH CERTAIN REQUIREMENTS
 5-43 REGARDING SONOGRAF BEFORE ABORTION. A hospital shall comply with
 5-44 Subchapter B, Chapter 171.

5-45 SECTION 7. Subchapter A, Chapter 243, Health and Safety
 5-46 Code, is amended by adding Section 243.017 to read as follows:

5-47 Sec. 243.017. COMPLIANCE WITH CERTAIN REQUIREMENTS
 5-48 REGARDING SONOGRAF BEFORE ABORTION. An ambulatory surgical center
 5-49 shall comply with Subchapter B, Chapter 171.

5-50 SECTION 8. Section 245.006(a), Health and Safety Code, is
 5-51 amended to read as follows:

5-52 (a) The department shall ~~may~~ inspect an abortion facility
 5-53 at random, unannounced, and reasonable times as necessary to ensure
 5-54 compliance with this chapter and Subchapter B, Chapter 171.

5-55 SECTION 9. Chapter 245, Health and Safety Code, is amended
 5-56 by adding Section 245.024 to read as follows:

5-57 Sec. 245.024. COMPLIANCE WITH CERTAIN REQUIREMENTS
 5-58 REGARDING SONOGRAF BEFORE ABORTION. An abortion facility shall
 5-59 comply with Subchapter B, Chapter 171.

5-60 SECTION 10. Section 164.055(a), Occupations Code, is
 5-61 amended to read as follows:

5-62 (a) The board shall ~~may~~ take an appropriate disciplinary
 5-63 action against a physician who violates Section 170.002 or Chapter
 5-64 171, Health and Safety Code. The board shall [may] refuse to admit
 5-65 to examination or refuse to issue a license or renewal license to a
 5-66 person who violates that section or chapter.

5-67 SECTION 11. Subchapter B, Chapter 164, Occupations Code, is
 5-68 amended by adding Section 164.0551 to read as follows:

5-69 Sec. 164.0551. COMPLIANCE WITH CERTAIN REQUIREMENTS

6-1 REGARDING SONOGRAM BEFORE ABORTION. A physician shall comply with
 6-2 Subchapter B, Chapter 171, Health and Safety Code.

6-3 SECTION 12. (a) The legislature finds the following
 6-4 purposes and justifications for this law:

6-5 (1) States have "a substantial government interest
 6-6 justifying a requirement that a woman be apprised of the health
 6-7 risks of abortion and childbirth," including mental health
 6-8 considerations. Planned Parenthood of Southeastern Pennsylvania
 6-9 v. Casey, 505 U.S. 833, 882 (1992). "It cannot be questioned that
 6-10 psychological well-being is a facet of health. Nor can it be
 6-11 doubted that most women considering an abortion would deem the
 6-12 impact on the fetus relevant, if not dispositive, to the decision.
 6-13 In attempting to ensure that a woman apprehend the full
 6-14 consequences of her decision, the State furthers the legitimate
 6-15 purpose of reducing the risk that a woman may elect an abortion,
 6-16 only to discover later, with devastating psychological
 6-17 consequences, that her decision was not fully informed. If the
 6-18 information the State requires to be made available to the woman is
 6-19 truthful and not misleading, the requirement may be permissible."
 6-20 Id.

6-21 (2) The consideration of an abortion's consequences to
 6-22 a fetus is not contingent on the consideration of the health of the
 6-23 mother. Rather, those considerations provide a stand-alone basis
 6-24 for informed consent legislation. There is "no reason why the State
 6-25 may not require doctors to inform a woman seeking an abortion of the
 6-26 availability of materials relating to the consequences to the
 6-27 fetus, even when those consequences have no direct relation to her
 6-28 health." Id.

6-29 (3) In addition to the state's substantial interest in
 6-30 promoting the health and well-being of a pregnant woman, the state
 6-31 also has a "profound interest in potential life" of the unborn
 6-32 fetus. Id. at 878; see also Gonzales v. Carhart, 550 U.S. 124, 125
 6-33 (2007) (recognizing that the state has a legitimate interest "in
 6-34 protecting the life of the fetus that may become a child").

6-35 (4) A statute furthering a state's "legitimate goal of
 6-36 protecting the life of the unborn" by "ensuring a decision that is
 6-37 mature and informed" is permitted "even when in so doing the State
 6-38 expresses a preference for childbirth over abortion." Planned
 6-39 Parenthood, 505 U.S. at 883.

6-40 (5) In addition, the Supreme Court has held that
 6-41 "[r]egulations which do no more than create a structural mechanism
 6-42 by which the State, or the parent or guardian of a minor, may
 6-43 express profound respect for the life of the unborn are permitted,
 6-44 if they are not a substantial obstacle to the woman's exercise of
 6-45 the right to choose." Id. at 877. "Unless it has that effect on her
 6-46 right of choice, a state measure designed to persuade her to choose
 6-47 childbirth over abortion will be upheld if reasonably related to
 6-48 that goal." Id. at 878.

6-49 (6) "The State also has an interest in protecting the
 6-50 integrity and ethics of the medical profession." Washington v.
 6-51 Glucksberg, 521 U.S. 702, 731 (1997). An abortion performed
 6-52 without a medical professional's full disclosure to a pregnant
 6-53 woman of the impact on the fetus and the potential health
 6-54 consequences of an abortion could undermine the woman's trust in
 6-55 medical professionals. This Act is intended to protect the
 6-56 integrity and ethics of the medical profession by establishing
 6-57 clear requirements that are designed to ensure the health and
 6-58 informed consent of a pregnant woman who is contemplating an
 6-59 abortion.

6-60 (b) Therefore, it is the legislature's intent in enacting
 6-61 this Act to further the purposes stated in Subsection (a) of this
 6-62 section.

6-63 (c) Furthermore, with regard to the severability clause
 6-64 contained in this Act, the legislature finds:

6-65 (1) As the United States Supreme Court has explained,
 6-66 when reviewing an abortion statute, "the proper means to consider
 6-67 exceptions is by as-applied challenge." Gonzales, 550 U.S. at 167.
 6-68 Moreover, when reviewing abortion statutes, "[t]he latitude given
 6-69 facial challenges in the First Amendment context is inapplicable."

7-1 Id. See also U.S. v. Salerno, 481 U.S. 739, 745 (1987) ("The fact
 7-2 that [a legislative Act] might operate unconstitutionally under
 7-3 some conceivable set of circumstances is insufficient to render it
 7-4 wholly invalid, since we have not recognized an 'overbreadth'
 7-5 doctrine outside the limited context of the First Amendment.").

7-6 (2) The United States Supreme Court has made the role
 7-7 of the court clear when reviewing statutes: "It is neither our
 7-8 obligation nor within our traditional institutional role to resolve
 7-9 questions of constitutionality with respect to each potential
 7-10 situation that might develop." Gonzales, 550 U.S. at 168. "[I]t
 7-11 would indeed be undesirable for this Court to consider every
 7-12 conceivable situation which might possibly arise in the application
 7-13 of complex and comprehensive legislation." Id. (quoting U.S. v.
 7-14 Raines, 362 U.S. 17, 21 (1960) (internal quotation marks omitted)).
 7-15 "For this reason, '[a]s-applied challenges are the basic building
 7-16 blocks of constitutional adjudication.'" Gonzales, 550 U.S. at 168
 7-17 (quoting Richard Fallon, As-Applied and Facial Challenges and
 7-18 Third-Party Standing, 113 Harv. L. Rev. 1321, 1328 (2000)).

7-19 (3) Severability must be considered not only with
 7-20 respect to certain clauses or provisions of a statute but also with
 7-21 respect to applications of a statute or provision when some of the
 7-22 applications are unconstitutional. See Norman J. Singer, Statutes
 7-23 and Statutory Construction, Section 44.02 (4th ed. rev. 1986).

7-24 (4) Severability clauses in federal statutes treat
 7-25 severability of clauses and applications the same. See, e.g., 2
 7-26 U.S.C. Section 1438 ("If any provision of this chapter or the
 7-27 application of such provision to any person or circumstance is held
 7-28 to be invalid, the remainder of this chapter and the application of
 7-29 the provisions of the remainder to any person or circumstance shall
 7-30 not be affected thereby."); Section 1103 of the Social Security Act
 7-31 (42 U.S.C. Section 1303); Section 15 of the National Labor
 7-32 Relations Act (29 U.S.C. Section 165); Section 11 of the Railway
 7-33 Labor Act (45 U.S.C. Section 161); Section 14 of the Agricultural
 7-34 Adjustment Act (7 U.S.C. Section 614).

7-35 (5) Courts have treated severability of clauses and
 7-36 applications the same. See Robert L. Stern, Separability and
 7-37 Separability Clauses in the Supreme Court, 51 Harv. L. Rev. 76
 7-38 (1937).

7-39 SECTION 13. The purposes of this Act include, but are not
 7-40 limited to:

7-41 (1) protecting the physical and psychological health
 7-42 and well-being of pregnant women;

7-43 (2) providing pregnant women access to information
 7-44 that would allow her to consider the impact an abortion would have
 7-45 on her unborn child; and

7-46 (3) protecting the integrity and ethical standards of
 7-47 the medical profession.

7-48 SECTION 14. The change in law made by this Act applies only
 7-49 to an abortion performed on or after the 30th day after the
 7-50 effective date of this Act. An abortion performed before the 30th
 7-51 day after the effective date of this Act is governed by the law in
 7-52 effect on the date the abortion was performed, and the former law is
 7-53 continued in effect for that purpose.

7-54 SECTION 15. The Title IV-D agency shall publish the
 7-55 information required by Section 171.0123, Health and Safety Code,
 7-56 as added by this Act, not later than the 30th day after the
 7-57 effective date of this Act.

7-58 SECTION 16. Every provision in this Act and every
 7-59 application of the provisions in this Act are severable from each
 7-60 other. If any application of any provision in this Act to any
 7-61 person or group of persons or circumstances is found by a court to
 7-62 be invalid, the remainder of this Act and the application of the
 7-63 Act's provisions to all other persons and circumstances may not be
 7-64 affected. All constitutionally valid applications of this Act
 7-65 shall be severed from any applications that a court finds to be
 7-66 invalid, leaving the valid applications in force, because it is the
 7-67 legislature's intent and priority that the valid applications be
 7-68 allowed to stand alone. Even if a reviewing court finds a provision
 7-69 of this Act invalid in a large or substantial fraction of relevant

8-1 cases, the remaining valid applications shall be severed and
8-2 allowed to remain in force.

8-3 SECTION 17. This Act takes effect immediately if it
8-4 receives a vote of two-thirds of all the members elected to each
8-5 house, as provided by Section 39, Article III, Texas Constitution.
8-6 If this Act does not receive the vote necessary for immediate
8-7 effect, this Act takes effect September 1, 2011.

8-8

* * * * *