

By: Cook

H.B. No. 35

A BILL TO BE ENTITLED

AN ACT

relating to the disposition of embryonic and fetal tissue remains;
imposing a civil penalty.

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

SECTION 1. Subtitle B, Title 8, Health and Safety Code, is amended by adding Chapter 697 to read as follows:

CHAPTER 697. DISPOSITION OF EMBRYONIC AND FETAL TISSUE REMAINS

Sec. 697.001. PURPOSE. The purpose of this chapter is to express the state's profound respect for the life of the unborn by providing for a dignified final disposition of embryonic and fetal tissue remains.

Sec. 697.002. DEFINITIONS. In this chapter:

(1) "Cremation" means the irreversible process of reducing remains to ashes or bone fragments through extreme heat and evaporation.

(2) "Department" means the Department of State Health Services.

(3) "Embryonic and fetal tissue remains" means an embryo, a fetus, body parts, or organs from a pregnancy for which the issuance of a fetal death certificate is not required by law. The term does not include the umbilical cord, placenta, gestational sac, blood, or body fluids.

(4) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

1 (5) "Incineration" means the process of burning
2 remains in an incinerator.

3 (6) "Interment" means the disposition of remains by
4 entombment, burial, or placement in a niche.

5 (7) "Steam disinfection" means the act of subjecting
6 remains to steam under pressure to disinfect the remains.

7 Sec. 697.003. APPLICABILITY OF OTHER LAW. Embryonic and
8 fetal tissue remains are not pathological waste. Unless otherwise
9 provided by this chapter, Chapters 711 and 716 of this code and
10 Chapter 651, Occupations Code, do not apply to the disposition of
11 embryonic and fetal tissue remains.

12 Sec. 697.004. DISPOSITION OF EMBRYONIC AND FETAL TISSUE
13 REMAINS. (a) A health care facility in this state that provides
14 health or medical care to a pregnant woman shall dispose of
15 embryonic and fetal tissue remains related to that care, regardless
16 of the period of gestation or weight of the fetus by:

17 (1) interment;

18 (2) cremation;

19 (3) incineration followed by interment; or

20 (4) steam disinfection followed by interment.

21 (b) The ashes resulting from the cremation or incineration
22 of embryonic and fetal tissue remains:

23 (1) may be interred or scattered in any manner as
24 authorized by law for human remains; and

25 (2) may not be placed in a landfill.

26 (c) A health care facility responsible for disposing of
27 embryonic and fetal tissue remains may coordinate with an entity in

1 the registry established under Section 697.005 in an effort to
2 offset the cost associated with burial or cremation of the
3 embryonic and fetal tissue remains of an unborn child.

4 Sec. 697.005. BURIAL OR CREMATION ASSISTANCE REGISTRY. The
5 department shall:

6 (1) establish and maintain a registry of:

7 (A) participating funeral homes and cemeteries
8 willing to provide free common burial or low-cost private burial;
9 and

10 (B) private nonprofit organizations that
11 register with the department to provide financial assistance for
12 the costs associated with burial or cremation of the embryonic and
13 fetal tissue remains of an unborn child; and

14 (2) make the registry information available on request
15 to a physician, health care facility, or agent of a physician or
16 health care facility.

17 Sec. 697.006. SUSPENSION OR REVOCATION OF LICENSE. The
18 department may suspend or revoke the license of a health care
19 facility that violates Section 697.004 or a rule adopted under this
20 chapter.

21 Sec. 697.007. CIVIL PENALTY. (a) A health care facility
22 that violates Section 697.004 or a rule adopted under this chapter
23 is liable for a civil penalty in an amount of \$1,000 for each
24 violation.

25 (b) The attorney general may sue to collect the civil
26 penalty. The attorney general may recover reasonable expenses
27 incurred in collecting the civil penalty, including court costs,

1 reasonable attorney's fees, investigation costs, witness fees, and
2 disposition expenses.

3 Sec. 697.008. RULES. The executive commissioner shall
4 adopt rules to implement this chapter.

5 SECTION 2. The executive commissioner of the Health and
6 Human Services Commission shall adopt rules to implement Chapter
7 697, Health and Safety Code, as added by this Act, not later than
8 January 1, 2018.

9 SECTION 3. Chapter 697, Health and Safety Code, as added by
10 this Act, applies only to the disposition of embryonic and fetal
11 tissue remains that occurs on or after February 1, 2018. The
12 disposition of embryonic and fetal tissue remains that occurs
13 before February 1, 2018, is governed by the law in effect
14 immediately before the effective date of this Act, and the former
15 law is continued in effect for that purpose.

16 SECTION 4. This Act takes effect September 1, 2017.