

By: Leach

H.B. No. 3246

A BILL TO BE ENTITLED

AN ACT

relating to voluntary and informed consent to an abortion and actions to be taken by an abortion provider to prevent coerced abortions and human trafficking.

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

SECTION 1. The heading to Subchapter B, Chapter 171, Health and Safety Code, is amended to read as follows:

SUBCHAPTER B. VOLUNTARY AND INFORMED CONSENT

SECTION 2. Section 171.015, Health and Safety Code, is amended to read as follows:

Sec. 171.015. INFORMATION RELATING TO PUBLIC AND PRIVATE AGENCIES. The informational materials must include:

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

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

(i) a comprehensive list of adoption agencies;

(ii) a description of the services the adoption agencies offer;

(iii) a description of the manner, including telephone numbers, in which an adoption agency may be contacted; ~~and~~

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

(v) pregnancy resource centers and maternity homes;

(vi) a comprehensive list of assistance programs for victims of family violence and human trafficking;

(vii) the telephone number and Internet website of the National Human Trafficking Resource Center;

(viii) a list of persons licensed to practice in this state as social workers, licensed professional counselors, licensed marriage and family therapists, and psychologists who have volunteered to assist women being coerced or forced to have or seek an abortion or volunteered to provide services for human trafficking rescue and restoration; and

(ix) nonprofit organizations that provide free legal aid to women being coerced or forced to have or seek an abortion or to victims of human trafficking;

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

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

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

SECTION 3. Subchapter B, Chapter 171, Health and Safety Code, is amended by adding Sections 171.019, 171.020, 171.021, 171.022, and 171.023 to read as follows:

Sec. 171.019. PREVENTION OF COERCED ABORTIONS. (a) Before any anesthesia or sedative is given to a woman and before an abortion is performed on the woman, a physician shall:

(1) verbally inform the woman that the physician cannot perform the abortion unless the woman provides her voluntary and informed consent; and

(2) provide the woman with the coerced abortion form described by Section 171.020:

(A) in both English and Spanish; and

(B) in a language other than English or Spanish if required under Section 171.020(c).

(b) A physician may not perform an abortion on a woman unless, before the abortion, the woman certifies on the coerced abortion form described by Section 171.020 that she received from the physician the information and materials required by Subsection (a).

Sec. 171.020. COERCED ABORTION FORM; RETENTION OF FORM.

(a) The department shall develop a coerced abortion form to be completed by each woman on whom an abortion is performed in this state.

(b) The department shall provide the form required by Subsection (a) in both English and Spanish.

(c) If the department determines that a substantial number of residents in this state speak a primary language other than

English or Spanish, the department shall provide the form required by Subsection (a) in that language. The department shall instruct a facility that provides abortions to provide the coerced abortion form in a language other than English or Spanish if the department determines that a substantial number of residents in the area speak a primary language other than English or Spanish.

(d) A copy of the coerced abortion form certified by the woman shall be placed in the woman's medical file and kept until at least the seventh anniversary of the date on which the form was signed or, if the woman is a minor, at least until the date the woman reaches 20 years of age, whichever is later.

Sec. 171.021. PREVENTION OF HUMAN TRAFFICKING; ASSISTANCE TO VICTIMS. (a) If a woman at any time before an abortion is performed on the woman indicates to the physician or the physician's agent that she is a victim of human trafficking or the physician is otherwise made aware that the woman has indicated she is a victim of human trafficking, the physician shall:

(1) report an offense under Section 20A.02, Penal Code, to local law enforcement;

(2) provide the woman with the information described by Section 171.015; and

(3) provide the woman with access to a telephone in a private room.

(b) An agent of a physician, including a volunteer for or an employee of the physician or of an office or facility at which abortions are performed, shall immediately notify the physician who is to perform an abortion on a woman if the woman communicates to

1 the agent that the woman is a victim of human trafficking.

2 (c) If a physician or physician's agent has reasonable
3 suspicion that a woman is a victim of human trafficking, the
4 physician or physician's agent shall immediately report the
5 suspected trafficking and the name of the individual suspected of
6 trafficking to the appropriate local law enforcement agency.

7 Sec. 171.022. WITHDRAWAL OF CONSENT. A woman on whom an
8 abortion is to be performed may withdraw consent to the abortion at
9 any time before the performance of the abortion.

10 Sec. 171.023. SIGN POSTING. (a) An office or facility at
11 which abortions are performed shall post the following sign:
12 "NOTICE: Human trafficking, including sex trafficking, is a
13 violation of the law, and the state can help victims of trafficking.
14 You have the right to a telephone in a private room to contact any
15 local law enforcement agency to receive protection from any actual
16 or threatened physical abuse or violence. Texas law prohibits a
17 physician from performing an abortion, including inducing,
18 prescribing for, or otherwise providing the means for an abortion,
19 unless you give your voluntary and informed consent without
20 coercion or force. Texas law also prohibits a physician from
21 performing an abortion against your will."

22 (b) The sign described by Subsection (a) must:

23 (1) be printed with lettering that is legible and in at
24 least two-inch boldfaced type;

25 (2) be printed and posted in both English and Spanish,
26 as well as any language other than English or Spanish if it is
27 likely that a substantial number of the residents in the area speak

1 a language other than English or Spanish as their primary language;
2 and

3 (3) include the telephone number for the National
4 Domestic Violence Hotline.

5 (c) An office or facility at which abortions are performed
6 shall conspicuously post the sign described by Subsection (a) in a
7 location in which each patient will be able to view the sign while
8 the patient is alone.

9 (d) If requested by a patient, the office or facility shall
10 provide the patient:

11 (1) a paper copy of the sign described by Subsection
12 (a) in the language preferred by the patient; and

13 (2) access to a telephone in a private room.

14 SECTION 4. (a) As soon as practicable after the effective
15 date of this Act, the Department of State Health Services shall:

16 (1) develop and make available:

17 (A) the coerced abortion form required by
18 Subchapter B, Chapter 171, Health and Safety Code, as amended by
19 this Act, along with instructions for completing the form; and

20 (B) the sign required by Section 171.023, Health
21 and Safety Code, as added by this Act; and

22 (2) revise the informational materials under Section
23 171.015, Health and Safety Code, as amended by this Act.

24 (b) The executive commissioner of the Health and Human
25 Services Commission may identify rules required by the passage of
26 this Act that must be adopted on an emergency basis and may use the
27 procedures established under Section 2001.034, Government Code,

1 for adopting those rules. The executive commissioner is not
2 required to make the finding described by Section 2001.034(a),
3 Government Code, to adopt emergency rules under this subsection.

4 (c) A physician or other person subject to the requirements
5 of Sections 171.019, 171.020, 171.021, 171.022, and 171.023, Health
6 and Safety Code, as added by this Act, is not required to provide,
7 use, or retain the coerced abortion form under Section 171.019 or
8 171.020, Health and Safety Code, as added by this Act, or post the
9 sign required under Section 171.023, Health and Safety Code, as
10 added by this Act, before the Department of State Health Services
11 develops and makes available the form and the sign.

12 (d) A physician is not criminally liable under Section
13 171.018, Health and Safety Code, for failing to provide updated
14 informational materials under Section 171.015, Health and Safety
15 Code, as amended by this Act, failing to provide, use, or retain the
16 coerced abortion form under Section 171.019 or 171.020, Health and
17 Safety Code, as added by this Act, or failing to post the sign
18 required under Section 171.023, Health and Safety Code, as added by
19 this Act, before the Department of State Health Services develops
20 and makes available the revised informational materials, the form,
21 or the sign.

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