

1-1 By: Paxton, et al. S.B. No. 802  
 1-2 (In the Senate - Filed February 25, 2021; March 11, 2021,  
 1-3 read first time and referred to Committee on State Affairs;  
 1-4 March 22, 2021, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 8, Nays 1; March 22, 2021,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15		X		
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 802 By: Birdwell

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to a required resource access assistance offer before an  
 1-22 abortion is performed or induced.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subchapter B, Chapter 171, Health and Safety  
 1-25 Code, is amended by adding Section 171.01205 to read as follows:

1-26 Sec. 171.01205. REQUIRED PRE-ABORTION RESOURCE ACCESS  
 1-27 ASSISTANCE OFFER. (a) In addition to the informed consent  
 1-28 requirements under Section 171.012, except during a medical  
 1-29 emergency, and before the abortion is performed or induced, the  
 1-30 physician who is to perform or induce an abortion shall confirm the  
 1-31 pregnant woman received a pre-abortion resource access assistance  
 1-32 offer, as required by this section, by:

1-33 (1) verifying the unique identifying number provided  
 1-34 to the woman as required by Subsection (d) is recorded in a secure  
 1-35 database maintained by the commission; and

1-36 (2) documenting the pregnant woman's unique  
 1-37 identifying number in the woman's medical record.

1-38 (b) A care agent providing a resource access assistance  
 1-39 offer under this section:

1-40 (1) must be:

1-41 (A) licensed as a counselor, doctor,  
 1-42 psychologist, social worker, nurse, advanced practice registered  
 1-43 nurse, community health worker, physician's assistant, or marriage  
 1-44 and family therapist; or

1-45 (B) acting under the supervision of an individual  
 1-46 described by Paragraph (A);

1-47 (2) must:

1-48 (A) be authorized under a contract with the  
 1-49 commission to provide resource access assistance offers and support  
 1-50 services on behalf of this state in accordance with this section;

1-51 (B) complete a training program on identifying  
 1-52 and assisting victims of human trafficking using a standardized  
 1-53 curriculum created by the human trafficking prevention task force  
 1-54 established under Section 402.035, Government Code; and

1-55 (C) comply with medical records privacy laws  
 1-56 under Chapter 181;

1-57 (3) in the last two years, may not:

1-58 (A) have performed or induced an abortion; or

1-59 (B) have served as a director, board member,  
 1-60 officer, volunteer, or employee for an abortion facility licensed

2-1 under Chapter 245; and

2-2 (4) may not refer a woman to an abortion provider,  
2-3 recommend abortion, or take any other action that directly or  
2-4 indirectly advises or assists a woman in obtaining an abortion.

2-5 (c) The resource access assistance offer must be provided by  
2-6 and on behalf of this state at no cost to the pregnant woman from a  
2-7 care agent who meets the qualifications described by Subsection  
2-8 (b). The care agent during a resource access assistance offer shall  
2-9 provide:

2-10 (1) medically accurate information using the  
2-11 informational materials described by Section 171.014;

2-12 (2) an assessment of eligibility for and offer of  
2-13 assistance in obtaining support services other than abortion for  
2-14 the woman or unborn child's biological father, including housing,  
2-15 employment, resume development, child care, prenatal and  
2-16 postpartum medical care, mental health or behavioral counselling,  
2-17 adoption services, financial assistance, abuse or neglect  
2-18 prevention assistance, substance or alcohol abuse prevention  
2-19 assistance, and health benefit plan coverage;

2-20 (3) education on available public and private  
2-21 resources to address the woman's or biological father's  
2-22 socioeconomic needs; and

2-23 (4) screening for:

2-24 (A) family violence, abuse, and neglect  
2-25 victimization;

2-26 (B) coercion of abortion; and

2-27 (C) human trafficking victimization.

2-28 (d) After providing the resource access assistance offer,  
2-29 the care agent or the contracting agency that employs the care agent  
2-30 shall:

2-31 (1) certify to the commission using a unique  
2-32 identifying number, devoid of personally identifying information  
2-33 of the pregnant woman, that the woman received the resource access  
2-34 assistance offer; and

2-35 (2) provide to the pregnant woman the identifying  
2-36 number described by Subdivision (1).

2-37 (e) A care agent shall report to the commission  
2-38 de-identified demographic information obtained through a resource  
2-39 access assistance offer provided under this section to assist the  
2-40 commission in determining the supply and demand of social services  
2-41 in the pregnant woman's geographic region.

2-42 (f) The commission shall develop and maintain on the  
2-43 commission's Internet website a secure database to store the unique  
2-44 identifying numbers provided under Subsection (d) and that allows  
2-45 the care agent to submit the de-identified information required  
2-46 under Subsection (e).

2-47 (g) The commission shall establish a single toll-free  
2-48 telephone number through which a woman seeking an abortion in this  
2-49 state may receive a resource access assistance offer on a 24-hour  
2-50 basis. The commission must ensure the placed call automatically  
2-51 routes the woman to a care agent at a contracting agency to provide  
2-52 the resource access assistance offer.

2-53 (h) The pregnant woman:

2-54 (1) is not required to:

2-55 (A) provide any information to the care agent or  
2-56 contracting agency; or

2-57 (B) initiate or complete services offered under  
2-58 this section to obtain an abortion;

2-59 (2) may decline services under this section at any  
2-60 time; and

2-61 (3) if accepting a resource assistance offer, shall  
2-62 retain access to the offer until the second anniversary of the date  
2-63 of acceptance, regardless of the woman's pregnancy.

2-64 SECTION 2. Section 171.0121, Health and Safety Code, is  
2-65 amended to read as follows:

2-66 Sec. 171.0121. MEDICAL RECORD. (a) Before the abortion  
2-67 begins, a copy of the signed, written certification received by the  
2-68 physician under Section 171.012(a)(6) and documentation of the  
2-69 receipt of the resource access assistance offer required under

3-1 Section 171.01205 must be placed in the pregnant woman's medical  
3-2 records.

3-3 (b) A copy of the signed, written certification required  
3-4 under Sections 171.012(a)(5) and (6) and documentation of the  
3-5 receipt of the resource access assistance offer required under  
3-6 Section 171.01205 shall be retained by the facility where the  
3-7 abortion is performed until:

3-8 (1) the seventh anniversary of the date it is signed;  
3-9 or

3-10 (2) if the pregnant woman is a minor, the later of:  
3-11 (A) the seventh anniversary of the date it is  
3-12 signed; or

3-13 (B) the woman's 21st birthday.

3-14 SECTION 3. (a) Notwithstanding Section 171.01205, Health  
3-15 and Safety Code, as added by this Act, and Section 171.0121, Health  
3-16 and Safety Code, as amended by this Act, a physician is not required  
3-17 to comply with the changes in law made by this Act before April 1,  
3-18 2023.

3-19 (b) Not later than August 31, 2022, the executive  
3-20 commissioner of the Health and Human Services Commission shall  
3-21 adopt rules as necessary to implement this Act.

3-22 (c) Not later than April 1, 2023, the Health and Human  
3-23 Services Commission shall contract with one or more contracting  
3-24 agencies that employ care agents throughout this state to provide  
3-25 the pre-abortion resource access assistance offer and assistance in  
3-26 obtaining support services described by Section 171.01205, Health  
3-27 and Safety Code, as added by this Act.

3-28 SECTION 4. The changes in law made by this Act apply only to  
3-29 an abortion performed or induced on or after April 1, 2023. An  
3-30 abortion performed or induced before April 1, 2023, is governed by  
3-31 the law applicable to the abortion immediately before the effective  
3-32 date of this Act, and that law is continued in effect for that  
3-33 purpose.

3-34 SECTION 5. It is the intent of the legislature that every  
3-35 provision, section, subsection, sentence, clause, phrase, or word  
3-36 in this Act, and every application of the provisions in this Act to  
3-37 each person or entity, are severable from each other. If any  
3-38 application of any provision in this Act to any person, group of  
3-39 persons, or circumstances is found by a court to be invalid for any  
3-40 reason, the remaining applications of that provision to all other  
3-41 persons and circumstances shall be severed and may not be affected.

3-42 SECTION 6. The Health and Human Services Commission is  
3-43 required to implement this Act only if the legislature appropriates  
3-44 money specifically for that purpose. If the legislature does not  
3-45 appropriate money specifically for that purpose, the commission  
3-46 may, but is not required to, implement the Act using other  
3-47 appropriations available for the purpose.

3-48 SECTION 7. This Act takes effect September 1, 2021.

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