

1-1 By: Perry, et al. S.B. No. 1146
 1-2 (In the Senate - Filed March 8, 2021; March 18, 2021, read
 1-3 first time and referred to Committee on Health & Human Services;
 1-4 April 19, 2021, reported favorably by the following vote: Yeas 5,
 1-5 Nays 3; April 19, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
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 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to abortion reporting and exemptions to abortion facility
 1-20 licensing; creating a criminal offense.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Subchapter A, Chapter 171, Health and Safety
 1-23 Code, is amended by adding Section 171.008 to read as follows:

1-24 Sec. 171.008. REPORTING REQUIREMENTS FOR ABORTIONS
 1-25 PERFORMED OUTSIDE ABORTION FACILITY; CRIMINAL OFFENSE. (a) A
 1-26 physician who performs an abortion at a location other than an
 1-27 abortion facility licensed under Chapter 245 must complete and
 1-28 submit a monthly report to the commission on each abortion
 1-29 performed by the physician. The report must be submitted on a form
 1-30 provided by the commission.

1-31 (b) The report may not identify by any means the patient.

1-32 (c) The report must include:

1-33 (1) the type of facility at which the abortion was
 1-34 performed and the licensing status of that facility;

1-35 (2) the patient's year of birth, race, marital status,
 1-36 and state and county of residence;

1-37 (3) the type of abortion procedure performed;

1-38 (4) the date the abortion was performed;

1-39 (5) whether the patient survived the abortion, and if
 1-40 the patient did not survive, the cause of death;

1-41 (6) the probable post-fertilization age of the unborn
 1-42 child based on the best medical judgment of the attending physician
 1-43 at the time of the procedure;

1-44 (7) the date, if known, of the patient's last menstrual
 1-45 cycle;

1-46 (8) the number of previous live births of the patient;

1-47 (9) the number of previous induced abortions of the
 1-48 patient; and

1-49 (10) the county in which the abortion was performed.

1-50 (d) All information and records held by the commission under
 1-51 this section are confidential and are not open records for the
 1-52 purposes of Chapter 552, Government Code. That information may not
 1-53 be released or made public on subpoena or otherwise, except that
 1-54 release may be made:

1-55 (1) for statistical purposes, but only if a person,
 1-56 patient, or physician performing an abortion is not identified;

1-57 (2) with the consent of each person, patient, and
 1-58 physician identified in the information released;

1-59 (3) to medical personnel, appropriate state agencies,
 1-60 or county and district courts to enforce this chapter; or

1-61 (4) to appropriate state licensing boards to enforce

2-1 state licensing laws.

2-2 (e) A person commits an offense if the person violates
 2-3 Subsection (b), (c), or (d). An offense under this subsection is a
 2-4 Class A misdemeanor.

2-5 (f) Not later than the 15th day of each month, a physician
 2-6 shall submit to the commission the report required by this section
 2-7 for each abortion performed by the physician at a location other
 2-8 than an abortion facility in the preceding calendar month.

2-9 (g) The commission shall establish and maintain a secure
 2-10 electronic reporting system for the submission of the reports
 2-11 required by this section. The commission shall adopt procedures to
 2-12 enforce this section and to ensure that only physicians who perform
 2-13 one or more abortions during the preceding calendar month are
 2-14 required to file the reports under this section for that month.

2-15 SECTION 2. Section 245.004, Health and Safety Code, as
 2-16 amended by Chapters 198 (H.B. 2292) and 999 (H.B. 15), Acts of the
 2-17 78th Legislature, Regular Session, 2003, is reenacted and amended
 2-18 to read as follows:

2-19 Sec. 245.004. EXEMPTIONS FROM LICENSING REQUIREMENT. (a)
 2-20 The following facilities need not be licensed under this chapter:

2-21 (1) a hospital licensed under Chapter 241 (Texas
 2-22 Hospital Licensing Law); ~~[or]~~

2-23 (2) the office of a physician licensed under Subtitle
 2-24 B, Title 3, Occupations Code, unless the office is used
 2-25 substantially for the purpose of performing ~~[more than 50]~~
 2-26 abortions; or

2-27 (3) an ambulatory surgical center licensed under
 2-28 Chapter 243.

2-29 (b) For purposes of this section, a facility is used
 2-30 substantially for the purpose of performing abortions if the
 2-31 facility:

2-32 (1) is a provider for performing:

2-33 (A) at least five ~~[10]~~ abortion procedures during
 2-34 any month; or

2-35 (B) at least 50 ~~[100]~~ abortion procedures in a
 2-36 12-month period ~~[year]~~;

2-37 (2) operates less than 20 days in a month and the
 2-38 facility, in any month, is a provider for performing a number of
 2-39 abortion procedures that would be equivalent to at least five ~~[10]~~
 2-40 procedures in a month if the facility were operating at least 20
 2-41 days in a month;

2-42 (3) holds itself out to the public as an abortion
 2-43 provider by advertising by any public means, including advertising
 2-44 placed in a newspaper, telephone directory, magazine, or electronic
 2-45 medium, that the facility performs abortions; or

2-46 (4) applies for an abortion facility license.

2-47 (b-1) In computing the number of abortions performed for
 2-48 purposes of Subsections (b)(1) and (2), an abortion performed in
 2-49 accordance with Section 245.016 is not included.

2-50 (c) For purposes of this section, an abortion facility is
 2-51 operating if the facility is open for any period of time during a
 2-52 day and has on site at the facility or on call a physician available
 2-53 to perform abortions.

2-54 SECTION 3. Section 245.011(c), Health and Safety Code, is
 2-55 amended to read as follows:

2-56 (c) The report must include:

2-57 (1) whether the abortion facility at which the
 2-58 abortion is performed is licensed under this chapter;

2-59 (2) the patient's year of birth, race, marital status,
 2-60 and state and county of residence;

2-61 (3) the type of abortion procedure performed;

2-62 (4) the date the abortion was performed;

2-63 (5) whether the patient survived the abortion, and if
 2-64 the patient did not survive, the cause of death;

2-65 (6) the probable post-fertilization age of the unborn
 2-66 child based on the best medical judgment of the attending physician
 2-67 at the time of the procedure;

2-68 (7) the date, if known, of the patient's last menstrual
 2-69 cycle;

3-1 (8) the number of previous live births of the patient;
3-2 [~~and~~]
3-3 (9) the number of previous induced abortions of the
3-4 patient; and
3-5 (10) the county in which the abortion was performed.

3-6 SECTION 4. Section 245.002, Health and Safety Code, is
3-7 amended by adding Subdivision (3) to read as follows:

3-8 (3) "Commission" means the Health and Human Services
3-9 Commission.

3-10 SECTION 5. Section 245.0116, Health and Safety Code, is
3-11 amended to read as follows:

3-12 Sec. 245.0116. COMMISSION [~~DEPARTMENT~~] REPORT. (a) The
3-13 commission [~~department~~] shall publish on its Internet website a
3-14 monthly report containing aggregate data of the information in the
3-15 reports submitted under Sections 171.008 and [~~Section~~] 245.011.
3-16 The report must specify the number of abortions performed in each
3-17 county during the reporting period.

3-18 (b) The commission's [~~department's~~] monthly report may not
3-19 identify by any means an abortion facility, a physician performing
3-20 the abortion, or a patient.

3-21 SECTION 6. The changes in law made by this Act apply only to
3-22 an abortion performed on or after the effective date of this Act.

3-23 SECTION 7. This Act takes effect September 1, 2021.

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