

By: Zwiener

H.B. No. 5427

A BILL TO BE ENTITLED

AN ACT

relating to prohibited conduct, enforcement actions, and proceedings concerning a pregnancy loss and to the provision of pregnancy loss information.

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

SECTION 1. Subtitle H, Title 2, Health and Safety Code, is amended by adding Chapter 174 to read as follows:

CHAPTER 174. PROHIBITED REPORT, DISCLOSURE, AND CRIMINAL OR  
CIVIL ENFORCEMENT OF PREGNANCY LOSS

Sec. 174.001. DEFINITIONS. In this chapter:

(1) "Abortion" has the meaning assigned by Section  
245.002.

(2) "Electronic communication" means a communication  
facilitated through use of an electronic device, including a  
cellular telephone, computer, computer network, personal data  
assistant, or pager. The term includes an e-mail, a text message,  
an instant message, and any communication through a mobile  
application for electronic devices or through an Internet website.

(3) "Health care professional" means an individual who  
is licensed, certified, or otherwise authorized by state law to

provide health care services in the ordinary course of business or practice of a profession.

(4) "Medical record" means a record in any form or medium that a health care professional creates or receives to document a patient's personal health information, including medical history, diagnosis, treatment, or prognosis information.

(5) "Miscarriage" means the natural or accidental termination of a pregnancy occurring before a probable gestational age of not more than 20 completed weeks.

(6) "Pregnancy loss" means an intentional or unintentional termination of a pregnancy at any stage. The term includes a miscarriage, stillbirth, and abortion.

(7) "Pregnancy loss-related complication" means a physical or psychological condition arising from a pregnancy loss. The term includes a hemorrhage, an infection, a uterine perforation, depression, anxiety, or post-traumatic stress disorder.

(8) "Stillbirth" has the meaning assigned by Section 192.0022.

Sec. 174.002. PROHIBITED REPORT OR DISCLOSURE OF PREGNANCY LOSS BY CERTAIN HEALTH CARE PROFESSIONALS. (a) Notwithstanding any other law and except as required by federal law, a health care professional providing health care services to a patient who

experiences a pregnancy loss, or who the health care professional reasonably suspects has experienced a pregnancy loss, may not report or disclose that information to a peace officer or law enforcement agency.

(b) A health care professional's violation of Subsection (a) constitutes a violation of Chapter 181 and the health care professional is subject to enforcement actions under Subchapter E of that chapter, including an action for injunctive relief or a civil penalty and disciplinary action by the appropriate licensing authority.

Sec. 174.003. UNLAWFUL ACCESS OR DISCLOSURE OF MEDICAL RECORDS ON PREGNANCY LOSS. A person who knowingly accesses or discloses information contained in an individual's medical records disclosed in violation of this chapter or other law is considered to be in violation of Chapter 181 and the person is subject to enforcement actions under Subchapter E of that chapter, including an action for injunctive relief or a civil penalty and disciplinary action by the appropriate licensing authority.

Sec. 174.004. PROHIBITED REPORT TO LAW ENFORCEMENT. Notwithstanding any other law and unless the circumstances constitute a clear and present danger to an individual who experienced a pregnancy loss, a person may not use the individual's pregnancy loss experience as the basis for filing a report to a

peace officer or law enforcement agency.

Sec. 174.005. PROHIBITED ENFORCEMENT OF CRIMINAL OFFENSE. A health care professional's treatment for pregnancy loss-related complications does not through the treatment alone constitute probable cause for the arrest or detainment of an individual for an offense under:

- (1) Chapter 170A;
- (2) Chapter 171; or
- (3) Chapter 6-1/2, Title 71, Revised Statutes.

Sec. 174.006. REQUIRED CONSENT FOR INTERVIEW OR QUESTIONING ON PREGNANCY LOSS. (a) A peace officer may not conduct an interview with or otherwise question an individual for any purpose regarding a pregnancy loss the individual experienced or may have experienced unless the peace officer obtains the individual's written consent for the interview or questioning.

(b) A statement a peace officer obtains in violation of Subsection (a) is not admissible as evidence in any proceeding concerning the matter about which the statement was given.

Sec. 174.007. PREGNANCY LOSS MEDICAL RECORDS AND COMMUNICATIONS NOT SUBJECT TO DISCLOSURE. (a) Except as provided by Subsection (b), in a civil action or criminal proceeding related to an individual's pregnancy loss, the individual's medical records or electronic communications are not:

(1) admissible as evidence;  
(2) subject to disclosure, inspection, or copying under  
Chapter 552, Government Code; and  
(3) subject to discovery, subpoena, or other means of  
legal compulsion for the release of the records or communications.

(b) Subsection (a) shall not apply if:

(1) The individual who experienced pregnancy loss  
provides informed, written consent to the particular use of  
the records or communications, or;

(2) The records are being used in a criminal proceeding  
by the prosecution in a domestic or family violence case where  
the individual experiencing pregnancy loss was the victim.

Sec. 174.008. STATEMENT OR TESTIMONY OF INDIVIDUAL WHO  
EXPERIENCED PREGNANCY LOSS. (a) In a civil action related to an  
individual's pregnancy loss, including an action filed under  
Section 171.208, the individual may not be compelled to make a  
statement during a deposition or testify.

(b) The court or the counsel in an action described by  
Subsection (a) may not comment on the individual's refusal to make  
a statement or testify, and the trier of fact may not draw any  
adverse inference from the individual's refusal to make a statement  
or testify.

Sec. 174.009. PREGNANCY LOSS EDUCATIONAL AND INFORMATIONAL

MATERIALS. (a) The commission shall develop for health care professionals educational materials on the requirements of this chapter and the importance of protecting the privacy of individuals who experience pregnancy loss. The materials must include:

(1) information on a health care professional's duties under this chapter;

(2) guidance on best practices for a health care professional to maintain patient confidentiality; and

(3) information on available training courses on appropriate patient support services available through licensed medical practices or facilities regulated by the Texas Medical Board.

(b) The commission shall develop informational materials for individuals who experience a pregnancy loss. The materials must include:

(1) information on the privacy rights afforded under this chapter to individuals who experience a pregnancy loss;

(2) contact information for available support services available through licensed medical practices or facilities regulated by the Texas Medical Board, including counseling and mental health services; and

(3) guidance on the procedure for submitting a complaint to the commission under Section 174.010.

(c) The commission shall publish the educational and informational materials described by Subsections (a) and (b) on the commission's Internet website.

(d) A health care professional who provides health care services to a patient who experiences pregnancy loss shall provide to the patient a written copy of the informational materials described by Subsection (b).

Sec. 174.010. COMPLAINT PROCEDURE; CONFIDENTIAL INFORMATION. (a) The commission shall implement a procedure for individuals to submit to the commission a confidential complaint alleging a violation of this chapter. The procedure must include an anonymous hotline and an online portal for submitting a complaint.

(b) The executive commissioner shall adopt rules to implement and administer the complaint process, including rules establishing procedures for the commission to investigate and respond to alleged violations of this chapter identified in a complaint.

(c) Any personally identifying information in a patient's medical records or electronic communications acquired by the commission under this section is confidential and is not subject to disclosure under Chapter 552, Government Code.

SECTION 2. Section 174.006, Health and Safety Code, as added

by this Act, applies only to an interview or other questioning that occurs on or after the effective date of this Act. An interview or other questioning that occurs before the effective date of this Act is governed by the law in effect on the date the interview or other questioning occurred, and the former law is continued in effect for that purpose.

SECTION 3. Sections 174.007 and 174.008, Health and Safety Code, as added by this Act, apply only to a civil action or criminal proceeding related to an individual's pregnancy loss that is filed on or after the effective date of this Act. A civil action or criminal proceeding that is filed before the effective date of this Act is governed by the law in effect on the date the action or proceeding began, and the former law is continued in effect for that purpose.

SECTION 4. (a) Not later than December 31, 2025, the Health and Human Services Commission shall develop and publish on the commission's Internet website the educational and informational materials required by Section 174.009, Health and Safety Code, as added by this Act.

(b) Notwithstanding Section 174.009(d), Health and Safety Code, as added by this Act, a health care professional who provides health care services to a patient who experiences a pregnancy loss is not required to comply with that provision until January 1,



2026.

SECTION 5. As soon as practicable after the effective date of this Act but not later than January 1, 2026, the executive commissioner of the Health and Human Services Commission shall adopt rules necessary to implement and administer Section 174.010, Health and Safety Code, as added by this Act.

SECTION 6. This Act takes effect September 1, 2025.