

To: County Judge Lina Hidalgo
From: Katie Short, Director; Amber Weed, Chief of Staff and Policy Director; Amy Rose, Senior Analyst
CC: Alex Triantaphyllis, Wallis Nader, Samantha Kealoha, and Stephen Dockery with the County Judge's Office; Jay Aiyer, Office of the Harris County Attorney
Date: December 14, 2021
Re: **Mitigating the Impact of SB8**

EXECUTIVE SUMMARY

On September 14, 2021, Harris County Commissioners Court, at the request of the County Judge's Office, directed the Commissioners Court's Analyst's Office (the "Analyst's Office"), "to investigate opportunities to support individuals impacted by this law (SB8) or otherwise mitigate the law's negative effects."

Texas Senate Bill 8 (SB8), which prohibits abortions after the detection of a "fetal heartbeat," was passed during the 87th Texas Legislature regular session and went into effect on September 1, 2021. The law offers a \$10,000 reward for private citizens who sue abortion providers as well as anyone who helps a person access an abortion after the detection of a fetal heartbeat.

This memo provides background on the legal status of abortions in Texas, an overview of the impact of SB8 in Harris County, and an overview of opportunities to support individuals impacted by the law or otherwise mitigate the law's negative effects. The Harris County Attorney's Office (CAO) provided analysis on related state and federal laws.

Opportunities for Harris County to mitigate the negative impacts of SB8 include:

- **Provide financial support to organizations for abortion-related costs.** Harris County could provide funding for practical support organizations, which offer ancillary services to abortion care, such as transportation to and from clinics, childcare, and lodging for those seeking an abortion after a fetal heartbeat is detected outside of Texas.
- **Disseminate information.** Harris County could create or support the creation of a repository of information, like a website or other online presence, in addition to producing printed materials, that centralizes and consolidates abortion resources and information for residents.
- **Lobby to change or enact state laws and protections.** Harris County could lobby to expand access to abortion and amend laws that currently restrict access.

INTRODUCTION

On September 14, 2021, Harris County Commissioners Court, at the request of the County Judge's Office, directed the Commissioners Court's Analyst's Office (the "Analyst's Office"), "to investigate opportunities to support individuals impacted by this law (SB8) or otherwise mitigate the law's negative effects."

Texas Senate Bill 8 (SB8), the "Texas Heartbeat Act", which prohibits abortions after "the detection of a fetal heartbeat" (typically around six weeks after conception), was passed during the 87th Texas Legislature regular session and went into effect on September 1, 2021.¹ In addition to reducing the legal timeframe for a legal abortion to occur, the law offers a \$10,000 reward for private citizens who sue abortion providers as well as anyone who helps a person access an abortion in Texas after the detection of a fetal heartbeat.

There have been several legal challenges to SB8 since it went into effect. As of December 7, 2021, SB8 remains in effect in its entirety.

This memo provides background on the legal status of abortions in Texas (including a summary of SB8), an overview of the impact of the law in Harris County, and an overview of opportunities to support individuals impacted by the law or otherwise mitigate the law's negative effects. Opportunities identified for Harris County are drawn from interviews with other jurisdictions, nonprofit organizations, and consultation with the County Attorney's Office (CAO). This document does not contain a formal legal opinion and should not be construed as such.

BACKGROUND

In 1973, the US Supreme Court's *Jane Roe, et al. v. Henry Wade*, District Attorney of Dallas County decision ruled that Texas statutes criminalizing abortion violated a woman's constitutional right to privacy, stating that the right of privacy, "whether it be founded in the Fourteenth Amendment's concept of personal liberty and restrictions upon state action, as we feel it is, or, as the District Court determined, in the Ninth Amendment's reservation of rights to the people, is broad enough to encompass a woman's decision whether or not to terminate her pregnancy."² *Roe v. Wade* confirmed that "the Constitution protected a woman's right to an abortion prior to the viability of the fetus."³

Since the 1973 ruling, the Texas State Legislature (and the legislatures of many other states) passed numerous pieces of legislation that limit access to abortion in the state or otherwise interfere with an individual's decisions to seek abortion. In the last decade alone, Texas enacted five notable restrictions to abortion care services delivered to adults within the state:

- In **2011**, Texas enacted a mandatory sonogram law requiring individuals seeking abortion to undergo a sonogram at least 24 hours before the abortion procedure, and that physicians provide the individual with certain informational

materials including information about paternity establishment and child support if they choose not to have an abortion.⁴

- In **2013**, Texas banned abortions after 20 weeks post-fertilization and required specific medical oversight for individuals taking abortion-inducing medication that limited the window of time permissible for patients to take the medication.⁵
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- In **2017**, Texas banned insurers in the state from covering abortion care as part of an overall health insurance plan and permitted coverage for abortion only in the case of medical emergency.⁷ The State also renamed a common type of abortion procedure, “dilation and evacuation” to “dismemberment abortion”, banned the procedure, and classified it as a state jail felony.⁸
- In **2019**, Texas banned state and local government entities from providing assistance to clinics that are affiliated with abortion providers.⁹ The state also modified the requirements for abortion to include that women who live within a hundred miles of an abortion clinic must receive in-person consultations 24 hours before their procedure.¹⁰
- In **2021**, Texas prohibited physicians or providers from giving abortion-inducing medication to patients who are more than seven weeks pregnant and banned abortion-inducing drugs from being mailed in Texas.¹¹

In May 2021, Governor Abbott signed Senate Bill 8 (SB8), the “Texas Heartbeat Act”.¹² The law went into effect on September 1, 2021 and bans abortions in pregnancies where there is a detectable fetal heartbeat (typically six weeks gestation), except for in instances of medical emergencies. SB8 defines a “fetal heartbeat” as “cardiac activity or the steady and repetitive rhythmic contraction of the fetal heart within the gestational sac.” This definition is somewhat misleading, as healthcare providers typically refer to the developing child as a “fetus” after the eighth week of development, before then, it is referred to as an embryo.

SB8 states that exceptions are provided in cases of a medical emergency, defined as a “life-threatening physical condition aggravated by, caused by, or arising from a pregnancy that, as certified by a physician, places the woman in danger of death or a serious risk of substantial impairment of a major bodily function unless an abortion is performed.”¹³ If an abortion was performed or induced because of a medical emergency, the physician must document this information in the patient’s medical record.¹⁴

SB8 notably empowers private individuals, rather than the government, to enforce the law by permitting private residents to bring civil action against any individual that (1) performs or induces an abortion (such as physicians) after the detection of a fetal heartbeat; or (2) knowingly engages in conduct that aids or abets the performance or inducement of an abortion, including paying for or reimbursing the costs of an abortion through insurance or otherwise.¹⁵ Successful plaintiffs will be awarded “statutory damages in an amount of not less than \$10,000 for each abortion that the

defendant performed or induced in violation [of this law], and for each abortion performed or induced in violation [of this law] that the defendant aided or abetted.”¹⁶

The Texas Medical Association notes that the law is “precedent-setting and could normalize vigilante interference in the patient-physician relationship in other complex, controversial medical or ethical situations.”¹⁷

Several legal challenges have been brought against SB8. On July 13, 2021, Texas Whole Woman’s Health, on behalf of a coalition of abortion providers, doctors, clinic staff, abortion funds, support networks, and clergy members, filed a lawsuit (*Whole Woman’s Health v. Jackson, 2021*) to challenge the merits of the law.¹⁸ The lawsuit argues that SB8 “violates Texans’ constitutional right to privacy and liberty as established by *Roe v. Wade*, and the constitutional rights of abortion providers and supporters, including their right to equal protection under the law, and their First Amendment rights to free speech and access to the courts.”¹⁹

On September 9, 2021, the US Department of Justice filed a lawsuit (*United States v. Texas, 2021*) arguing that SB8 is “invalid under the Supremacy Clause and the Fourteenth Amendment, is preempted by federal law, and violates the doctrine of intergovernmental immunity.”²⁰ The DOJ lawsuit also challenges that the awarding of \$10,000 to citizens who bring civil action against individuals who facilitate an individual’s exercise of their own constitutional rights is an “unprecedented scheme...designed to evade judicial review.”²¹

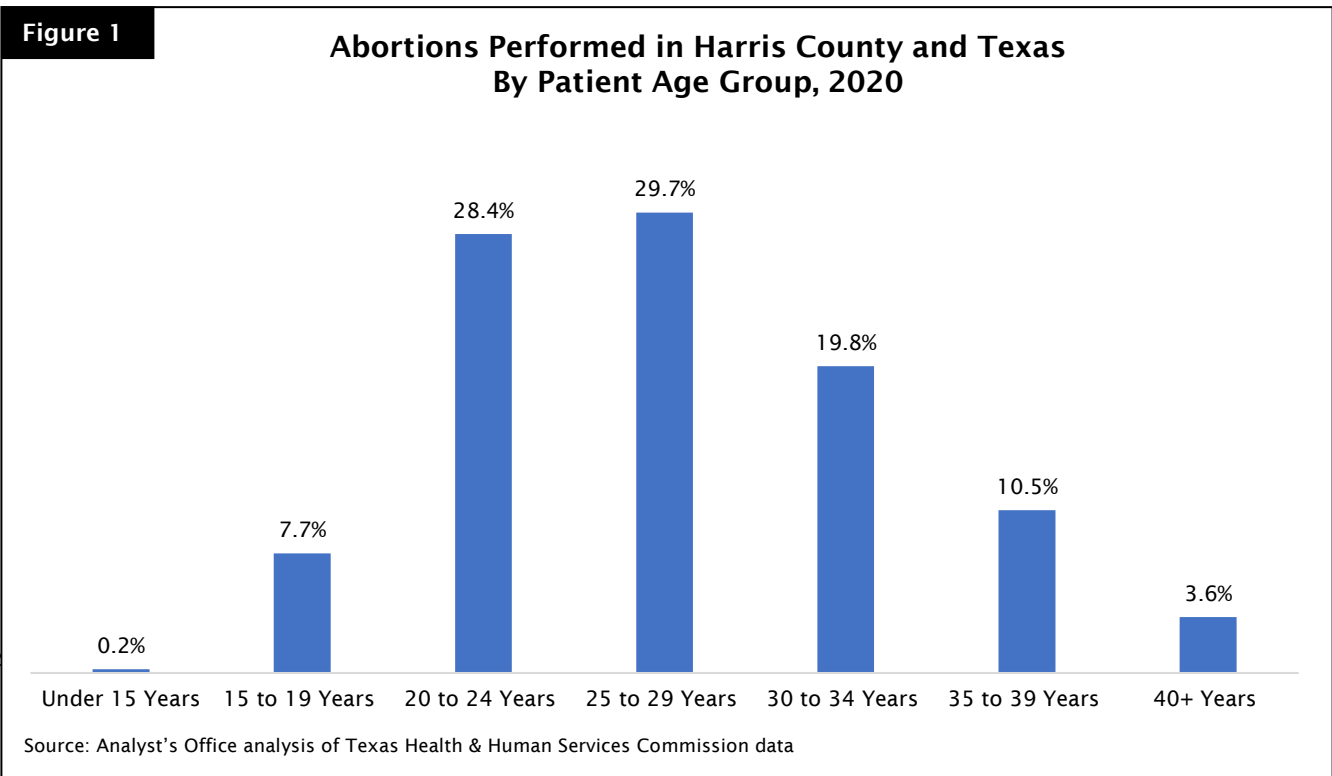
Plaintiffs in both cases presented oral arguments at the US Supreme Court on November 1, 2021 and are currently waiting for the Court’s ruling at the time of publication of this memo.

ANALYSIS OF THE IMPACT OF SB8

A study from the University of Texas at Austin’s Texas Policy Evaluation Project finds SB8 would prevent the majority of pregnant individuals in Texas from obtaining abortion care—58% of those seeking abortions in Texas in 2018 were more than six weeks pregnant when they first called a clinic for care.²²

In 2020, 55,175 abortions were reportedly performed for Texas residents, including procedures performed in-state (53,949) and out-of-state (1,226).²³ In 2020, 14,086 abortions were reportedly performed for Harris County residents. **Figure 1** below shows that of the 14,086 abortions performed in Harris County in 2020, the majority (58.1%) of abortions were for individuals ages 20 to 29. Specifically:²⁴

- less than 1% (33) were for individuals under 15 years of age;
- 7.7% (1,809) were for individuals ages 15 to 19;
- 28.4% (3,994) were for individuals ages 20 to 24;
- 29.7% (4,189) were for individuals ages 25 to 29;
- 19.8% (2,792) were for individuals ages 30 to 34;
- 10.5% (1,481) were for individuals ages 35 to 39; and
- 3.6% (508) were for individuals over age 40.



Data collected in the wake of the passage and then enactment of SB8 demonstrates changes in the number of abortions provided in the state. When comparing the number of abortions provided in August 2020 and August 2021 (the month prior to the September 1 enactment date), there was a 28% increase in the number of abortions provided at 19 of Texas's 24 abortion facilities. In contrast, there was a 50% decrease in the number of abortions provided in September 2020 to September 2021 (after the September 1 enactment of SB8).²⁵

Due to the restrictions imposed by SB8, many women are expected to seek abortion care outside of the state. States neighboring Texas (Arkansas, Louisiana, New Mexico, and Oklahoma) have less restrictive abortion laws.¹ They also have “approximately half the number of abortion facilities, combined, and provide about one-third the number of abortions per year compared to Texas.”²⁶ Texans seeking care at these out-of-state facilities will likely strain capacity. September 2021 data from the University of Texas at Austin Texas Policy Evaluation Project for the four out-of-state facilities indicate that these facilities are already experiencing patient surge.²⁷ In addition, long wait times at these out-of-state facilities may “push pregnant people past the limit for medication abortion or into the second trimester of pregnancy, when procedures have a somewhat higher risk of complications compared to those obtained earlier in pregnancy.”²⁸

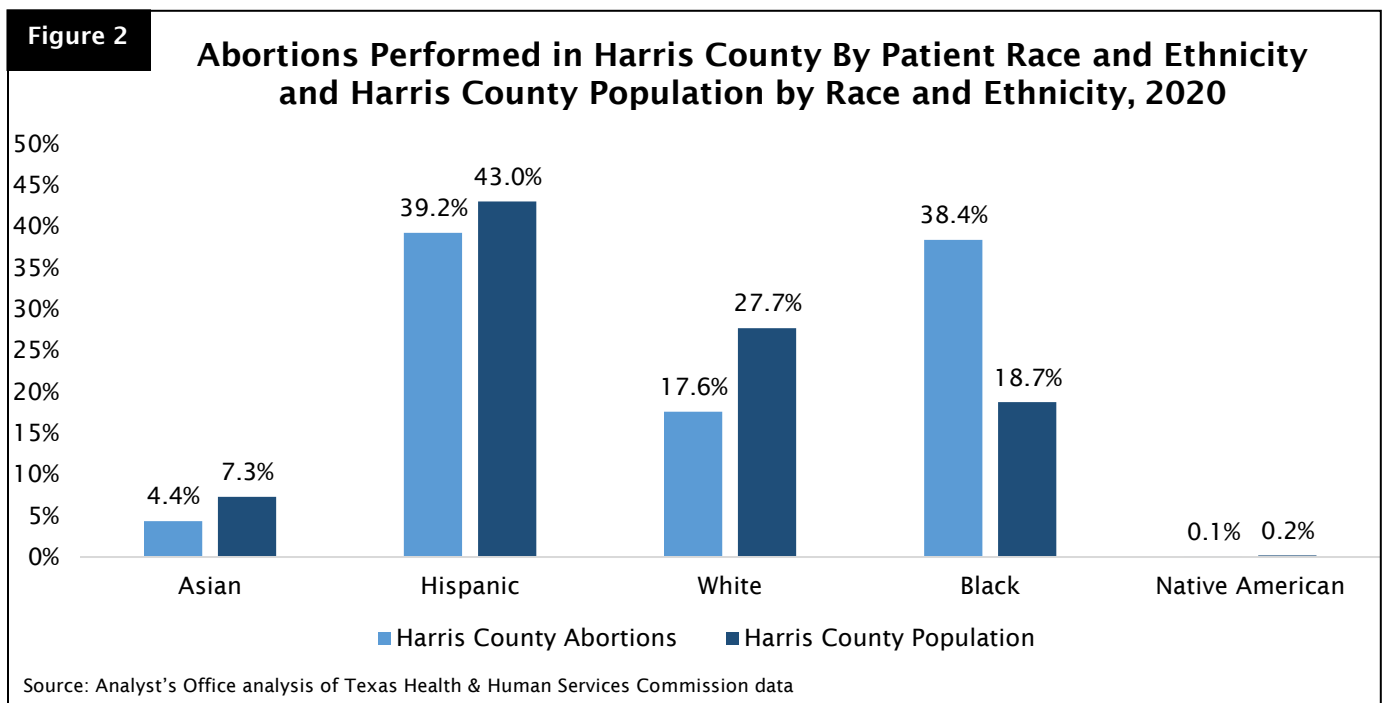
It is expected that SB8 will likely disproportionately impact low-income individuals. The average cost of abortion is \$500 in the first trimester. This cost may increase

¹ In Arkansas, Louisiana, and Oklahoma, abortion may be performed at 20 or more weeks postfertilization (22 weeks after the last menstrual period); there are no major types of abortion restrictions (such as waiting periods, mandated parental involvement, or limitations on publicly funded abortions) in New Mexico.

depending on the procedure and will be higher in the second trimester.²⁹ For a low-income single adult in Harris County, a \$500 abortion is estimated to represent 21% of their monthly income.ⁱⁱ Abortion costs may disproportionately impact Black and Hispanic individuals in Harris County, who have the lowest average household incomes in Harris County (\$62,255 and \$70,379, respectively) when compared to Native American (\$70,791), White (\$95,493), and Asian (\$101,827) households in Harris County.³⁰

In addition to the expense of the procedure, SB8 now requires some residents to seek services out-of-state. For individuals seeking an out-of-state abortion, the closest abortion facility, in Shreveport, Louisiana, is 240 miles from Houston, costing \$58 in gas roundtrip.ⁱⁱⁱ ³¹ Low-income households may face economic hardship related to covering the cost of travel, lodging, lost wages, and childcare, in addition to their abortion, if sought out at an out-of-state facility.³²

As presented in **Figure 2**, of the individuals who received abortions in Harris County in 2020, 39.2% identified as Hispanic; 38.4% identified as Black; 17.6% identified as White; and 4.4% identified as Asian.³³ Individuals who identified as Black (38.4%) were disproportionately represented in the population of those who received an abortion in 2020 when compared to the population of Black individuals in Harris County overall (18.7%).



ⁱ Assumes monthly budget for a single adult of \$2,355 according to the United Way's ALICE survival budget for Harris County.

ⁱⁱⁱ Calculation assumes Texas's average gas price of \$3.03 as of November 19, 2021.

SUMMARY OF LEGAL AND RULE GUIDANCE

Opportunities for Harris County to mitigate the negative impacts of SB8 should be evaluated within the context of the following legal constraints and considerations. Specifically:

Some limitations on funding abortion care. A review of relevant laws and rules clarifies that Harris County cannot use local and state taxpayer dollars to fund abortion services, but the County may be able to use Federal Coronavirus Local Fiscal Recovery Fund (CLFRF) funds received under the American Rescue Plan Act (ARPA), passed by the US Congress in 2021 to provide financial relief across the country from the impacts of the COVID-19 pandemic, to fund abortion care.

Texas' SB22 (2019) "prevents the state and political subdivisions from using taxpayer dollars to fund abortion providers and their affiliates."³⁴ SB22 and a subsequent related Attorney General opinion defines taxpayer resource transactions as exclusively taxpayer funds "derived from state and local sources."³⁵ The Harris County Attorney's Office advises that SB22 is silent to federally sourced funding.³⁶ The use of federal funds may be an option but would require additional analysis.

Guidance received by Witt O'Brien's, a consulting firm retained by Harris County to advise on eligible uses for ARPA funding, notes the County is responsible for determining whether abortion care meets the standard for addressing health disparities and the social determinants of health, as defined in the Interim Final Rule, which was issued by the Department of the Treasury on May 10, 2021. Specifically:

"...recipients may use payments from the Fiscal Recovery Funds to facilitate access to resources that improve health outcomes, including services that connect residents with health care resource and public assistance programs and build healthier environments, such as:

Funding community health workers to help community members access health services and services to address the social determinants of health."³⁷

Witt O'Brien's explains that whether Coronavirus Local Fiscal Recovery Funds (CLFRF) can be used for abortion care is a decision that rests with Harris County. However, Witt O'Brien's adds that "directly paying for abortion care would be more difficult to justify under the ARP, but Witt O'Brien's can further analyze this option if it is the preferred path forward."³⁸

No limitations on funding services ancillary to abortion care. While limitations exist for directly funding abortion services, local and federal dollars can be used to fund ancillary services, like transportation to clinics.

Texas' SB22 (2019) does not prohibit government spending on ancillary services like travel, lodging, and childcare, which may enable Harris County to also use County General Funds to support organizations providing such services.

Additionally, the federal relief received by Harris County for the COVID-19 pandemic via the American Rescue Plan Act (ARPA) may be used to bridge gaps in services.

Harris County expects to receive a total of \$915 million in funding through ARPA. As of November 30, 2021, the County has allocated \$164 million and continues to work to disburse funds to meet local needs.

The Analyst's Office received guidance from Witt O'Brien's consulting firm regarding the permissible uses of ARPA (see Appendix A for the full guidance). Funding received by localities through ARPA may be used for services ancillary to abortion care given that the:^{39 iv}

CLFRF are not subject to the federal Hyde Amendment. The Hyde Amendment, passed by US Congress in 1976, prohibits federal funds to be used for abortion services.^{v 40}

Therefore, CLFRF funds may be used to provide general financial assistance to nonprofit organizations, assuming the specific use is otherwise permissible under ARPA.⁴¹ The final interim rule issued under ARPA provides the following detail regarding eligible assistance to nonprofits and small business,

“State, local, and Tribal governments may provide assistance to small businesses to adopt safer operating procedures, weather periods of closure, or mitigate financial hardship resulting from the COVID-19 public health emergency, including loans or grants to mitigate financial hardship such as declines in revenues or impacts of periods of business closure, for example by supporting payroll and benefits costs, costs to retain employees, mortgage, rent, or utilities costs, and other operating costs.”⁴²

POLICY CONSIDERATIONS

There are several opportunities for Harris County to mitigate the negative impacts of SB8 and support individuals seeking abortion.

- **Provide financial support to organizations providing services ancillary to abortion care.** Given the increased burden on low-income households posed by SB8, Harris County may decide to provide financial support to organizations providing services ancillary to abortion care, like transportation.

Using federal CLFRF funds or local General Funds, Harris County could provide funding for organizations to offer services such as transportation to and from abortion clinics, childcare, and lodging for those seeking an abortion after a fetal heartbeat has been detected outside of Texas. In FY2020 and FY2021, the City of Austin allocated funding (\$150,000 and \$100,000, respectively) to Austin Public Health to be used for entities providing or facilitating logistical and support services for residents seeking abortion, such as travel, lodging, and childcare. The fund was subsequently challenged by lawsuits.⁴³

^{iv} According to the Harris County Office of Management and Budget, “Harris County expects to receive \$915M in Coronavirus Local Fiscal Recovery Funds from the US Treasury, 50% of which will be received by mid-May 2021 and 50% of which will be received one year later.”

^v The Hyde Amendment prohibits federal funds from being used to pay for abortion outside of the exceptions for rape, incest, or if the pregnancy is determined to endanger the woman's life, resulting in dramatically limited coverage of abortion under Medicaid and other federal programs.

Organizations in Texas for consideration of funding, as recommended by local stakeholders, include:

In-State Organizations:

- Clinic Access Support Network (CASN). Manages an abortion logistics assistance fund that will help with expenses related to travel, lodging, childcare, etc.⁴⁴ CASN is based in Harris County and primarily supports people in the Houston metro area.
- Fund Texas Choice. Works to provide transportation assistance for patients throughout Texas.⁴⁵
- Jane's Due Process. Works to provide free legal help to minors who are pregnant, including judicial bypass assistance.⁴⁶ vi
- Whole Women's Health Alliance. Manages several clinics in Texas and outside of Texas, provides a full range of abortion care services, and offers financial assistance.⁴⁷

Out-of-State Organizations:

- Brigid Alliance. Provides funds for travel and related expenses to clinics in New Mexico, Washington, DC, New York, Maryland, and Colorado.⁴⁸
 - Mariposa Fund. Assists undocumented abortion seekers in paying for the care they need.⁴⁹
 - S.Y.S. (Support Your Sistah). Provides childcare assistance, food, transportation, escorts (to and from clinics), abortion and birthing doulas, and financial assistance.⁵⁰
- **Dissemination of Information.** Given the increased challenges in accessing abortion care for residents in Texas, and the recent nature of the change, Harris County could appoint a department to disseminate information related to available services, including in-state and out-of-state clinics, financial support to subsidize travel, etc.

For example, the website, needabortion.org, run by the Lilith Fund and Avow Texas, provides centralized information about access to abortion and abortion-related care in Texas by location and need.⁵¹ Harris County could either promote this site or create a county-specific website that centralizes and consolidates resources available in or near the County, categorized by a more expansive list of needs, such as:

- Access to **financial support** for individuals seeking abortion.^{vii}
- Access to **practical support**. This section could include information about organizations that provide support for ancillary services such as transportation to and from clinics, childcare, and lodging for those seeking an abortion.
- Access to **reproductive health services** through telemedicine.⁵²
- Access to **contraceptive services and sex education**.
- Access to **abortion-inducing medication**.

⁴⁴ A judicial bypass is permission from a judge that allows a person under the age of 18 to consent to abortion care without parental involvement.

⁴⁵ In June, New York City established a fund that helps low-income women from out-of-state obtain abortions in the city, becoming the first city in the country to directly fund abortion. Read more at www.nyaaf.org/2019/06/we-made-history-for-abortion-access/.

- Access to **clinical abortions**.
- **Lobby to change or enact state laws and protections.** The Commissioners Court could direct Harris County Intergovernmental and Global Affairs to review and consider adding advocating for expanding access to abortion care to the County's legislative agenda.

APPENDIX A

Witt O'Brien's consulting firm provided the following guidance to the Analyst's Office regarding the permissible uses of ARPA funds for abortion and abortion-related care.

Summary of Guidance:

Recipients may use Coronavirus Local Fiscal Recovery Funds ("CLFRF") to support abortion care insofar as the use of funds is otherwise permissible under the American Rescue Plan Act ("ARP").

Indirectly supporting abortion care by providing operational support to relevant nonprofit organizations is likely to be an eligible use of CLFRF.

Directly paying for abortions is less likely to be an eligible use of CLFRF because it does not relate directly to the public health crisis. The only way this could possibly be an eligible use of CLFRF would be to provide this service to people in Qualified Census Tracts ("QCT"), and it would be up to Harris County to determine if they believe abortion care meets the standard for "Addressing health disparities and the social determinants of health," as defined in the Interim Final Rule.^{viii}

Rationale:

1. The ARP is not subject to the Hyde Amendment.^{ix} This means that recipients may use CLFRF to support abortion care, assuming the specific use is otherwise permissible under ARP.
2. Recipients may use CLFRF to provide general financial assistance to nonprofit organizations.

The U.S. Treasury has provided guidance regarding the agency's interpretation of 603 of the Social Security Act, and has concluded that the following activities are allowable utilizing CLFRF funds:

1. To respond to the COVID-19 public health emergency or its negative economic impacts;
2. To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to such eligible workers of the recipient, or by providing grants to eligible employers that have eligible workers who performed essential work;
3. For the provision of government services, to the extent of the reduction in revenue of such recipient due to the COVID-19 public health emergency, relative to revenues collected in the most recent full fiscal year of the recipient prior to the emergency; and
4. To make necessary investments in water, sewer, or broadband infrastructure.^x

The Interim Final Rule provides further detail regarding eligible assistance to small businesses and nonprofits:

State, local, and Tribal governments may provide assistance to small businesses to adopt safer operating procedures, weather periods of closure, or mitigate

^{viii} U.S. Department of the Treasury, Interim Final Rule, Section 1, *Eligible Uses to Address Disparities in Public Health Outcomes*, pg. 22, available at: [Interim Final Rule \(treasury.gov\)](https://www.treasury.gov/interim-final-rule).

^{ix} 167 Cong. Rec. S1247 (2021)

^x U.S. Department of the Treasury, Interim Final Rule, available at: [Interim Final Rule \(treasury.gov\)](https://www.treasury.gov/interim-final-rule).

financial hardship resulting from the COVID-19 public health emergency, including:

- Loans or grants to mitigate financial hardship such as declines in revenues or impacts of periods of business closure, for example by supporting payroll and benefits costs, costs to retain employees, mortgage, rent, or utilities costs, and other operating costs;
- Loans, grants, or in-kind assistance to implement COVID-19 prevention or mitigation tactics, such as physical plant changes to enable social distancing, enhanced cleaning efforts, barriers or partitions, or COVID-19 vaccination, testing, or contact tracing programs; and
- Technical assistance, counseling, or other services to assist with business planning needs.^{xi}

Non-profits who are not implementing a program but instead needing financial support to address the negative economic impacts of COVID (i.e., loss of fundraising) are beneficiaries of the County, and therefore not subject to federal reporting requirements. “Recipients should also note that subrecipients do not include individuals and organizations that received CLFRF funds as end users to respond to the negative economic impacts of COVID-19 on these organizations. Such individuals and organizations are beneficiaries and not subject to audit pursuant to the Single Audit Act and 2 C.F.R. Part 200, Subpart F.”^{xii}

3. The County may provide financial assistance to non-profits outside of the County (or state) if they provide services to Harris County residents and the benefit to county residents is proportionate to the amount contributed by the County.

FAQ 4.9 answers the question, “May recipients pool funds for regional projects?:”

*Yes, provided that the project is itself an eligible use of funds and that recipients can track the use of funds in line with the reporting and compliance requirements of the CSFRF/CLFRF. In general, when pooling funds for regional projects, recipients may expend funds directly on the project or transfer funds to another government that is undertaking the project on behalf of multiple recipients. To the extent recipients undertake regional projects via transfer to another government, recipients would need to comply with the rules on transfers specified in the Interim Final Rule, Section V. **A recipient may transfer funds to a government outside its boundaries (e.g., county transfers to a neighboring county), provided that the recipient can document that its jurisdiction receives a benefit proportionate to the amount contributed.***^{xiii}

Working with other counties or municipalities would increase the financial power of this effort and distribute any political or legal backlash that results from this action.

^{xi} U.S. Department of the Treasury, Interim Final Rule, Section 2, *Eligible Uses*, pg. 33-35, available at: [Interim Final Rule \(treasury.gov\)](#).

^{xii} Department of the Treasury, Coronavirus State and Local Fiscal Recovery Funds—Compliance and Reporting Guidance, at 9, available at: <https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf>.

^{xiii} U.S. Department of the Treasury, Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions (as of November 15, 2021) – FAQ #4.9, pg. 24, available at [SLFRPFAQ.pdf \(treasury.gov\)](#).

Conclusion:

The easiest way to use ARP funds to support access to abortion care would be to give general financial assistance to nonprofit organizations that provide abortion care or related services in Harris County. This would likely be an eligible use of CLFRF.

Directly paying for abortion care would be more difficult to justify under the ARP, but Witt O'Brien's can further analyze this option if it is the preferred path forward.

The final eligibility determination is up to Harris County.

ENDNOTES

- ¹ Legiscan. | SB 8. Retrieved November 12, 2021 from <https://legiscan.com/TX/text/SB8/id/2395961>
- ² Cornell Law School Legal information Institute. *Roe v Wade*. Retrieved November 12, 2021 from www.law.cornell.edu/supremecourt/text/410/113%26amp
- ³ Cornell Law School Legal information Institute. *Roe v Wade*. Retrieved November 12, 2021 from www.law.cornell.edu/supremecourt/text/410/113%26amp
- ⁴ Texas Legislature Online HB 15. Retrieved November 12, 2021 from <https://capitol.texas.gov/BillLookup/BillSummary.aspx?LegSess=82R&Bill=HB15>
- ⁵ Texas Legislature Online HB 2. Retrieved November 12, 2021 from <https://capitol.texas.gov/billlookup/BillSummary.aspx?LegSess=832&Bill=HB2>
- ⁶ Grossman, D., Baum, S., Fuentes, L., White, K., Hopkins, K., Stevenson, A., & Potter, J. E. (2014). Change in abortion services after implementation of a restrictive law in Texas. *Contraception*, 90(5), 496-501.
- ⁷ Texas Legislature Online HB 214. Retrieved November 12, 2021 from <https://capitol.texas.gov/BillLookup/BillSummary.aspx?LegSess=851&Bill=HB214>
- ⁸ Texas Legislature Online SB 8. Retrieved November 12, 2021 from <https://capitol.texas.gov/tlodocs/85R/billtext/html/SB00008F.HTM>
- ⁹ Texas Legislature Online SB 22. Retrieved November 12, 2021 from <https://capitol.texas.gov/BillLookup/BillSummary.aspx?LegSess=86R&Bill=SB22>
- ¹⁰ Texas Legislature Online SB 24. Retrieved November 29, 2021 from <https://capitol.texas.gov/tlodocs/86R/billtext/html/SB00024F.HTM>
- ¹¹ Texas Legislature Online SB 4. Retrieved November 29, 2021 from <https://capitol.texas.gov/tlodocs/872/analysis/pdf/SB00004F.pdf#navpanes=0>
- ¹² Texas Legislature Online SB 8. Retrieved November 12, 2021 from <https://capitol.texas.gov/billlookup/BillSummary.aspx?LegSess=85R&Bill=SB8>
- ¹³ Texas Public Law, Texas Health and Safety Code Sec. 171.002 Retrieved November 12, 2021 from https://texas.public.law/statutes/tex_health_and_safety_code_section_171.002#:~:text=%E2%80%9CMedical%20emergency%E2%80%9D%20means%20a%20life,unless%20an%20abortion%20is%20performed.
- ¹⁴ Legiscan. | SB 8. Retrieved November 12, 2021 from <https://legiscan.com/TX/text/SB8/id/2395961>
- ¹⁵ Texas Legislature Online SB 8. Retrieved November 12, 2021 from <https://capitol.texas.gov/tlodocs/87R/billtext/html/SB00008F.htm>
- ¹⁶ Texas Legislature Online SB 8. Retrieved November 12, 2021 from <https://capitol.texas.gov/tlodocs/87R/analysis/pdf/SB00008F.pdf#navpanes=0>
- ¹⁷ Texas Medical Association. (2021, September 3). TMA Statement: Enough is Enough. Retrieved on November 11, 2021 from www.texmed.org/TexasMedicineDetail.aspx?id=57687
- ¹⁸ Center for Reproductive Rights. (2021, November 4) Whole Woman's Health et al. v. Jackson et al. Retrieved November 11, 2021 from <https://reproductiverights.org/case/texas-abortion-ban-whole-womans-health-jackson/>
- ¹⁹ Center for Reproductive Rights. (2021, November 4) Whole Woman's Health et al. v. Jackson et al. Retrieved November 11, 2021 from <https://reproductiverights.org/case/texas-abortion-ban-whole-womans-health-jackson/>
- ²⁰ United States Department of Justice. (2021, September 9). *Justice Department Sues Texas Over Senate Bill 8*. Retrieved November 12, 2021 from <https://www.justice.gov/opa/pr/justice-department-sues-texas-over-senate-bill-8>
- ²¹ US Department of Justice. (2021, September 9). Justice Department Sues Texas Over SB8. Retrieved November 12, 2021 from <https://www.justice.gov/opa/pr/justice-department-sues-texas-over-senate-bill-8>
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- ²³ Texas Health & Human Services Commission. 2020 Induced Terminations of Pregnancy by Race/Ethnicity and County of Residence data. Retrieved on October 27, 2021 from <https://www.hhs.texas.gov/about-hhs/records-statistics/data-statistics/itop-statistics>
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The Harris County Commissioners Court's Analyst's Office provides the Harris County Commissioners Court members with objective, nonpartisan, and timely fiscal and policy analysis related to the efficiency and effectiveness of various County operations.

This memo was prepared by Amy Rose, Senior Analyst.

Commissioners Court's Analyst's Office
1115 Congress Street, 6th Floor
Houston, Texas 77002

Main: (832) 927-6900
Email: info@ccaohctx.net