

- SUBJECT:** Requiring physicians to report certain abortion information on minors
- COMMITTEE:** State Affairs — committee substitute recommended
- VOTE:** 9 ayes — Cook, Craddick, Geren, Guillen, K. King, Kuempel, Meyer, Paddie, Smithee
- 3 nays — Giddings, Farrar, E. Rodriguez
- 1 absent — Oliveira
- WITNESSES:** For — Joe Pojman, Texas Alliance for Life; John Seago, Texas Right to Life; (*Registered, but did not testify:* Salvador Ayala, Empower Texans; Kyleen Wright, Texans for Life; Jenny Andrews, Texas Alliance for Life; Jennifer Allmon, Texas Catholic Conference of Bishops; Emily Horne, Texas Right to Life; Nicole Hudgens, Texas Values Action; Thomas Parkinson)
- Against — Blake Rocap, NARAL Pro-Choice Texas; Amanda Bennett; (*Registered, but did not testify:* Rebecca Marques, ACLU of Texas; Juliana Kerker, American Congress of Obstetricians and Gynecologists - Texas District; Brenda Koegler, League of Women Voters of Texas; Amanda Williams, Lilith Fund; Heather Busby and Zoraima Pelaez, NARAL Pro-Choice Texas; Sarah Wheat, Planned Parenthood Greater Texas; Lucy Stein, Progress Texas; John Burleson, Travis County Resistance; and 11 individuals)
- On — Amy Hedtke; (*Registered, but did not testify:* Jonathan Huss, Department of State Health Services; Darren Whitehurst, Texas Medical Association; Meghan Scoggins)
- BACKGROUND:** Health and Safety Code, ch. 170 establishes prohibited acts concerning abortion. Sec. 170.002(a) bans third trimester abortions, with certain exceptions provided under subsection (b). Physicians who abort a viable unborn child during the third trimester of pregnancy are required to certify in writing to DSHS that the abortion was necessary to prevent the death or

a substantial risk of serious impairment to the physical or mental health of the woman or that the fetus had a severe and irreversible abnormality, identified by reliable diagnostic procedures. The certification must be made within 30 days of the abortion.

25 TAC, part 1, chap. 139, subch. A, sec. 139.5(2)(B) requires a physician who performs an emergency abortion on an unemancipated minor to certify in writing to DSHS the medical indications supporting the physician's judgment that the abortion is necessary either to avert the minor's death or to avoid a serious risk of substantial and irreversible impairment of a major bodily function. The certification must be returned within 30 days of the abortion.

**DIGEST:**

CSHB 215 would require a physician who performed an abortion on a woman younger than 18 years old to include in her medical record and report to the Health and Human Services Commission (HHSC) how the authorization for an abortion was obtained. The physician would have to document whether:

- the woman's parent, managing conservator, or legal guardian provided written consent;
- the woman obtained a judicial bypass;
- the woman consented to the abortion if she had the disabilities of minority removed and was authorized to have the abortion without written consent required for unemancipated minors or without a judicial bypass; or
- the physician concluded that on the basis of the physician's good faith clinical judgment a condition existed that complicated the woman's medical condition and necessitated the immediate abortion of her pregnancy to avert her death or to avoid a serious risk of substantial impairment of a major bodily function and there was insufficient time to obtain parental consent.

The bill would require the physician to describe whether parental consent, if applicable, was given in person at the location where the abortion was performed or at a different place. If a woman obtained a judicial bypass, a

physician would have to report:

- the process the physician or physician's agent used to inform the woman of the availability of petitioning for a judicial bypass as an alternative to the written consent required for unemancipated minors;
- whether the physician or an agent provided the court forms to the woman; and
- whether the physician or an agent made arrangements for the woman's court appearance.

Information would be confidential and not subject to open records laws, except that it could be released for statistical purposes under certain conditions. The information could be released with the consent of each person, patient, and facility identified or to medical personnel, appropriate state agencies, county and district courts, or appropriate state licensing boards for enforcement purposes. Any information released by HHSC could not identify the county where a minor obtained a judicial bypass.

CSHB 2015 also would amend reporting requirements for physicians who performed a third trimester abortion under the circumstances allowed by Health and Safety Code, sec. 170.002(b). If a physician performed a third trimester abortion because the physician determined the fetus had a severe and irreversible abnormality, the bill would require the physician to certify in writing the identified fetal abnormality. Certifications under this section would be sent to HHSC, rather than the Department of State Health Services.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect on the 91st day after the last day of the special session. It would apply only to an abortion performed on or after December 1, 2017.

**SUPPORTERS  
SAY:**

CSHB 215 would help to gather more complete data from abortions performed on minors by requiring physicians to report to the Health and Human Services Commission on how a minor's authorization for an

abortion was obtained. This data would provide better information for legislators and health care providers to use when evaluating state programs and crafting policy. It also would help determine whether physicians or physicians' agents were assisting minors in obtaining a judicial bypass for abortions.

The bill would adequately protect the privacy of women and physicians. The information would be confidential and could not be released except for statistical purposes, providing that a person, patient, or health care facility was not identified, and to certain entities for enforcement purposes.

CSHB 215 would not require a physician to obtain parental consent before performing an emergency abortion. The bill only would require a physician to document, after an abortion was performed, whether there was insufficient time to obtain parental consent.

The bill seeks to close a loophole in current reporting requirements by directing physicians to report abortions performed on all minors, not only unemancipated minors.

OPPONENTS  
SAY:

CSHB 215 unnecessarily would intrude upon the doctor-patient relationship by requiring physicians to report sensitive and personal medical information. Reporting details on third trimester abortions and the methods by which a minor obtained authorization for an abortion would not address a public health need. Third trimester abortions are rare in Texas and occur only because of life-threatening medical conditions of the pregnant woman or her fetus.

The bill could affect a woman's health negatively in a medical emergency because a physician first would have to consider whether there was sufficient time to acquire parental consent before performing an abortion. Delayed decision-making could endanger women's lives in emergency situations.

The bill would result in duplication of data that already must be submitted

to state health officials within 30 days after the date a third trimester abortion or abortion on a minor is performed. Mandating additional reporting would place an administrative burden on physicians.

**NOTES:**

CSHB 215 differs from the bill as filed in that the committee substitute would exempt from the Public Information Act information and records held by the Health and Human Services Commission (HHSC) relating to abortions performed on minors. It also would require physicians to submit reports and certifications to HHSC, rather than the Department of State Health Services.

A companion bill, SB 73 by Hughes, was approved by the Senate on July 25.