

BILL ANALYSIS

Senate Research Center
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S.B. 27
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Human Services
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DIGEST

Currently, Texas Family Code requires parental consent prior to the performance of an abortion on a minor child. However, U.S. Supreme Court decisions have rendered similar requirements in other states unconstitutional because they lack a judicial bypass mechanism. S.B. 27 will require a physician to notify and obtain the consent of a parent, managing conservator, or guardian of a pregnant minor prior to performing an abortion on that minor, with certain exceptions, including a judicial bypass mechanism. This bill also provides a penalty for failure to notify and obtain the consent of a parent, managing conservator, or guardian of a pregnant minor.

PURPOSE

As proposed, S.B. 27 relates to parental consent before an abortion may be performed on a minor; provides a criminal penalty.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Texas Supreme Court in SECTION 6 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 2A, Family Code, by adding Chapter 33 as follows:

CHAPTER 33. NOTICE OF ABORTION

Sec. 33.001. DEFINITIONS. Defines “abortion,” “fetus,” “guardian,” “medical emergency,” and “physician.”

Sec. 32.002. PARENTAL CONSENT. Prohibits a physician from performing an abortion on a minor without consent from a parent, guardian, judge or court. Provides that a physician can perform an abortion without consent if a medical emergency exists. Requires the Texas Department of Health (TDH) to prepare a form to be used for making the certification required by Subsection (a)(4). Establishes that a Class A misdemeanor is committed if a physician violates this subsection.

Sec. 33.003. JUDICIAL APPROVAL. Authorizes a minor to file an application for a court order authorizing the minor to consent to the performance of an abortion without consent of her parent or guardian. Sets forth requirements and provisions regarding the application. Requires the court to appoint a guardian ad litem for the minor. Sets forth requirements for the ad litem attorney. Requires the court to fix a time for a hearing on an application filed under Subsection (a) and to keep a record of all testimony. Sets forth requirements for the court, in ruling on an application. Requires the court to determine whether the minor is mature and sufficiently well-informed to make a decision to have an abortion performed without consent or whether requiring consent is in the best interest of the minor. Requires the court to enter an order and execute the required forms if it finds that the minor can have an abortion without consent. Prohibits the court from authorizing the minor to have an abortion without consent if the court finds the minor does not meet the requirements of Subsection (g). Prohibits the court from notifying the parents or guardians that the minor is pregnant and wants to have an abortion. Requires the court to kept all proceedings and

records confidential. Authorizes the minor to file the application using a pseudonym or her initials. Requires the clerk of the supreme court to prescribe the application form to be used by the minor filing an application under this section. Prohibits a filing fee and court costs to be assessed against a minor filing an application under this section.

Sec. 33.004. APPEAL TO DISTRICT COURT. Authorizes a minor to appeal to the district court if the minor's application is denied. Requires the court to rule on an appeal by a certain date which can be extended. Provides that if the court does not rule on an appeal within the specified amount of time, then the appeal is granted. Requires the court to give proceedings under this section precedence over other pending matters. Requires the clerk of the supreme court to prescribe the notice of appeal form. Provides that a filing fee is not required of, and court costs may not be assessed against, a minor filing an appeal.

Sec. 33.005. APPEAL TO APPELLATE COURT. Authorizes a minor to appeal to the court of appeals that has jurisdiction over the cause if the minor's application was denied. Sets forth provisions regarding the notice of appeal. Requires the court to rule on an appeal no later than 5 p.m. on the second business day after the date the notice of appeal is filed. Provides that if the court does not rule on the appeal during the specified time then the appeal is granted. Requires the court of appeals to give proceedings under this section precedence over other pending matters. Requires the clerk of the supreme court to prescribe the notice of the appeal form. Prohibits a minor from being required to post an appeal bond.

SECTION 2. Effective date: September 1, 1999, except SECTION 4 of this Act.

SECTION 3. Makes application of this Act prospective to January 1, 2000.

SECTION 4. Effective date for Section 33.002 (c): January 1, 2000.

SECTION 5. Requires the Texas Board of Health to adopt the form to be used under Section 33.002 (a)(4), Family Code, no later than December 15, 1999.

SECTION 6. Grants the Texas Supreme Court rulemaking authority.

SECTION 7. Requires the clerk of the Texas Supreme Court to adopt the application form and notice of appeal form to be used under Sections 33.003, 33.004, and 33.005, Family Code, no later than December 15, 1999.

SECTION 8. Emergency clause.