

BILL ANALYSIS

Senate Research Center

H.B. 215
By: Murphy et al. (Hughes)
Health & Human Services
8/18/2017
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Relating to reporting and certification requirements by certain physicians regarding certain abortions.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 170.002(c), Health and Safety Code, as follows:

(c) Requires a physician who performs an abortion that, according to the physician's best medical judgment at the time of the abortion, is to abort a viable unborn child during the third trimester of the pregnancy, to certify in writing to the Health and Human Services Commission (HHSC), rather than the Department of State Health Services (DSHS), on a form prescribed by HHSC, the medical indications supporting the physician's judgment that the abortion was authorized by Subsection (b)(2) (relating to providing that a physician is not prohibited from performing an abortion if the physician concludes that the abortion is necessary to prevent the death or a substantial risk of serious impairment to the physical or mental health of the woman) or (3) (relating to providing that a physician is not prohibited from performing an abortion if the physician concludes that the fetus has a certain severe and irreversible abnormality). Requires the physician, if the physician certifies the abortion was authorized by Subsection (b)(3), to certify in writing on the form the fetal abnormality identified by the physician. Makes a conforming change.

SECTION 2. Amends Subchapter A, Chapter 171, Health and Safety Code, by adding Section 171.006, as follows:

Sec. 171.006. REPORTING REQUIREMENTS FOR ABORTIONS PERFORMED ON WOMEN YOUNGER THAN 18 YEARS OF AGE. (a) Requires the physician who performed an abortion on a woman who is younger than 18 years of age, for each abortion performed, to document in the woman's medical record and report to HHSC in the report required under Section 245.011 (Reporting Requirements; Criminal Penalty):

(1) one of the following methods for obtaining authorization for the abortion:

(A) the woman's parent, managing conservator, or legal guardian provided the written consent required by Section 164.052(a)(19) (relating to providing that a certain person commits a prohibited practice if that person performs an abortion on an unemancipated minor without written consent from certain persons), Occupations Code;

(B) the woman obtained judicial authorization under Section 33.003 (Judicial Approval) or 33.004 (Appeal), Family Code;

(C) the woman consented to the abortion if the woman has had the disabilities of minority removed and is authorized under law to have the abortion without the written consent required by Section 164.052(a)(19), Occupations Code, or without judicial authorization under Section 33.003 or 33.004, Family Code; or

(D) the physician concluded and documented in writing in the woman's medical record that on the basis of the physician's good faith clinical judgment a certain medical condition existed and there was insufficient time to obtain the consent of the woman's parent, managing conservator, or legal guardian;

(2) if the woman's parent, managing conservator, or legal guardian provided the written consent described by Subdivision (1)(A), whether the consent was given in person at the location where the abortion was performed or at a place other than the location where the abortion was performed; and

(3) if the woman obtained the judicial authorization described by Subdivision (1)(B):

(A) if applicable, the process the physician or physician's agent used to inform the woman of the availability of petitioning for judicial authorization as an alternative to the written consent required by Section 164.052(a)(19), Occupations Code;

(B) whether the court forms were provided to the woman by the physician or the physician's agent;

(C) whether the physician or the physician's agent made arrangements for the woman's court appearance; and

(D) if known, whether the woman became pregnant while in foster care or in the managing conservatorship of the Department of Family and Protective Services.

(b) Provides that, except as provided by Section 245.023 (Public Information; Toll-Free Telephone Number), all information and records held by HHSC under this section are confidential and are not open records for the purposes of Chapter 552 (Public Information), Government Code. Prohibits that information from being released or made public on subpoena or otherwise, except release is authorized to be made under certain circumstances.

(c) Prohibits any information released by HHSC from identifying by any means the county in which a minor obtained judicial authorization for an abortion under Chapter 33 (Notice of and Consent to Abortion), Family Code.

SECTION 3. Makes application of Section 170.002, Health and Safety Code, as amended by this Act, and Section 171.006, Health and Safety Code, as added by this Act, prospective to December 1, 2017.

SECTION 4. Effective date: upon passage or on the 91st day after the last day of the legislative session.