

## **BILL ANALYSIS**

C.S.H.B. 569  
By: Berman  
State Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Over the last decade some medical professionals have contended that an unborn child at 20 weeks of gestation, and perhaps at an even earlier period of gestation, has the capability of feeling pain. The purpose of C.S.H.B. 569 is to require, with certain exceptions, that a pregnant female whose unborn child has a probable gestational age of 20 weeks or more must be notified of certain information about fetal pain before an abortion is performed.

### **RULEMAKING AUTHORITY**

It is the opinion of the committee that rulemaking authority is expressly delegated to the Texas Board of Health in SECTION 1 (Section 170.057(g), Health and Safety Code) of this bill.

### **ANALYSIS**

C.S.H.B. 569 amends Chapter 170, Health and Safety Code, by adding Subchapter B relating to fetal pain prevention. The bill defines “unborn child” as a member of the species *Homo sapiens* from fertilization until birth. The bill requires that, at least 24 hours before the time an abortion is begun on an unborn child whose probable gestational age is 20 weeks or more, the physician or the physician’s agent must inform the pregnant female, by telephone or in person:

- that she has the right to review printed materials published by the Texas Department of Health (TDH) relating to the development of, responsiveness of, and commonly-employed methods of abortion for unborn children of 20 weeks gestational age, and for each two-week gestational increment after 20 weeks,
- that such materials are available on a state-sponsored website, and
- of the address of the website.

The bill provides further detailed procedures concerning acceptable methods of providing the required information, and also requires the pregnant female to provide written certification regarding her receipt of information and her opportunity to review the required printed materials.

The bill provides an exception to proposed Section 170.052 (Fetal Pain Information) for medical emergencies.

The bill provides that, except for medical emergencies, before an abortion is performed on an unborn child who is 20 weeks gestational age or more, the physician or physician’s agent must inform the pregnant female if an anesthetic or analgesic would eliminate or alleviate pain to the unborn child, taking into account the facts of her case. With her consent, the physician shall administer the anesthetic or analgesic.

The bill sets forth detailed requirements regarding the information provided in the printed materials and regarding the development and maintenance of the Internet website.

The bill sets forth procedures to be followed in case of medical emergencies.

The bill includes detailed reporting requirements for physicians, establishes late-reporting fees for overdue reports, and provides civil sanctions for failure to report.

The bill requires TDH to annually issue public statistical reports on the information required to be reported by physicians, and authorizes the Board of Health to alter or consolidate forms or reports to achieve administrative convenience.

The bill establishes detailed criminal penalties and civil remedies for violations of the provisions of the Act, establishes a defense to prosecution, exemptions from civil and criminal prosecution, and certain privacy protection in court proceedings.

The bill includes a severability clause.

The bill redesignates certain sections and subchapters.

The bill authorizes the Board of Health to set fees in amounts necessary to defray the cost of administering the program established by the Act.

The bill includes various dates upon which certain provisions of the Act take effect.

#### **EFFECTIVE DATE**

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2003.

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

C.S.H.B. 569 adds language which requires the Board of Health to set fees imposed by Chapter 245, Health and Safety Code (Abortion Facilities), in amounts reasonable and necessary to defray the cost of administering the program established by this bill.

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