

BILL ANALYSIS

H.B. 859
By: Talton
State Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Under current law, there is no provision for the preservation of fetal tissues from abortions performed on persons younger than 14 years of age. Persons brought in for abortions who are under the age of 14 are often victims of rape or incest. Without such a provision, DNA evidence that could be used in a criminal investigation for rape or incest is lost.

House Bill 859 would add a provision making DNA evidence available for criminal investigations.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Department of Public Safety in SECTION 1 of this bill.

ANALYSIS

House Bill 859 amends the Health and Safety Code to require a physician who performs an abortion on a person younger than 14 years of age to preserve and submit the tissue to the Department of Public Safety or to a designated laboratory approved by the Department of Public Safety.

The bill requires the Department of Public Safety to adopt rules prescribing the amount and type of tissue that is being preserved and submitted, the procedures for the proper preservation of tissue for DNA testing and examination, the procedures for documenting the chain of custody of the tissue for use as evidence, the procedures for proper disposal of fetal tissue, a uniform reporting instrument to be used by a physician when submitting fetal tissue, and procedures for communication with law enforcement agencies regarding evidence and information obtained. The bill provides that the physician when submitting the fetal tissue must include the name of the physician submitting the tissue, the name and address of the person upon whom the abortion was performed, and the name of the parent or legal guardian of that person upon whom the abortion was performed.

The bill provides that a physician commits an offense if the physician violates this Act or a rule adopted under this Act. The offense is a misdemeanor punishable by a fine not to exceed \$10,000.

EFFECTIVE DATE

September 1, 2007.