

By: Bonnen

H.B. No. 2573

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the protection of children from abuse or neglect;
3 providing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Sections 261.101(a) and (b), Family Code, are
6 amended to read as follows:

7 (a) A person who suspects [~~having cause to believe~~] that a
8 child has been abused or neglected [~~child's physical or mental~~
9 ~~health or welfare has been adversely affected by abuse or neglect~~]
10 by any person shall immediately make a report as provided by this
11 subchapter.

12 (b) If a professional suspects [~~has cause to believe~~] that a
13 child has been abused or neglected or may be abused or neglected, or
14 that a child is a victim of an offense under Section 21.11, Penal
15 Code, and the professional suspects [~~has cause to believe~~] that the
16 child has been abused as defined by Section 261.001 or 261.401, the
17 professional shall make a report not later than the 48th hour after
18 the hour the professional first suspects that the child has been or
19 may be abused or neglected or is a victim of an offense under
20 Section 21.11, Penal Code. A professional may not delegate to or
21 rely on another person to make the report. In this subsection,
22 "professional" means an individual who is licensed or certified by
23 the state or who is an employee, volunteer, or independent
24 contractor of a facility licensed, certified, or operated by the

1 state and who, in the normal course of official duties or duties for
2 which a license or certification is required, has direct contact
3 with children. The term includes teachers, nurses, doctors,
4 day-care employees, employees of a clinic or health care facility
5 that provides reproductive services, juvenile probation officers,
6 and juvenile detention or correctional officers.

7 SECTION 2. Section 261.102, Family Code, is amended to read
8 as follows:

9 Sec. 261.102. MATTERS TO BE REPORTED. A report should
10 reflect the reporter's suspicion [~~belief~~] that a child has been or
11 may be abused or neglected or has died of abuse or neglect.

12 SECTION 3. Section 261.109(a), Family Code, is amended to
13 read as follows:

14 (a) A person commits an offense if the person suspects [~~has~~
15 ~~cause to believe~~] that a child has been abused or neglected [~~child's~~
16 ~~physical or mental health or welfare has been or may be adversely~~
17 ~~affected by abuse or neglect~~] and knowingly fails to report as
18 provided in this chapter.

19 SECTION 4. Subchapter B, Chapter 420, Government Code, is
20 amended by adding Section 420.033 to read as follows:

21 Sec. 420.033. MANDATORY EVIDENCE COLLECTION FOR CERTAIN
22 SEXUAL OFFENSES. (a) In this section:

23 (1) "Department" means the Department of Public Safety
24 of the State of Texas.

25 (2) "Director" means the public safety director of the
26 department.

27 (b) In accordance with the rules adopted under Subsection

1 (c), a physician who performs an abortion shall collect and submit
2 to the department a fetal tissue sample extracted during the
3 performance of the abortion if the physician:

4 (1) performs the abortion on a child who is younger
5 than 14 years of age; and

6 (2) knows or should reasonably believe that the child
7 is the victim of an offense described by Section 21.02, 21.11,
8 21.12, 22.011, 22.021, 25.02, or 43.25, Penal Code.

9 (c) The director by rule shall prescribe:

10 (1) the amount and type of fetal tissue to be collected
11 and submitted by a physician under Subsection (b);

12 (2) procedures for the proper preservation of a fetal
13 tissue sample submitted under Subsection (b);

14 (3) procedures for documenting the chain of custody of
15 a fetal tissue sample collected and submitted under Subsection (b);

16 (4) procedures for the proper disposal of a fetal
17 tissue sample submitted under Subsection (b);

18 (5) a uniform reporting form for use by a physician
19 when submitting a fetal tissue sample to the department, which must
20 include:

21 (A) the name and business address of the
22 physician; and

23 (B) the name and residence address of the parent
24 or legal guardian of the child on whom the abortion was performed;
25 and

26 (6) procedures for communicating with law enforcement
27 agencies regarding evidence obtained under this section.

1 (d) The department shall preserve the submitted sample
2 until the 10th anniversary of the date on which the department
3 received the sample.

4 (e) A violation of this section is grounds for disciplinary
5 action and imposition of an administrative penalty by the Texas
6 Medical Board.

7 (f) A physician commits an offense if the physician fails to
8 comply with this section or rules adopted under this section. An
9 offense under this subsection is a Class A misdemeanor.

10 SECTION 5. (a) Not later than December 1, 2011, the public
11 safety director of the Department of Public Safety of the State of
12 Texas shall adopt the rules required by Section 420.033(c),
13 Government Code, as added by this Act.

14 (b) Notwithstanding Section 420.033, Government Code, as
15 added by this Act, a physician is not required to collect or submit
16 a fetal tissue sample under that section before December 1, 2011.

17 SECTION 6. The changes in law made by this Act apply only to
18 an offense committed on or after the effective date of this Act. An
19 offense committed before the effective date of this Act is covered
20 by the law in effect when the offense was committed, and the former
21 law is continued in effect for that purpose. For purposes of this
22 section, an offense was committed before the effective date of this
23 Act if any element of the offense occurred before that date.

24 SECTION 7. This Act takes effect September 1, 2011.