

By: Krause, Creighton, Flynn, et al.

H.B. No. 3302

Substitute the following for H.B. No. 3302:

By: Cook

C.S.H.B. No. 3302

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of abortion procedures.

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

SECTION 1. Sections 33.003(a), (b), (c), (e), (f), (h), and (j), Family Code, are amended to read as follows:

(a) A pregnant minor ~~[who wishes to have an abortion without notification to one of her parents, her managing conservator, or her guardian]~~ may file an application for a court order authorizing the minor to consent to the performance of an abortion without the consent of or notification to either of her parents or a managing conservator or guardian.

(b) If the minor resides in a county with a population of less than 50,000, the [The] application must [may] be filed in a [any] county court at law, court having probate jurisdiction, or district court, including a family district court, in the county in which the minor resides or an adjacent county [this state]. If the minor resides in a county with a population of 50,000 or more, the application must be filed in a county court at law, court having probate jurisdiction, or district court, including a family district court, in the county in which the minor resides.

(c) The application must be made under oath and include:

(1) a statement that the minor is pregnant;

(2) a statement that the minor is unmarried, is under 18 years of age, and has not had her disabilities removed under

1 Chapter 31;

2 (3) a statement that the minor wishes to have an
3 abortion without the notification or consent of either of her
4 parents or a managing conservator or guardian; ~~and~~

5 (4) a statement as to whether the minor has retained an
6 attorney and, if she has retained an attorney, the name, address,
7 and telephone number of her attorney; and

8 (5) a statement about the minor's current residence,
9 including the minor's physical address, mailing address, and
10 telephone number.

11 (e) The court shall appoint a guardian ad litem for the
12 minor. If the minor has not retained an attorney, the court shall
13 appoint an attorney to represent the minor. The ~~[If the]~~ guardian
14 ad litem may not also ~~[is an attorney admitted to the practice of~~
15 ~~law in this state, the court may appoint the guardian ad litem to]~~
16 serve as the minor's attorney ad litem.

17 (f) The court may appoint to serve as guardian ad litem:

18 (1) a person who may consent to treatment for the minor
19 under Sections 32.001(a)(1)-(3); or

20 (2) ~~[a psychiatrist or an individual licensed or~~
21 ~~certified as a psychologist under Chapter 501, Occupations Code,~~

22 ~~[(3)]~~ an appropriate employee of the Department of
23 Family and Protective Services~~;~~

24 ~~[(4)] a member of the clergy; or~~

25 ~~[(5)] another appropriate person selected by the~~
26 ~~court~~].

27 (h) The court shall rule on an application submitted under

1 this section and shall issue written findings of fact and
2 conclusions of law not later than 5 p.m. on the second business day
3 after the date the application is filed with the court. On request
4 by the minor, the court shall grant an extension of the period
5 specified by this subsection. If a request for an extension is
6 made, the court shall rule on an application and shall issue written
7 findings of fact and conclusions of law not later than 5 p.m. on the
8 second business day after the date the minor states she is ready to
9 proceed to hearing. [~~If the court fails to rule on the application
10 and issue written findings of fact and conclusions of law within the
11 period specified by this subsection, the application is deemed to
12 be granted and the physician may perform the abortion as if the
13 court had issued an order authorizing the minor to consent to the
14 performance of the abortion without notification under Section
15 33.002.~~] Proceedings under this section shall be given precedence
16 over other pending matters to the extent necessary to assure that
17 the court reaches a decision promptly.

18 (j) If the court finds that the minor does not meet the
19 requirements of Subsection (i), the court may not authorize the
20 minor to consent to an abortion without the consent required under
21 Section 164.052(a)(19), Occupations Code [~~notification authorized
22 under Section 33.002(a)(1)~~].

23 SECTION 2. Sections 33.004(b) and (f), Family Code, are
24 amended to read as follows:

25 (b) The court of appeals shall rule on an appeal under this
26 section not later than 5 p.m. on the second business day after the
27 date the notice of appeal is filed with the court that denied the

1 application. On request by the minor, the court shall grant an
2 extension of the period specified by this subsection. If a request
3 for an extension is made, the court shall rule on the appeal not
4 later than 5 p.m. on the second business day after the date the
5 minor states she is ready to proceed. [~~If the court of appeals
6 fails to rule on the appeal within the period specified by this
7 subsection, the appeal is deemed to be granted and the physician may
8 perform the abortion as if the court had issued an order authorizing
9 the minor to consent to the performance of the abortion without
10 notification under Section 33.002.~~] Proceedings under this section
11 shall be given precedence over other pending matters to the extent
12 necessary to assure that the court reaches a decision promptly.

13 (f) An expedited confidential appeal shall be available to
14 any pregnant minor to whom a court of appeals denies an order
15 authorizing the minor to consent to the performance of an abortion
16 without the consent of or notification to either of her parents or a
17 managing conservator or guardian.

18 SECTION 3. Section 33.008, Family Code, is amended to read
19 as follows:

20 Sec. 33.008. PHYSICIAN'S DUTY TO REPORT ABUSE OF A MINOR;
21 INVESTIGATION AND ASSISTANCE. (a) If a minor claims to have been
22 [~~A physician who has reason to believe that a minor has been or may
23 be~~] physically or sexually abused by a parent or the managing
24 conservator or guardian of the minor, the physician or physician's
25 agent [~~person responsible for the minor's care, custody, or
26 welfare, as that term is defined by Section 261.001,~~] shall
27 immediately report the suspected abuse and the name of the abuser to

1 the Department of Family and Protective Services and to a local law
2 enforcement agency and shall refer the minor to the department for
3 services or intervention that may be in the best interest of the
4 minor. The local law enforcement agency has a duty to respond and
5 shall write a report within 12 hours of being notified of the
6 alleged abuse. A report shall be made regardless of whether the
7 responder knows or suspects that a report about the abuse may have
8 previously been made.

9 (b) The appropriate local law enforcement agency and the
10 Department of Family and Protective Services shall investigate
11 suspected abuse reported under this section and, if warranted
12 ~~[appropriate]~~, shall refer the case to the appropriate prosecuting
13 authority ~~[assist the minor in making an application with a court~~
14 ~~under Section 33.003].~~

15 (c) When the local law enforcement agency responds to the
16 report of physical or sexual abuse as required under Subsection
17 (b), a law enforcement officer or appropriate agent from the
18 Department of Family and Protective Services may take emergency
19 possession of the minor without a court order to protect the health
20 and safety of the minor as described in Chapter 262.

21 SECTION 4. If any court enjoins, suspends, or delays the
22 implementation of the changes in law made by this Act to Chapter 33,
23 Family Code, the former law, as the law existed immediately before
24 the effective date of this Act, becomes or remains in effect and
25 continues in effect. At the time a temporary or permanent
26 restraining order or injunction described by this section is stayed
27 or dissolved, or otherwise ceases to have effect, the changes in law

1 made by this Act become immediately effective.

2 SECTION 5. If any provision of this Act or its application
3 to any person or circumstance is finally held to be
4 unconstitutional, the entire Act is invalid, and to this end the
5 provisions of this Act are declared to be nonseverable.

6 SECTION 6. This Act takes effect January 1, 2014.