



FLOOR AMENDMENT NO. _____

BY: Krause

1 Amend C.S.H.B. No. 3994 (house committee report) as
2 follows:

3 (1) On page 1, strike lines 8 through 9 and substitute the
4 following:

5 SECTION 2. Sections 33.002(a), (e), (f), (h), and (i),
6 Family Code, are amended to read as follows:

7 (a) A physician may not perform an abortion on a pregnant
8 unemancipated minor unless:

9 (1) the physician performing the abortion gives at
10 least 48 hours actual notice, in person or by telephone, of the
11 physician's intent to perform the abortion to:

12 (A) a parent of the minor, if the minor has no
13 managing conservator or guardian; or

14 (B) a court-appointed managing conservator or
15 guardian;

16 (2) the physician performing the abortion receives a
17 certificate or order issued by a court under Section 33.003 or
18 33.004 [~~judge of a court having probate jurisdiction, the judge~~
19 ~~of a county court at law, the judge of a district court,~~
20 ~~including a family district court, or a court of appellate~~
21 ~~jurisdiction issues an order]~~ authorizing the minor to consent
22 to the abortion as provided by Section 33.003 or 33.004; or

23 (3) [~~a probate court, county court at law, district~~
24 ~~court, including a family district court, or court of appeals,~~
25 ~~by its inaction, constructively authorizes the minor to consent~~
26 ~~to the abortion as provided by Section 33.003 or 33.004; or~~

27 [~~4~~] the physician performing the abortion:

28 (A) concludes that on the basis of the
29 physician's good faith clinical judgment, a condition exists
30 that complicates the medical condition of the pregnant minor and

1 necessitates the immediate abortion of her pregnancy to avert
2 her death or to avoid a serious risk of substantial and
3 irreversible impairment of a major bodily function; and

4 (B) certifies in writing to the ~~[Texas]~~
5 Department of State Health Services and in the patient's medical
6 record the medical indications supporting the physician's
7 judgment that the circumstances described by Paragraph (A)
8 exist.

9 (e) The ~~[Texas]~~ Department of State Health Services shall
10 prepare a form to be used for making the certification required
11 by Subsection (a)(3) ~~[(a)(4)]~~.

12 (f) A certification required by Subsection (a)(3) ~~[(a)(4)]~~
13 is confidential and privileged and is not subject to disclosure
14 under Chapter 552, Government Code, or to discovery, subpoena,
15 or other legal process. Personal or identifying information
16 about the minor, including her name, address, or social security
17 number, may not be included in a certification under Subsection
18 (a)(3) ~~[(a)(4)]~~. The physician must keep the medical records on
19 the minor in compliance with the rules adopted by the Texas
20 ~~[State Board of]~~ Medical Board ~~[Examiners]~~ under Section
21 153.003, Occupations Code.

22 (2) On page 1, between lines 22 and 23, insert the
23 following:

24 (i) In relation to the trial of an offense under this
25 section in which the conduct charged involves a conclusion made
26 by the physician under Subsection (a)(3) ~~[(a)(4)]~~, the defendant
27 may seek a hearing before the Texas ~~[State Board of]~~ Medical
28 Board ~~[Examiners]~~ on whether the physician's conduct was
29 necessary to avert the death of the minor or to avoid a serious
30 risk of substantial and irreversible impairment of a major
31 bodily function. The findings of the Texas ~~[State Board of]~~

1 Medical Board [~~Examiners~~] under this subsection are admissible
2 on that issue in the trial of the defendant. Notwithstanding
3 any other reason for a continuance provided under the Code of
4 Criminal Procedure or other law, on motion of the defendant, the
5 court shall delay the beginning of the trial for not more than
6 30 days to permit a hearing under this subsection to take place.

7 (3) On page 2, line 5, strike "and (k)" and substitute
8 "(k), and (l)"

9 (4) On page 2, line 6, strike "and (l-2)" and substitute
10 "(l-2), (o), (p), (q), and (r)".

11 (5) On page 2, strike lines 8 through 13, and substitute
12 the following:

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

19 (6) On page 2, strike lines 14 through 20, and substitute
20 the following:

21 (b) The application must [~~may~~] be filed in:

22 (1) a [any] county court at law, court having probate
23 jurisdiction, or district court, including a family district
24 court, in the minor's county of residence;

25 (2) if the minor's county of residence has a
26 population of less than 10,000:

27 (A) a court described by Subdivision (1);

28 (B) a county court at law, court having probate
29 jurisdiction, or district court, including a family district
30 court, in a neighboring county; or

1 (C) a county court at law, court having probate
2 jurisdiction, or district court, including a family district
3 court, in the county in which the facility at which the minor
4 intends to obtain the abortion is located; or

5 (3) a county court at law, court having probate
6 jurisdiction, or district court, including a family district
7 court, in the county in which the facility at which the minor
8 intends to obtain the abortion is located, if the minor is not a
9 resident of this state.

10 (7) Strike page 2, line 21, through page 3, line 11, and
11 substitute the following:

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

13 (1) a statement that the minor is pregnant;

14 (2) a statement that the minor is unmarried, is under
15 18 years of age, and has not had her disabilities removed under
16 Chapter 31;

17 (3) a statement that the minor wishes to have an
18 abortion without the notification to and consent of [~~either of~~
19 ~~her parents or~~] a parent, managing conservator, or guardian;
20 [~~and~~]

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

24 (5) a statement about the minor's current residence,
25 including the minor's physical address, mailing address, and
26 telephone number.

27 (e) The court shall appoint a guardian ad litem for the
28 minor who shall represent the best interest of the minor. If
29 the minor has not retained an attorney, the court shall appoint
30 an attorney to represent the minor. The [~~If the~~] guardian ad
31 litem may not also [~~is an attorney admitted to the practice of~~

1 ~~law in this state, the court may appoint the guardian ad litem~~
2 ~~to] serve as the minor's attorney ad litem.~~

3 (8) On page 4, strike lines 5 through 11 and substitute the
4 following:

5 the application is deemed to be denied [~~granted and the~~
6 ~~physician may perform the abortion as if the court had issued an~~
7 ~~order authorizing the minor to consent to the performance of the~~
8 ~~abortion without notification under Section 33.002)]. If the
9 court authorizes the minor to consent to the abortion under this
10 subsection, the court clerk shall issue to the physician who is
11 to perform the abortion a certificate showing that the court
12 granted the application. Proceedings under this section shall
13 be~~

14 (9) On page 6, between lines 20 and 21, insert the
15 following:

16 (1) An order of the court issued under this section is
17 confidential and privileged and is not subject to disclosure
18 under Chapter 552, Government Code, or discovery, subpoena, or
19 other legal process. The order may not be released to any
20 person but the pregnant minor, the pregnant minor's guardian ad
21 litem, the pregnant minor's attorney, the physician who is to
22 perform the abortion, another person designated to receive the
23 order by the minor, or a governmental agency or attorney in a
24 criminal or administrative action seeking to assert or protect
25 the interest of the minor. The supreme court may adopt rules to
26 permit confidential docketing of an application under this
27 section.

28 (10) On page 7, between lines 8 and 9, insert the
29 following:

30 (o) A minor who has filed an application under this
31 section may not withdraw or otherwise non-suit her application

1 without the permission of the court.

2 (p) Except as otherwise provided by Subsection (q), a
3 minor who has filed an application and has obtained a
4 determination by the court as described by Subsection (i) may
5 not initiate a new application proceeding and the prior
6 proceeding is res judicata of the issue relating to the
7 determination of whether the minor may or may not be authorized
8 to consent to the performance of an abortion without the consent
9 of and notification to a parent, managing conservator, or
10 guardian.

11 (q) A minor whose application is denied may subsequently
12 submit an application to the court that denied the application
13 if the minor shows that there has been a material change in
14 circumstances since the time the court denied the application.

15 (r) An attorney retained by the minor to assist her in
16 filing an application under this section shall fully inform
17 himself or herself of the minor's prior application history,
18 including the representations made by the minor in the
19 application regarding her address, proper venue in the county in
20 which the application is filed, and whether a prior application
21 has been filed and initiated. If an attorney assists the minor
22 in the application process in any way, with or without payment,
23 the attorney representing the minor must attest to the truth of
24 the minor's claims regarding the venue and prior applications in
25 a sworn statement.

26 (11) On page 7, strike lines 21 through 27 and substitute
27 the following:

28 this subsection, the appeal is deemed to be denied ~~[granted~~
29 ~~and the physician may perform the abortion as if the court had~~
30 ~~issued an order authorizing the minor to consent to the~~
31 ~~performance of the abortion without notification under Section~~

1 ~~33.002]~~. If the court authorizes the minor to consent to the
2 abortion under this subsection, the court clerk shall issue to
3 the physician who is to perform the abortion a certificate
4 showing that the court granted the application. Proceedings
5 under this

6 (12) Strike page 8, line 17, through page 9, line 4, and
7 substitute the following:

8 Sec. 33.008. PHYSICIAN'S DUTY TO REPORT ABUSE OF A MINOR;
9 INVESTIGATION AND ASSISTANCE. (a) If a minor claims to have
10 been physically or sexually abused or a [A] physician or
11 physician's agent [who] has reason to believe that a minor has
12 been [or may be] physically or sexually abused [by a person
13 responsible for the minor's care, custody, or welfare, as that
14 term is defined by Section 261.001], the physician or
15 physician's agent shall immediately report the suspected abuse
16 and the name of the abuser to the Department of Family and
17 Protective Services and to a local law enforcement agency and
18 shall refer the minor to the department for services or
19 intervention that may be in the best interest of the minor. The
20 local law enforcement agency shall respond and shall write a
21 report within 24 hours of being notified of the alleged abuse.
22 A report shall be made regardless of whether the local law
23 enforcement agency knows or suspects that a report about the
24 abuse may have previously been made.

25 (b) The appropriate local law enforcement agency and the
26 Department of Family and Protective Services shall investigate
27 suspected abuse reported under this section and, if warranted
28 [appropriate], shall refer the case to the appropriate
29 prosecuting authority [assist the minor in making an application
30 with a court under Section 33.003].

31 (c) When the local law enforcement agency responds to the

1 report of physical or sexual abuse as required by Subsection
2 (a), a law enforcement officer or appropriate agent from the
3 Department of Family and Protective Services may take emergency
4 possession of the minor without a court order to protect the
5 health and safety of the minor as described by Chapter 262.

6 (13) Add the following appropriately numbered SECTIONS to
7 the bill and renumber subsequent SECTIONS of the bill
8 accordingly:

9 SECTION _____. Chapter 33, Family Code, is amended by
10 adding Section 33.0085 to read as follows:

11 Sec. 33.0085. DUTY OF JUDGE OR JUSTICE TO REPORT ABUSE OF
12 MINOR. (a) Notwithstanding any other law, a judge or justice
13 who, as a result of court proceedings conducted under Section
14 33.003 or 33.004, has reason to believe that a minor has been or
15 may be physically or sexually abused shall:

16 (1) immediately report the suspected abuse and the
17 name of the abuser to the Department of Family and Protective
18 Services and to a local law enforcement agency; and

19 (2) refer the minor to the department for services or
20 intervention that may be in the best interest of the minor.

21 (b) The appropriate local law enforcement agency and the
22 Department of Family and Protective Services shall investigate
23 suspected abuse reported under this section and, if warranted,
24 shall refer the case to the appropriate prosecuting authority.

25 SECTION _____. Section 33.010, Family Code, is amended to
26 read as follows:

27 Sec. 33.010. CONFIDENTIALITY. Notwithstanding any other
28 law, information obtained by the Department of Family and
29 Protective Services or another entity under Section 33.008,
30 33.0085, or 33.009 is confidential except to the extent
31 necessary to prove a violation of Section 21.02, 22.011, 22.021,

1 or 25.02, Penal Code.