

Amend CSHB 3994 (house committee report) as follows:

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

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

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

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

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

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

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

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

~~(4)~~ the physician performing the abortion:

(A) concludes that on the basis of the physician's good faith clinical judgment, a condition exists that complicates the medical condition of the pregnant minor and necessitates the immediate abortion of her pregnancy to avert her death or to avoid a serious risk of substantial and irreversible impairment of a major bodily function; and

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

(e) The [~~Texas~~] Department of State Health Services shall

prepare a form to be used for making the certification required by Subsection (a)(3) [~~(a)(4)~~].

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

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

(i) In relation to the trial of an offense under this section in which the conduct charged involves a conclusion made by the physician under Subsection (a)(3) [~~(a)(4)~~], the defendant may seek a hearing before the Texas [~~State Board of~~ Medical Board [~~Examiners~~] on whether the physician's conduct was necessary to avert the death of the minor or to avoid a serious risk of substantial and irreversible impairment of a major bodily function. The findings of the Texas [~~State Board of~~ Medical Board [~~Examiners~~] under this subsection are admissible on that issue in the trial of the defendant. Notwithstanding any other reason for a continuance provided under the Code of Criminal Procedure or other law, on motion of the defendant, the court shall delay the beginning of the trial for not more than 30 days to permit a hearing under this subsection to take place.

(3) On page 2, line 5, between "(e)," and "(g)", insert "(f),".

(4) On page 2, line 5, strike "and (k)" and substitute "(k), and (l)"

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

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

(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 notification to and consent [~~either~~] of [~~her parents or~~] a parent, managing conservator, or guardian.

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

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

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

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

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

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

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

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

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

(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 Chapter 31;

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

(4) a statement as to whether the minor has retained an attorney and, if she has retained an attorney, the name, address,

and telephone number of her attorney; and

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

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

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

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

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

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

(3) an attorney who is licensed to practice law in this state and is in good standing with the State Bar of Texas

~~(4) a member of the clergy; or~~

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

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

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

(10) On page 6, between lines 20 and 21, insert the following:

(1) An order of the court issued under this section is confidential and privileged and is not subject to disclosure under

Chapter 552, Government Code, or discovery, subpoena, or other legal process. The order may not be released to any person but the pregnant minor, the pregnant minor's guardian ad litem, the pregnant minor's attorney, the physician who is to perform the abortion, another person designated to receive the order by the minor, or a governmental agency or attorney in a criminal or administrative action seeking to assert or protect the interest of the minor. The supreme court may adopt rules to permit confidential docketing of an application under this section.

(11) On page 7, between lines 8 and 9, insert the following:

(o) A minor who has filed an application under this section may not withdraw or otherwise non-suit her application without the permission of the court.

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

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

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

(12) On page 7, strike lines 21 through 27 and substitute

the following:

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

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

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

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

(c) When the local law enforcement agency responds to the report of physical or sexual abuse as required by Subsection (a), a law enforcement officer or appropriate agent from the Department of Family and Protective Services may take emergency possession of the

minor without a court order to protect the health and safety of the minor as described by Chapter 262.

(14) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly:

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

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

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

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

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

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

Sec. 33.010. CONFIDENTIALITY. Notwithstanding any other law, information obtained by the Department of Family and Protective Services or another entity under Section 33.008, 33.0085, or 33.009 is confidential except to the extent necessary to prove a violation of Section 21.02, 22.011, 22.021, or 25.02, Penal Code.