

By: Hughes, et al.

S.B. No. 73

A BILL TO BE ENTITLED

AN ACT

relating to reporting and certification requirements by certain physicians regarding certain abortions.

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

SECTION 1. Section 170.002(c), Health and Safety Code, is amended to read as follows:

(c) A physician who performs an abortion that, according to the physician's best medical judgment at the time of the abortion, is to abort a viable unborn child during the third trimester of the pregnancy shall certify in writing to the commission [~~department~~], on a form prescribed by the commission [~~department~~], the medical indications supporting the physician's judgment that the abortion was authorized by Subsection (b)(2) or (3). If the physician certifies the abortion was authorized by Subsection (b)(3), the physician shall certify in writing on the form the fetal abnormality identified by the physician. The certification must be made not later than the 30th day after the date the abortion was performed.

SECTION 2. Subchapter A, Chapter 171, Health and Safety Code, is amended by adding Section 171.006 to read as follows:

Sec. 171.006. REPORTING REQUIREMENTS FOR ABORTIONS PERFORMED ON WOMEN YOUNGER THAN 18 YEARS OF AGE. (a) For each abortion performed on a woman who is younger than 18 years of age, the physician who performed the abortion shall document in the

1 woman's medical record and report to the commission:

2 (1) one of the following methods for obtaining
3 authorization for the abortion:

4 (A) the woman's parent, managing conservator, or
5 legal guardian provided the written consent required by Section
6 164.052(a)(19), Occupations Code;

7 (B) the woman obtained judicial authorization
8 under Section 33.003 or 33.004, Family Code;

9 (C) the woman consented to the abortion if the
10 woman has had the disabilities of minority removed and is
11 authorized under law to have the abortion without the written
12 consent required by Section 164.052(a)(19), Occupations Code, or
13 without judicial authorization under Section 33.003 or 33.004,
14 Family Code; or

15 (D) the physician concluded and documented in
16 writing in the woman's medical record that on the basis of the
17 physician's good faith clinical judgment:

18 (i) a condition existed that complicated
19 the medical condition of the woman and necessitated the immediate
20 abortion of the woman's pregnancy to avert the woman's death or to
21 avoid a serious risk of substantial impairment of a major bodily
22 function; and

23 (ii) there was insufficient time to obtain
24 the consent of the woman's parent, managing conservator, or legal
25 guardian;

26 (2) if the woman's parent, managing conservator, or
27 legal guardian provided the written consent described by

1 Subdivision (1)(A), whether the consent was given:

2 (A) in person at the location where the abortion
3 was performed; or

4 (B) at a place other than the location where the
5 abortion was performed; and

6 (3) if the woman obtained the judicial authorization
7 described by Subdivision (1)(B):

8 (A) if applicable, the process the physician or
9 physician's agent used to inform the woman of the availability of
10 petitioning for judicial authorization as an alternative to the
11 written consent required by Section 164.052(a)(19), Occupations
12 Code;

13 (B) whether the court forms were provided to the
14 woman by the physician or the physician's agent; and

15 (C) whether the physician or the physician's
16 agent made arrangements for the woman's court appearance.

17 (b) Except as provided by Section 245.023, all information
18 and records held by the commission under this section are
19 confidential and are not open records for the purposes of Chapter
20 552, Government Code. That information may not be released or made
21 public on subpoena or otherwise, except release may be made:

22 (1) for statistical purposes, but only if a person,
23 patient, or health care facility is not identified;

24 (2) with the consent of each person, patient, and
25 facility identified in the information released;

26 (3) to medical personnel, appropriate state agencies,
27 or county and district courts to enforce this chapter; or

1 (4) to appropriate state licensing boards to enforce
2 state licensing laws.

3 (c) Any information released by the commission may not
4 identify by any means the county in which a minor obtained judicial
5 authorization for an abortion under Chapter 33, Family Code.

6 SECTION 3. Section 170.002, Health and Safety Code, as
7 amended by this Act, and Section 171.006, Health and Safety Code, as
8 added by this Act, apply only to an abortion performed on or after
9 December 1, 2017. An abortion performed before December 1, 2017, is
10 governed by the law applicable to the abortion immediately before
11 the effective date of this Act, and that law is continued in effect
12 for that purpose.

13 SECTION 4. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect on the 91st day after the last day of the
18 legislative session.