

SENATE AMENDMENTS

2nd Printing

By: Morrison, Bonnen of Galveston,
King of Parker, Krause, Simmons, et al.

H.B. No. 3994

A BILL TO BE ENTITLED

1 AN ACT

2 relating to notice of and consent to an abortion for a minor and
3 associated requirements; amending provisions subject to a criminal
4 penalty.

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

6 SECTION 1. The heading to Chapter 33, Family Code, is
7 amended to read as follows:

8 CHAPTER 33. NOTICE OF AND CONSENT TO ABORTION

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

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

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

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

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

20 (2) the physician performing the abortion receives a
21 certificate or order issued by a court under Section 33.003 or
22 33.004 [~~judge of a court having probate jurisdiction, the judge of a~~
23 ~~county court at law, the judge of a district court, including a~~
24 ~~family district court, or a court of appellate jurisdiction issues~~

1 ~~an order~~] authorizing the minor to consent to the abortion as
2 provided by Section 33.003 or 33.004; or

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

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

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

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

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

21 (f) A certification required by Subsection (a)(3) ~~[(a)(4)]~~
22 is confidential and privileged and is not subject to disclosure
23 under Chapter 552, Government Code, or to discovery, subpoena, or
24 other legal process. Personal or identifying information about the
25 minor, including her name, address, or social security number, may
26 not be included in a certification under Subsection (a)(3)
27 ~~[(a)(4)]~~. The physician must keep the medical records on the minor

1 in compliance with the rules adopted by the Texas [~~State Board of~~
2 Medical Board [~~Examiners~~] under Section 153.003, Occupations Code.

3 (h) A physician shall presume that a pregnant woman is a
4 minor unless the woman presents a valid governmental record of
5 identification showing that she has reached the age of majority. It
6 is a defense to prosecution under this section that the minor
7 falsely represented her age or identity to the physician to be at
8 least 18 years of age by displaying an apparently valid
9 governmental record of identification such that a reasonable person
10 under similar circumstances would have relied on the
11 representation. The defense does not apply if the physician is
12 shown to have had independent knowledge of the minor's actual age or
13 identity or failed to use due diligence in determining the minor's
14 age or identity. In this subsection, "defense" has the meaning and
15 application assigned by Section 2.03, Penal Code.

16 (i) In relation to the trial of an offense under this
17 section in which the conduct charged involves a conclusion made by
18 the physician under Subsection (a)(3) [~~(a)(4)~~], the defendant may
19 seek a hearing before the Texas [~~State Board of~~] Medical Board
20 [~~Examiners~~] on whether the physician's conduct was necessary to
21 avert the death of the minor or to avoid a serious risk of
22 substantial and irreversible impairment of a major bodily function.
23 The findings of the Texas [~~State Board of~~] Medical Board
24 [~~Examiners~~] under this subsection are admissible on that issue in
25 the trial of the defendant. Notwithstanding any other reason for a
26 continuance provided under the Code of Criminal Procedure or other
27 law, on motion of the defendant, the court shall delay the beginning

1 of the trial for not more than 30 days to permit a hearing under this
2 subsection to take place.

3 SECTION 3. Chapter 33, Family Code, is amended by adding
4 Section 33.0021 to read as follows:

5 Sec. 33.0021. CONSENT REQUIRED. A physician may not
6 perform an abortion in violation of Section 164.052(a)(19),
7 Occupations Code.

8 SECTION 4. Section 33.003, Family Code, is amended by
9 amending Subsections (a), (b), (c), (e), (g), (h), (i), (j), (k),
10 and (l) and adding Subsections (g-1), (i-1), (i-2), (i-3), (l-1),
11 (l-2), (o), (p), (q), and (r) to read as follows:

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

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

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

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

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

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

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

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

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

12 (2) a statement that the minor is unmarried, is under
13 18 years of age, and has not had her disabilities removed under
14 Chapter 31;

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

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

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

24 (e) The court shall appoint a guardian ad litem for the
25 minor who shall represent the best interest of the minor. If the
26 minor has not retained an attorney, the court shall appoint an
27 attorney to represent the minor. The [~~If the~~] guardian ad litem may

1 not also [~~is an attorney admitted to the practice of law in this~~
2 ~~state, the court may appoint the guardian ad litem to]~~ serve as the
3 minor's attorney ad litem.

4 (g) The court shall fix a time for a hearing on an
5 application filed under Subsection (a) and shall keep a record of
6 all testimony and other oral proceedings in the action. [~~The court~~
7 ~~shall enter judgment on the application immediately after the~~
8 ~~hearing is concluded.~~]

9 (g-1) The pregnant minor must appear before the court in
10 person and may not appear using videoconferencing, telephone
11 conferencing, or other remote electronic means.

12 (h) The court shall rule on an application submitted under
13 this section and shall issue written findings of fact and
14 conclusions of law not later than 5 p.m. on the fifth [~~second~~]
15 business day after the date the application is filed with the court.
16 On request by the minor, the court shall grant an extension of the
17 period specified by this subsection. If a request for an extension
18 is made, the court shall rule on an application and shall issue
19 written findings of fact and conclusions of law not later than 5
20 p.m. on the fifth [~~second~~] business day after the date the minor
21 states she is ready to proceed to hearing. If the court fails to
22 rule on the application and issue written findings of fact and
23 conclusions of law within the period specified by this subsection,
24 the application is deemed to be denied [~~granted and the physician~~
25 ~~may perform the abortion as if the court had issued an order~~
26 ~~authorizing the minor to consent to the performance of the abortion~~
27 ~~without notification under Section 33.002]~~. If the court

1 authorizes the minor to consent to the abortion under this
2 subsection, the court clerk shall issue to the physician who is to
3 perform the abortion a certificate showing that the court granted
4 the application. Proceedings under this section shall be given
5 precedence over other pending matters to the extent necessary to
6 assure that the court reaches a decision promptly, regardless of
7 whether the minor is granted an extension under this subsection.

8 (i) The court shall determine by clear and convincing [~~a~~
9 ~~preponderance of the~~] evidence, as described by Section 101.007,
10 whether the minor has overcome the presumption that notifying and
11 requesting consent from a parent, managing conservator, or guardian
12 is in the minor's best interest. In making a determination under
13 this subsection, the court shall consider:

14 (1) whether the minor is mature and sufficiently well
15 informed to make the decision to have an abortion performed without
16 notification to or consent of a parent, [~~either of her parents or a~~]
17 managing conservator, or guardian;

18 (2) [~~7~~] whether the abortion [~~notification~~] would
19 [~~not~~] be in the best interest of the minor; and

20 (3) [~~7~~ ~~or~~] whether notification or the attempt to
21 obtain consent may lead to physical, sexual, or emotional abuse of
22 the minor, as described by Section 261.001.

23 (i-1) In determining whether the minor meets the
24 requirements of Subsection (i)(1), the court shall consider the
25 experience, perspective, and judgment of the minor. The court may
26 consider all relevant factors, including:

27 (1) the minor's age;

1 (2) the minor's life experiences, such as working,
2 traveling independently, or managing her own financial affairs;

3 (3) steps taken by the minor to explore her options and
4 the consequences of those options; and

5 (4) the minor's decision not to notify and obtain
6 consent from a parent, managing conservator, or guardian.

7 (i-2) In determining whether the abortion is in the best
8 interest of the minor, the court may:

9 (1) inquire as to the minor's reasons for seeking an
10 abortion;

11 (2) consider the degree to which the minor is informed
12 about the state-published informational materials described by
13 Chapter 171, Health and Safety Code; and

14 (3) require the minor to be evaluated by a licensed
15 mental health counselor, who shall return the evaluation to the
16 court for review within three business days.

17 (i-3) If the court finds that the minor is mature and
18 sufficiently well informed, that the abortion [notification] would
19 [not] be in the minor's best interest, or that notification or the
20 attempt to obtain consent may lead to physical, sexual, or
21 emotional abuse of the minor, the court shall enter an order
22 authorizing the minor to consent to the performance of the abortion
23 without notification to and consent of a parent, [~~either of her~~
24 parents or a] managing conservator, or guardian and shall execute
25 the required forms.

26 (j) If the court finds that the minor does not meet the
27 requirements of Subsection (i-3) [~~(i)~~], the court may not authorize

1 the minor to consent to an abortion without the notification
2 authorized under Section 33.002(a)(1) and consent under Section
3 33.0021.

4 (k) The court may not notify a parent, managing conservator,
5 or guardian that the minor is pregnant or that the minor wants to
6 have an abortion. The court proceedings shall be conducted in a
7 manner that protects the anonymity of the minor. The application
8 and all other court documents pertaining to the proceedings are
9 confidential and privileged and are not subject to disclosure under
10 Chapter 552, Government Code, or to discovery, subpoena, or other
11 legal process. The minor may file the application using a pseudonym
12 or using only her initials. Confidential records pertaining to a
13 minor under this subsection may be disclosed to the minor.

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

25 (l-1) The clerk of the court, at intervals prescribed by the
26 Office of Court Administration of the Texas Judicial System, shall
27 submit a report to the office that includes, for each case filed

1 under this section:

2 (1) the case number and style;

3 (2) the applicant's county of residence;

4 (3) the court of appeals district in which the
5 proceeding occurred;

6 (4) the date of filing;

7 (5) the date of disposition; and

8 (6) the disposition of the case.

9 (1-2) The Office of Court Administration of the Texas
10 Judicial System shall annually compile and publish a report
11 aggregating the data received under Subsections (1-1)(2), (3), and
12 (6). A report under this subsection must protect the anonymity of
13 all minors and judges that are the subject of the report.

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

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

25 (q) A minor whose application is denied may subsequently
26 submit an application to the court that denied the application if
27 the minor shows that there has been a material change in

1 circumstances since the time the court denied the application.

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

13 SECTION 5. Section 33.004, Family Code, is amended by
14 amending Subsection (b) and adding Subsection (c-1) to read as
15 follows:

16 (b) The court of appeals shall rule on an appeal under this
17 section not later than 5 p.m. on the fifth [~~second~~] business day
18 after the date the notice of appeal is filed with the court that
19 denied the application. On request by the minor, the court shall
20 grant an extension of the period specified by this subsection. If a
21 request for an extension is made, the court shall rule on the appeal
22 not later than 5 p.m. on the fifth [~~second~~] business day after the
23 date the minor states she is ready to proceed. If the court of
24 appeals fails to rule on the appeal within the period specified by
25 this subsection, the appeal is deemed to be denied [~~granted and the~~
26 ~~physician may perform the abortion as if the court had issued an~~
27 ~~order authorizing the minor to consent to the performance of the~~

1 ~~abortion without notification under Section 33.002]~~. If the court
2 authorizes the minor to consent to the abortion under this
3 subsection, the court clerk shall issue to the physician who is to
4 perform the abortion a certificate showing that the court granted
5 the application. Proceedings under this section shall be given
6 precedence over other pending matters to the extent necessary to
7 assure that the court reaches a decision promptly, regardless of
8 whether the minor is granted an extension under this subsection.

9 (c-1) Notwithstanding Subsection (c), the court of appeals
10 may publish an opinion relating to a ruling under this section if
11 the opinion is written in a way to preserve the confidentiality of
12 the identity of the pregnant minor.

13 SECTION 6. Chapter 33, Family Code, is amended by adding
14 Section 33.0065 to read as follows:

15 Sec. 33.0065. RECORDS. The clerk of the court shall retain
16 the records for each case before the court under this chapter in
17 accordance with rules for civil cases and grant access to the
18 records to the minor who is the subject of the proceeding.

19 SECTION 7. Section 33.008, Family Code, is amended to read
20 as follows:

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

1 immediately report the suspected abuse and the name of the abuser to
2 the Department of Family and Protective Services and to a local law
3 enforcement agency and shall refer the minor to the department for
4 services or intervention that may be in the best interest of the
5 minor. The local law enforcement agency shall respond and shall
6 write a report within 24 hours of being notified of the alleged
7 abuse. A report shall be made regardless of whether the local law
8 enforcement agency knows or suspects that a report about the abuse
9 may have previously been made.

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

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

22 SECTION 8. Chapter 33, Family Code, is amended by adding
23 Section 33.0085 to read as follows:

24 Sec. 33.0085. DUTY OF JUDGE OR JUSTICE TO REPORT ABUSE OF
25 MINOR. (a) Notwithstanding any other law, a judge or justice who,
26 as a result of court proceedings conducted under Section 33.003 or
27 33.004, has reason to believe that a minor has been or may be

1 physically or sexually abused shall:

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

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

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

11 SECTION 9. Section 33.010, Family Code, is amended to read
12 as follows:

13 Sec. 33.010. CONFIDENTIALITY. Notwithstanding any other
14 law, information obtained by the Department of Family and
15 Protective Services or another entity under Section 33.008,
16 33.0085, or 33.009 is confidential except to the extent necessary
17 to prove a violation of Section 21.02, 22.011, 22.021, or 25.02,
18 Penal Code.

19 SECTION 10. (a) Section 33.002, Family Code, as amended by
20 this Act, applies only to an offense committed on or after the
21 effective date of this Act. An offense committed before the
22 effective date of this Act is governed by the law in effect on the
23 date the offense was committed, and the former law is continued in
24 effect for that purpose. For purposes of this section, an offense
25 was committed before the effective date of this Act if any element
26 of the offense occurred before that date.

27 (b) Sections 33.003 and 33.004, Family Code, as amended by

1 this Act, apply only to a petition filed on or after the effective
2 date of this Act. A petition filed before the effective date of
3 this Act is governed by the law in effect on the date the petition
4 was filed, and the former law is continued in effect for that
5 purpose.

6 (c) The Office of Court Administration of the Texas Judicial
7 System is not required to publish the initial report under Section
8 33.003(1-2), Family Code, as added by this Act, before January 1,
9 2017.

10 SECTION 11. Every provision in this Act and every
11 application of the provisions in this Act are severable from each
12 other. If any application of any provision in this Act to any
13 person or group of persons or circumstances is found by a court to
14 be invalid, the remainder of this Act and the application of the
15 Act's provisions to all other persons and circumstances may not be
16 affected. All constitutionally valid applications of this Act
17 shall be severed from any applications that a court finds to be
18 invalid, leaving the valid applications in force, because it is the
19 legislature's intent and priority that the valid applications be
20 allowed to stand alone. Even if a reviewing court finds a provision
21 of this Act invalid in a large or substantial fraction of relevant
22 cases, the remaining valid applications shall be severed and
23 allowed to remain in force.

24 SECTION 12. This Act takes effect January 1, 2016.

ADOPTED

is amended
MAY 25 2015
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Atty. Gen.
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: Chris Perry

1 Amend H.B. No. 3994 (senate committee report) by striking all
2 below the enacting clause and substituting the following:

3 SECTION 1. The heading to Chapter 33, Family Code, is
4 amended to read as follows:

5 CHAPTER 33. NOTICE OF AND CONSENT TO ABORTION

6 SECTION 2. Section 33.001, Family Code, is amended by
7 adding Subdivision (3-a) to read as follows:

8 (3-a) "Medical emergency" has the meaning assigned by
9 Section 171.002, Health and Safety Code.

10 SECTION 3. Section 33.002, Family Code, is amended by
11 amending Subsections (a), (e), (f), (h), and (i) and adding
12 Subsections (j), (k), and (l) to read as follows:

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

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

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

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

22 (2) the physician who is to perform the abortion
23 receives an order issued by a court under Section 33.003 or 33.004
24 ~~[judge of a court having probate jurisdiction, the judge of a county~~
25 ~~court at law, the judge of a district court, including a family~~
26 ~~district court, or a court of appellate jurisdiction issues an~~
27 ~~order]~~ authorizing the minor to consent to the abortion as provided
28 by Section 33.003 or 33.004; or

29 (3) ~~[a probate court, county court at law, district~~

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21 PM
②

1 ~~court, including a family district court, or court of appeals, by~~
2 ~~its inaction, constructively authorizes the minor to consent to the~~
3 ~~abortion as provided by Section 33.003 or 33.004; or~~

4 ~~[(4)]~~ the physician who is to perform ~~[performing]~~ the
5 abortion:

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

13 (B) certifies in writing to the ~~[Texas]~~
14 Department of State Health Services and in the patient's medical
15 record the medical indications supporting the physician's judgment
16 that a medical emergency exists; and

17 (C) provides the notice required by Section
18 33.0022 ~~[the circumstances described by Paragraph (A) exist].~~

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

22 (f) A certification required by Subsection (a)(3)(B)
23 ~~[(a)(4)]~~ is confidential and privileged and is not subject to
24 disclosure under Chapter 552, Government Code, or to discovery,
25 subpoena, or other legal process. Personal or identifying
26 information about the minor, including her name, address, or social
27 security number, may not be included in a certification under
28 Subsection (a)(3)(B) ~~[(a)(4)]~~. The physician must keep the medical
29 records on the minor in compliance with the rules adopted by the
30 Texas ~~[State Board of]~~ Medical Board ~~[Examiners]~~ under Section
31 153.003, Occupations Code.

1 (h) A physician shall presume that a pregnant woman is a
2 minor unless the woman presents proof of identity and age described
3 by Subsection (k) showing that she has reached the age of majority.
4 It is a defense to prosecution under this section that the minor
5 falsely represented her age or identity to the physician to be at
6 least 18 years of age by displaying an apparently valid proof of
7 identity and age [~~governmental record of identification~~] such that
8 a reasonable person under similar circumstances would have relied
9 on the representation. The defense does not apply if the physician
10 is shown to have had independent knowledge of the minor's actual age
11 or identity or failed to use due diligence in determining the
12 minor's age or identity. In this subsection, "defense" has the
13 meaning and application assigned by Section 2.03, Penal Code.

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

28 (j) A physician shall use due diligence to determine that
29 any woman on which the physician performs an abortion who claims to
30 have reached the age of majority or to have had the disabilities of
31 minority removed has, in fact, reached the age of majority or has

1 had the disabilities of minority removed.

2 (k) For the purposes of this section, "due diligence"
3 includes requesting proof of identity and age described by Section
4 2.005(b) or a copy of the court order removing disabilities of
5 minority.

6 (l) If proof of identity and age cannot be provided, the
7 physician shall provide information on how to obtain proof of
8 identity and age. If the woman is subsequently unable to obtain
9 proof of identity and age and the physician chooses to perform the
10 abortion, the physician shall document that proof of identity and
11 age was not obtained and report to the Department of State Health
12 Services that proof of identity and age was not obtained for the
13 woman on whom the abortion was performed. The department shall
14 report annually to the legislature regarding the number of
15 abortions performed without proof of identity and age.

16 SECTION 4. Chapter 33, Family Code, is amended by adding
17 Sections 33.0021 and 33.0022 to read as follows:

18 Sec. 33.0021. CONSENT REQUIRED. A physician may not
19 perform an abortion in violation of Section 164.052(a)(19),
20 Occupations Code.

21 Sec. 33.0022. MEDICAL EMERGENCY NOTIFICATION; AFFIDAVIT
22 FOR MEDICAL RECORD. (a) If the physician who is to perform the
23 abortion concludes under Section 33.002(a)(3)(A) that a medical
24 emergency exists and that there is insufficient time to provide the
25 notice required by Section 33.002 or obtain the consent required by
26 Section 33.0021, the physician shall inform, in person or by
27 telephone, the parent, managing conservator, or guardian of the
28 unemancipated minor within 24 hours after the time a medical
29 emergency abortion is performed on the minor of:

30 (1) the performance of the abortion; and
31 (2) the basis for the physician's determination that a

1 medical emergency existed that required the performance of a
2 medical emergency abortion without fulfilling the requirements of
3 Section 33.002 or 33.0021.

4 (b) A physician who performs an abortion as described by
5 Subsection (a) shall send a written notice of the medical emergency
6 and the ability of the parent, managing conservator, or guardian to
7 contact the physician for more information and medical records, to
8 the last known address of the parent, managing conservator, or
9 guardian by certified mail, restricted delivery, return receipt
10 requested. The physician may rely on last known address
11 information if a reasonable and prudent person, under similar
12 circumstances, would rely on the information as sufficient evidence
13 that the parent, managing conservator, or guardian resides at that
14 address. The physician shall keep in the minor's medical record:

15 (1) the return receipt from the written notice; or
16 (2) if the notice was returned as undeliverable, the
17 notice.

18 (c) A physician who performs an abortion on an unemancipated
19 minor during a medical emergency as described by Subsection (a)
20 shall execute for inclusion in the medical record of the minor an
21 affidavit that explains the specific medical emergency that
22 necessitated the immediate abortion.

23 SECTION 5. Section 33.003, Family Code, is amended by
24 amending Subsections (a), (b), (c), (e), (g), (h), (i), (j), (k),
25 and (l) and adding Subsections (g-1), (i-1), (i-2), (i-3), (l-1),
26 (l-2), (o), (p), (q), and (r) to read as follows:

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

1 managing conservator, or guardian.

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

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

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

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

9 (B) a county court at law, court having probate
10 jurisdiction, or district court, including a family district court,
11 in a contiguous county; or

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

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

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

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

23 (2) a statement that the minor is unmarried, is under
24 18 years of age, and has not had her disabilities removed under
25 Chapter 31;

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

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

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

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

11 (g) The court shall fix a time for a hearing on an
12 application filed under Subsection (a) and shall keep a record of
13 all testimony and other oral proceedings in the action[~~. The court~~
14 ~~shall enter judgment on the application immediately after the~~
15 ~~hearing is concluded~~].

16 (g-1) The pregnant minor must appear before the court in
17 person and may not appear using videoconferencing, telephone
18 conferencing, or other remote electronic means.

19 (h) The court shall rule on an application submitted under
20 this section and shall issue written findings of fact and
21 conclusions of law not later than 5 p.m. on the fifth [~~second~~]
22 business day after the date the application is filed with the court.
23 On request by the minor, the court shall grant an extension of the
24 period specified by this subsection. If a request for an extension
25 is made, the court shall rule on an application and shall issue
26 written findings of fact and conclusions of law not later than 5
27 p.m. on the fifth [~~second~~] business day after the date the minor
28 states she is ready to proceed to hearing. [~~If the court fails to~~
29 ~~rule on the application and issue written findings of fact and~~
30 ~~conclusions of law within the period specified by this subsection,~~
31 ~~the application is deemed to be granted and the physician may~~

1 ~~perform the abortion as if the court had issued an order authorizing~~
2 ~~the minor to consent to the performance of the abortion without~~
3 ~~notification under Section 33.002.]~~ Proceedings under this section
4 shall be given precedence over other pending matters to the extent
5 necessary to assure that the court reaches a decision promptly,
6 regardless of whether the minor is granted an extension under this
7 subsection.

8 (i) The court shall determine by clear and convincing [~~a~~
9 ~~preponderance of the~~] evidence, as described by Section 101.007,
10 whether:

11 (1) the minor is mature and sufficiently well informed
12 to make the decision to have an abortion performed without
13 notification to or consent of a parent, [~~either of her parents or a~~
14 ~~managing conservator,~~ or guardian; or

15 (2) the [~~whether~~] notification and attempt to obtain
16 consent would not be in the best interest of the minor [~~or whether~~
17 ~~notification may lead to physical, sexual, or emotional abuse of~~
18 ~~the minor~~].

19 (i-1) In determining whether the minor meets the
20 requirements of Subsection (i)(1), the court shall consider the
21 experience, perspective, and judgment of the minor. The court may:

22 (1) consider all relevant factors, including:

23 (A) the minor's age;

24 (B) the minor's life experiences, such as
25 working, traveling independently, or managing her own financial
26 affairs; and

27 (C) steps taken by the minor to explore her
28 options and the consequences of those options;

29 (2) inquire as to the minor's reasons for seeking an
30 abortion;

31 (3) consider the degree to which the minor is informed

1 about the state-published informational materials described by
2 Chapter 171, Health and Safety Code; and

3 (4) require the minor to be evaluated by a licensed
4 mental health counselor, who shall return the evaluation to the
5 court for review within three business days.

6 (i-2) In determining whether the notification and the
7 attempt to obtain consent would not be in the best interest of the
8 minor, the court may inquire as to:

9 (1) the minor's reasons for not wanting to notify and
10 obtain consent from a parent, managing conservator, or guardian;

11 (2) whether notification or the attempt to obtain
12 consent may lead to physical or sexual abuse;

13 (3) whether the pregnancy was the result of sexual
14 abuse by a parent, managing conservator, or guardian; and

15 (4) any history of physical or sexual abuse from a
16 parent, managing conservator, or guardian.

17 (i-3) The [If the court finds that the minor is mature and
18 sufficiently well informed, that notification would not be in the
19 minor's best interest, or that notification may lead to physical,
20 sexual, or emotional abuse of the minor, the] court shall enter an
21 order authorizing the minor to consent to the performance of the
22 abortion without notification to and consent [either] of [her
23 parents or] a parent, managing conservator, or guardian and shall
24 execute the required forms if the court finds by clear and
25 convincing evidence, as defined by Section 101.007, that:

26 (1) the minor is mature and sufficiently well
27 informed; or

28 (2) notification or attempt to obtain consent is not
29 in the minor's best interest.

30 (j) If the court finds that the minor does not meet the
31 requirements of Subsection (i-3) [~~(i)~~], the court may not authorize

1 the minor to consent to an abortion without the notification
2 authorized under Section 33.002(a)(1) and consent under Section
3 33.0021.

4 (k) The court may not notify a parent, managing conservator,
5 or guardian that the minor is pregnant or that the minor wants to
6 have an abortion. The court proceedings shall be conducted in a
7 manner that protects the confidentiality of the identity
8 [~~anonymity~~] of the minor. The application and all other court
9 documents pertaining to the proceedings are confidential and
10 privileged and are not subject to disclosure under Chapter 552,
11 Government Code, or to discovery, subpoena, or other legal process.
12 Confidential records pertaining to a minor under this subsection
13 may be disclosed to the minor [~~The minor may file the application~~
14 ~~using a pseudonym or using only her initials~~].

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

26 (1-1) The clerk of the court, at intervals prescribed by the
27 Office of Court Administration of the Texas Judicial System, shall
28 submit a report to the office that includes, for each case filed
29 under this section:

- 30 (1) the case number and style;
31 (2) the applicant's county of residence;

1 (3) the court of appeals district in which the
2 proceeding occurred;

3 (4) the date of filing;

4 (5) the date of disposition; and

5 (6) the disposition of the case.

6 (1-2) The Office of Court Administration of the Texas
7 Judicial System shall annually compile and publish a report
8 aggregating the data received under Subsections (1-1)(2), (3), and
9 (6). A report compiled under this subsection is confidential and
10 privileged and is not subject to disclosure under Chapter 552,
11 Government Code, or to discovery, subpoena, or other legal process.
12 A report under this subsection must protect the confidentiality of:

13 (1) the identity of all minors and judges who are the
14 subject of the report; and

15 (2) the information described by Subsection (1-1)(1).

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

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

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

31 (r) An attorney retained by the minor to assist her in

1 filing an application under this section shall fully inform himself
2 or herself of the minor's prior application history, including the
3 representations made by the minor in the application regarding her
4 address, proper venue in the county in which the application is
5 filed, and whether a prior application has been filed and
6 initiated. If an attorney assists the minor in the application
7 process in any way, with or without payment, the attorney
8 representing the minor must attest to the truth of the minor's
9 claims regarding the venue and prior applications in a sworn
10 statement.

11 SECTION 6. Section 33.004, Family Code, is amended by
12 amending Subsections (b) and (f) and adding Subsection (c-1) to
13 read as follows:

14 (b) The court of appeals shall rule on an appeal under this
15 section not later than 5 p.m. on the fifth [~~second~~] business day
16 after the date the notice of appeal is filed with the court that
17 denied the application. On request by the minor, the court shall
18 grant an extension of the period specified by this subsection. If a
19 request for an extension is made, the court shall rule on the appeal
20 not later than 5 p.m. on the fifth [~~second~~] business day after the
21 date the minor states she is ready to proceed. [~~If the court of~~
22 ~~appeals fails to rule on the appeal within the period specified by~~
23 ~~this subsection, the appeal is deemed to be granted and the~~
24 ~~physician may perform the abortion as if the court had issued an~~
25 ~~order authorizing the minor to consent to the performance of the~~
26 ~~abortion without notification under Section 33.002.] Proceedings
27 under this section shall be given precedence over other pending
28 matters to the extent necessary to assure that the court reaches a
29 decision promptly, regardless of whether the minor is granted an
30 extension under this subsection.~~

31 (c-1) Notwithstanding Subsection (c), the court of appeals

1 may publish an opinion relating to a ruling under this section if
2 the opinion is written in a way to preserve the confidentiality of
3 the identity of the pregnant minor.

4 (f) An expedited confidential appeal shall be available to
5 any pregnant minor to whom a court of appeals denies an application
6 to authorize [~~order authorizing~~] the minor to consent to the
7 performance of an abortion without notification to or consent of
8 [~~either of her parents or~~] a parent, managing conservator, or
9 guardian.

10 SECTION 7. Chapter 33, Family Code, is amended by adding
11 Section 33.0065 to read as follows:

12 Sec. 33.0065. RECORDS. The clerk of the court shall retain
13 the records for each case before the court under this chapter in
14 accordance with rules for civil cases and grant access to the
15 records to the minor who is the subject of the proceeding.

16 SECTION 8. Section 33.008, Family Code, is amended to read
17 as follows:

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

1 enforcement agency knows or suspects that a report about the abuse
2 may have previously been made.

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

9 (c) When the local law enforcement agency responds to the
10 report of physical or sexual abuse as required by Subsection (a), a
11 law enforcement officer or appropriate agent from the Department of
12 Family and Protective Services may take emergency possession of the
13 minor without a court order to protect the health and safety of the
14 minor as described by Chapter 262.

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

17 Sec. 33.0085. DUTY OF JUDGE OR JUSTICE TO REPORT ABUSE OF
18 MINOR. (a) Notwithstanding any other law, a judge or justice who,
19 as a result of court proceedings conducted under Section 33.003 or
20 33.004, has reason to believe that a minor has been or may be
21 physically or sexually abused shall:

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

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

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

31 SECTION 10. Section 33.010, Family Code, is amended to read

1 as follows:

2 Sec. 33.010. CONFIDENTIALITY. Notwithstanding any other
3 law, information obtained by the Department of Family and
4 Protective Services or another entity under Section 33.008,
5 33.0085, or 33.009 is confidential except to the extent necessary
6 to prove a violation of Section 21.02, 22.011, 22.021, or 25.02,
7 Penal Code.

8 SECTION 11. Chapter 33, Family Code, is amended by adding
9 Sections 33.012, 33.013, and 33.014 to read as follows:

10 Sec. 33.012. CIVIL PENALTY. (a) A person who is found to
11 have intentionally, knowingly, recklessly, or with gross
12 negligence violated this chapter is liable to this state for a civil
13 penalty of not less than \$2,500 and not more than \$10,000.

14 (b) Each performance or attempted performance of an
15 abortion in violation of this chapter is a separate violation.

16 (c) A civil penalty may not be assessed against:

17 (1) a minor on whom an abortion is performed or
18 attempted; or

19 (2) a judge or justice hearing a court proceeding
20 conducted under Section 33.003 or 33.004.

21 (d) It is not a defense to an action brought under this
22 section that the minor gave informed and voluntary consent.

23 (e) The attorney general shall bring an action to collect a
24 penalty under this section.

25 Sec. 33.013. CAPACITY TO CONSENT. An unemancipated minor
26 does not have the capacity to consent to any action that violates
27 this chapter.

28 Sec. 33.014. ATTORNEY GENERAL TO ENFORCE. The attorney
29 general shall enforce this chapter.

30 SECTION 12. Section 164.052(a), Occupations Code, is
31 amended to read as follows:

1 (a) A physician or an applicant for a license to practice
2 medicine commits a prohibited practice if that person:

3 (1) submits to the board a false or misleading
4 statement, document, or certificate in an application for a
5 license;

6 (2) presents to the board a license, certificate, or
7 diploma that was illegally or fraudulently obtained;

8 (3) commits fraud or deception in taking or passing an
9 examination;

10 (4) uses alcohol or drugs in an intemperate manner
11 that, in the board's opinion, could endanger a patient's life;

12 (5) commits unprofessional or dishonorable conduct
13 that is likely to deceive or defraud the public, as provided by
14 Section 164.053, or injure the public;

15 (6) uses an advertising statement that is false,
16 misleading, or deceptive;

17 (7) advertises professional superiority or the
18 performance of professional service in a superior manner if that
19 advertising is not readily subject to verification;

20 (8) purchases, sells, barter, or uses, or offers to
21 purchase, sell, barter, or use, a medical degree, license,
22 certificate, or diploma, or a transcript of a license, certificate,
23 or diploma in or incident to an application to the board for a
24 license to practice medicine;

25 (9) alters, with fraudulent intent, a medical license,
26 certificate, or diploma, or a transcript of a medical license,
27 certificate, or diploma;

28 (10) uses a medical license, certificate, or diploma,
29 or a transcript of a medical license, certificate, or diploma that
30 has been:

31 (A) fraudulently purchased or issued;

1 (B) counterfeited; or
2 (C) materially altered;
3 (11) impersonates or acts as proxy for another person
4 in an examination required by this subtitle for a medical license;
5 (12) engages in conduct that subverts or attempts to
6 subvert an examination process required by this subtitle for a
7 medical license;
8 (13) impersonates a physician or permits another to
9 use the person's license or certificate to practice medicine in
10 this state;
11 (14) directly or indirectly employs a person whose
12 license to practice medicine has been suspended, canceled, or
13 revoked;
14 (15) associates in the practice of medicine with a
15 person:
16 (A) whose license to practice medicine has been
17 suspended, canceled, or revoked; or
18 (B) who has been convicted of the unlawful
19 practice of medicine in this state or elsewhere;
20 (16) performs or procures a criminal abortion, aids or
21 abets in the procuring of a criminal abortion, attempts to perform
22 or procure a criminal abortion, or attempts to aid or abet the
23 performance or procurement of a criminal abortion;
24 (17) directly or indirectly aids or abets the practice
25 of medicine by a person, partnership, association, or corporation
26 that is not licensed to practice medicine by the board;
27 (18) performs an abortion on a woman who is pregnant
28 with a viable unborn child during the third trimester of the
29 pregnancy unless:
30 (A) the abortion is necessary to prevent the
31 death of the woman;

1 (B) the viable unborn child has a severe,
2 irreversible brain impairment; or

3 (C) the woman is diagnosed with a significant
4 likelihood of suffering imminent severe, irreversible brain damage
5 or imminent severe, irreversible paralysis;

6 (19) performs an abortion on an unemancipated minor
7 without the written consent of the child's parent, managing
8 conservator, or legal guardian or without a court order, as
9 provided by Section 33.003 or 33.004, Family Code, unless the
10 abortion is necessary due to a medical emergency, as defined by
11 Section 171.002, Health and Safety Code;

12 (20) otherwise performs an abortion on an
13 unemancipated minor in violation of Chapter 33, Family Code [
14 ~~authorizing the minor to consent to the abortion, unless the~~
15 ~~physician concludes that on the basis of the physician's good faith~~
16 ~~clinical judgment, a condition exists that complicates the medical~~
17 ~~condition of the pregnant minor and necessitates the immediate~~
18 ~~abortion of her pregnancy to avert her death or to avoid a serious~~
19 ~~risk of substantial impairment of a major bodily function and that~~
20 ~~there is insufficient time to obtain the consent of the child's~~
21 ~~parent, managing conservator, or legal guardian]; or~~

22 (21) [(20)] performs or induces or attempts to perform
23 or induce an abortion in violation of Subchapter C, Chapter 171,
24 Health and Safety Code.

25 SECTION 13. (a) Section 33.002, Family Code, as amended by
26 this Act, applies only to an offense committed on or after the
27 effective date of this Act. An offense committed before the
28 effective date of this Act is governed by the law in effect on the
29 date the offense was committed, and the former law is continued in
30 effect for that purpose. For purposes of this section, an offense
31 was committed before the effective date of this Act if any element

1 of the offense occurred before that date.

2 (b) Sections 33.003 and 33.004, Family Code, as amended by
3 this Act, apply only to an application filed on or after the
4 effective date of this Act. An application filed before the
5 effective date of this Act is governed by the law in effect on the
6 date the application was filed, and the former law is continued in
7 effect for that purpose.

8 (c) The Office of Court Administration of the Texas Judicial
9 System is not required to publish the initial report under Section
10 33.003(1-2), Family Code, as added by this Act, before January 1,
11 2017.

12 SECTION 14. Section 33.012, Family Code, as added by this
13 Act, applies only to a cause of action that accrues on or after the
14 effective date of this Act. A cause of action that accrues before
15 the effective date of this Act is governed by the law in effect
16 immediately before that date, and that law is continued in effect
17 for that purpose.

18 SECTION 15. Every provision in this Act and every
19 application of the provisions in this Act are severable from each
20 other. If any application of any provision in this Act to any
21 person or group of persons or circumstances is found by a court to
22 be invalid, the remainder of this Act and the application of the
23 Act's provisions to all other persons and circumstances may not be
24 affected. All constitutionally valid applications of this Act
25 shall be severed from any applications that a court finds to be
26 invalid, leaving the valid applications in force, because it is the
27 legislature's intent and priority that the valid applications be
28 allowed to stand alone. Even if a reviewing court finds a provision
29 of this Act invalid in a large or substantial fraction of relevant
30 cases, the remaining valid applications shall be severed and
31 allowed to remain in force.

1 SECTION 16. This Act takes effect January 1, 2016.

ADOPTED

MAY 25 2015

FLOOR AMENDMENT NO. 2

Lataj Spaw
Secretary of the Senate

BY: *Chad Ferry*

(F.A.#1)

1 Amend the proposed floor substitute ¹ to H.B. No. 3994
2 (84R32314) as follows:

3 (1) In SECTION 3 of the proposed floor substitute, strike
4 the first sentence of amended Section 33.002(h), Family Code
5 (page 3, lines 1-3).

6 (2) In SECTION 3 of the proposed floor substitute, in
7 amended Section 33.002(h), Family Code (page 3, line 7)
8 following "identity and age", insert "described by Subsection
9 (k)".

10 (3) In SECTION 4 of the proposed floor substitute, in
11 added Section 33.0022(a), Family Code (page 4, line 26), between
12 "shall" and "inform", insert "make a reasonable effort to".

13 (4) In SECTION 4 of the proposed floor substitute, in
14 added Section 33.0022(b), Family Code (page 5, line 5), strike
15 "shall send a written notice of the medical emergency" and
16 substitute ", not later than 48 hours after the abortion is
17 performed, shall send a written notice that a medical emergency
18 occurred".

19 (5) In SECTION 5 of the proposed floor substitute, in
20 amended Section 33.003(b), Family Code (page 6, between lines 5
21 and 6), insert the following appropriately numbered subdivision
22 and renumber subsequent subdivisions of that subsection and any
23 cross-references to those subdivisions accordingly:

24 () if the minor's parent, managing conservator, or
25 guardian is a presiding judge of a court described by
26 Subdivision (1):

27 (A) a county court at law, court having probate
28 jurisdiction, or district court, including a family district
29 court, in a contiguous county; or

1 (B) a county court at law, court having probate
2 jurisdiction, or district court, including a family district
3 court, in the county where the minor intends to obtain the
4 abortion;

5 (6) In SECTION 5 of the proposed floor substitute, strike
6 amended Section 33.003(c), Family Code (page 6, line 21 through
7 page 7, line 3), and substitute the following:

8 (c) The application must:

9 (1) be made under oath;

10 (2) [and] include:

11 (A) [~~+1~~] a statement that the minor is
12 pregnant;

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

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

20 (D) [~~+4~~] a statement as to whether the minor
21 has retained an attorney and, if she has retained an attorney,
22 the name, address, and telephone number of her attorney; and

23 (E) a statement about the minor's current
24 residence, including the minor's physical address, mailing
25 address, and telephone number; and

26 (3) be accompanied by the sworn statement of the
27 minor's attorney under Subsection (r), if the minor has retained
28 an attorney to assist the minor with filing the application
29 under this section.

30 (7) In SECTION 5 of the proposed floor substitute, strike
31 added Sections 33.003(i-3)(1) and (2), Family Code (page 9,

1 lines 26-29), and substitute the following:

2 (1) the minor is mature and sufficiently well
3 informed to make the decision to have an abortion performed
4 without notification to or consent of a parent, managing
5 conservator, or guardian; or

6 (2) the notification and attempt to obtain consent
7 would not be in the best interest of the minor.

8 (8) In SECTION 5 of the proposed floor substitute, in added
9 Section 33.003(1-2), Family Code (page 11, line 8), strike
10 "(1-1)(2), (3)," and substitute "(1-1)(3)".

11 (9) In SECTION 5 of the proposed floor substitute, in added
12 Section 33.003(1-2), Family Code (page 11, line 9), strike
13 "compiled under this subsection" and substitute "submitted under
14 Subsection (1-1)".

15 (10) Add the following appropriately numbered SECTION to
16 the proposed floor substitute and renumber subsequent SECTIONS
17 of the proposed floor substitute accordingly:

18 SECTION ____ . Section 245.006(a), Health and Safety Code, is
19 amended to read as follows:

20 (a) The department shall inspect an abortion facility at
21 random, unannounced, and reasonable times as necessary to ensure
22 compliance with this chapter, ~~and~~ Subchapter B, Chapter 171,
23 and Chapter 33, Family Code.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 28, 2015

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB3994** by Morrison (Relating to notice of and consent to an abortion for a minor and associated requirements; amending provisions subject to a criminal penalty.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would change the requirements related to the notice of and consent to an abortion for a minor. The bill would add a civil penalty of not less than \$2,500 and no more than \$10,000 if a person is found in violation of Chapter 33, Family Code. According to the bill, an unemancipated minor does not have the capacity to consent to any action that violates this chapter. The bill would require the Office of the Attorney General (OAG) to enforce this chapter.

The bill would require physicians to use due diligence to confirm identity and age prior to performing an abortion. Further, if an abortion is performed without confirmation of identity and age, the physician is required to report this information to the Department of State Health Services. The bill would require that DSHS report annually the number of those instances.

The bill would prohibit the guardian ad litem appointed for a minor's request of judicial bypass of certain requirements related to consent to abortion from also serving as the minor's attorney. The bill would require the Office of Court Administration (OCA) to annually publish a report of the data submitted by county clerks on each case filed related to a minor seeking judicial bypass of certain requirements related to consent to abortion. The bill would require the physician to report any suspected abuse of the minor (currently only required if committed by certain persons) to a local law enforcement agency and to the Department of Family and Protective Services (DFPS). The bill would require the local law enforcement agency and DFPS to investigate these reports.

Based on the analysis provided by DFPS, the Texas Medical Board, OAG, DSHS and OCA, it is assumed that the provisions of the bill can be implemented within existing state resources. While the additional civil penalty may result in increased revenue to the state, that amount is assumed to not be significant.

Local Government Impact

The bill would require a local law enforcement agency to investigate and report on alleged abuse to a minor within 24 hours. There may be costs to a local law enforcement agency depending on the number of cases and the agency's resources.

OCA reported that no significant impact to local courts is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 537 State Health Services, Department of, 503 Texas Medical Board, 530 Family and Protective Services, Department of

LBB Staff: UP, NB, CH, TBo, WP, AG, LR, KVe

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 16, 2015

TO: Honorable Charles Schwertner, Chair, Senate Committee on Health & Human Services

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3994 by Morrison (Relating to notice of and consent to an abortion for a minor and associated requirements; amending provisions subject to a criminal penalty.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would change the requirements related to the notice of and consent to an abortion for a minor. The bill would prohibit the guardian ad litem appointed for a minor's request of judicial bypass of certain requirements related to consent to abortion from also serving as the minor's attorney. The bill would require the Office of Court Administration (OCA) to annually publish a report of the data submitted by county clerks on each case filed related to a minor seeking judicial bypass of certain requirements related to consent to abortion. The bill would require the physician to report any suspected abuse of the minor (currently only required if committed by certain persons) to a local law enforcement agency and to the Department of Family and Protective Services (DFPS). The bill would require the local law enforcement agency and DFPS to investigate these reports.

Based on the analysis provided by DFPS, the Texas Medical Board, and OCA, it is assumed that the provisions of the bill can be implemented within existing state resources.

Local Government Impact

The bill would require a local law enforcement agency to investigate and report on alleged abuse to a minor within 24 hours. There may be costs to a local law enforcement agency depending on the number of cases and the agency's resources.

OCA reported that no significant impact to local courts is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 537 State Health Services, Department of, 503 Texas Medical Board, 530 Family and Protective Services, Department of

LBB Staff: UP, NB, WP, CH, AG, LR, KVe

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 29, 2015

TO: Honorable Byron Cook, Chair, House Committee on State Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3994 by Morrison (Relating to notice of and consent to an abortion for a minor; amending provisions subject to a criminal penalty.), **Committee Report 1st House, Substituted**

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would change the requirements related to the notice of and consent to an abortion for a minor. The bill would prohibit the guardian ad litem appointed for a minor's request of judicial bypass of certain requirements related to consent to abortion from also serving as the minor's attorney. The bill would require the Office of Court Administration (OCA) to annually publish a report of the data submitted by county clerks on each case filed related to a minor seeking judicial bypass of certain requirements related to consent to abortion. The bill would require the physician to report any suspected abuse of the minor (currently only required if committed by certain persons) and require the Department of Family and Protective Services (DFPS) to investigate these reports (a minor's claim of abuse would constitute a reason to believe abuse has occurred).

Based on the analysis provided by DFPS, the Texas Medical Board, and OCA, it is assumed that the provisions of the bill can be implemented within existing state resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 503 Texas Medical Board, 530 Family and Protective Services, Department of

LBB Staff: UP, AG, WP, CH, LR, KVe

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 22, 2015

TO: Honorable Byron Cook, Chair, House Committee on State Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3994 by Morrison (Relating to notice of and consent to an abortion for a minor.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would change the requirements related to the notice of and consent to an abortion for a minor. The bill would prohibit the guardian ad litem appointed for a minor's request of judicial bypass of certain requirements related to consent to abortion from also serving as the minor's attorney. The bill would remove the requirement that the court may order the state to pay for the costs associated with the attorney ad litem, guardian ad litem, the court costs for the application or appeal, and the court reporter fees associated with these cases. The bill would require the Office of Court Administration (OCA) to annually publish a report of the data submitted by county clerks on each case filed related to a minor seeking judicial bypass of certain requirements related to consent to abortion.

While there would be some savings to the state from deleting the requirement that the state pay the attorney ad litem and guardian ad litem costs, costs of the court associated with the application or appeal, and the costs of the court reporter's fees, those savings are assumed to not be significant. For example, in fiscal year 2014, the Department of State Health Services paid \$295,589 in General Revenue - Maintenance of Effort for Title V funds. Since those funds are required to be expended to receive federal Title V funds, it is anticipated that the savings will be redirected to other DSHS programs. Based on the analysis provided by the Department of Family and Protective Services, the Texas Medical Board, and OCA, it is assumed that the provisions of the bill can be implemented within existing state resources.

Local Government Impact

There would be some cost to counties from the removal of the requirement that the state pay the attorney ad litem and guardian ad litem costs, costs of the court associated with the application or appeal, and the costs of the court reporter's fees.

The Department of State Health Services spent \$345,758 in fiscal year 2012, \$366,224 in fiscal year 2013, \$295,589 in fiscal year 2014 to reimburse courts. This analysis assumes that local courts would have a comparable fiscal impact for fiscal years 2016-2020.

According to the Texas Association of Counties, Ward County reported that there would be a significant fiscal impact to comply with the provisions of the bill.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 503 Texas Medical Board, 530 Family and Protective Services, Department of, 537 State Health Services, Department of

LBB Staff: UP, AG, WP, CH, KVe