

**House Bill 3994**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

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

CHAPTER 33. NOTICE OF AND CONSENT TO  
ABORTION

No equivalent provision.

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,~~

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SECTION 1. Same as House version.

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

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

SECTION 3. Section 33.002, Family Code, is amended by amending Subsections (a), (e), (f), (h), and (i) and adding Subsections (j), (k), and (l) 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 who is to perform the abortion receives an 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,~~

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~~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.

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~~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 who is to perform [performing] the abortion:

(A) concludes that a medical emergency exists [~~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 a medical emergency exists; and

(C) provides the notice required by Section 33.0022 [~~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)(B) [(a)(4)].

(f) A certification required by Subsection (a)(3)(B) [(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)(B) [(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.

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

(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.

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(h) It is a defense to prosecution under this section that the minor falsely represented her age or identity to the physician to be at least 18 years of age by displaying an apparently valid proof of identity and age described by Subsection (k) [governmental record of identification] such that a reasonable person under similar circumstances would have relied on the representation. The defense does not apply if the physician is shown to have had independent knowledge of the minor's actual age or identity or failed to use due diligence in determining the minor's age or identity. In this subsection, "defense" has the meaning and application assigned by Section 2.03, Penal Code. [FA2(1)-(2)]

(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) ~~[(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 because of a medical emergency ~~[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.

(j) A physician shall use due diligence to determine that any

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woman on which the physician performs an abortion who claims to have reached the age of majority or to have had the disabilities of minority removed has, in fact, reached the age of majority or has had the disabilities of minority removed.

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

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

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

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

No equivalent provision.

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

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

Sec. 33.0022. MEDICAL EMERGENCY NOTIFICATION; AFFIDAVIT FOR MEDICAL RECORD. (a) If the physician who is to perform the abortion concludes under Section 33.002(a)(3)(A) that a medical emergency exists and

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that there is insufficient time to provide the notice required by Section 33.002 or obtain the consent required by Section 33.0021, the physician shall make a reasonable effort to inform, in person or by telephone, the parent, managing conservator, or guardian of the unemancipated minor within 24 hours after the time a medical emergency abortion is performed on the minor of: [FA2(3)]

(1) the performance of the abortion; and

(2) the basis for the physician's determination that a medical emergency existed that required the performance of a medical emergency abortion without fulfilling the requirements of Section 33.002 or 33.0021.

(b) A physician who performs an abortion as described by Subsection (a), not later than 48 hours after the abortion is performed, shall send a written notice that a medical emergency occurred and the ability of the parent, managing conservator, or guardian to contact the physician for more information and medical records, to the last known address of the parent, managing conservator, or guardian by certified mail, restricted delivery, return receipt requested. The physician may rely on last known address information if a reasonable and prudent person, under similar circumstances, would rely on the information as sufficient evidence that the parent, managing conservator, or guardian resides at that address. The physician shall keep in the minor's medical record: [FA2(4)]

(1) the return receipt from the written notice; or

(2) if the notice was returned as undeliverable, the notice.

(c) A physician who performs an abortion on an unemancipated minor during a medical emergency as described by Subsection (a) shall execute for inclusion in the

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

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

(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);

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medical record of the minor an affidavit that explains the specific medical emergency that necessitated the immediate abortion.

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

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

(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;

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

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

(B) a county court at law, court having probate jurisdiction, or district court, including a family district court, in the county where the minor intends to obtain the abortion; [FA2(5)]

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

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

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- (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.
- (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.

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- (B) a county court at law, court having probate jurisdiction, or district court, including a family district court, in a contiguous 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.
- (c) The application must:
- (1) be made under oath;
- (2) ~~and~~ include:
- (A) ~~(1)~~ a statement that the minor is pregnant;
- (B) ~~(2)~~ a statement that the minor is unmarried, is under 18 years of age, and has not had her disabilities removed under Chapter 31;
- (C) ~~(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~~
- (D) ~~(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
- (E) a statement about the minor's current residence, including the minor's physical address, mailing address, and telephone number; and
- (3) be accompanied by the sworn statement of the minor's attorney under Subsection (r), if the minor has retained an attorney to assist the minor with filing the application under

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(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.~~

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

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

(h) The court shall rule on an application submitted under this section and shall issue written findings of fact and conclusions of law not later than 5 p.m. on the fifth [second] business day after the date the application is filed with the court. On request by the minor, the court shall grant an extension of the period specified by this subsection. If a request for an extension is made, the court shall rule on an application and shall issue written findings of fact and conclusions of law not later than 5 p.m. on the fifth [second] business day after the date the minor states she is ready to proceed to hearing. If the court fails to rule on the application and issue written findings of fact and conclusions of law within the period specified by this subsection, 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

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this section. [FA2(6)]

(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.~~

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

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

(h) The court shall rule on an application submitted under this section and shall issue written findings of fact and conclusions of law not later than 5 p.m. on the fifth [second] business day after the date the application is filed with the court. On request by the minor, the court shall grant an extension of the period specified by this subsection. If a request for an extension is made, the court shall rule on an application and shall issue written findings of fact and conclusions of law not later than 5 p.m. on the fifth [second] business day after the date the minor states she is ready to proceed to hearing. ~~[If the court fails to rule on the application and issue written findings of fact and conclusions of law within the period specified by this subsection, the application is deemed to be granted and the physician may perform the abortion as if the court had issued an order authorizing the minor to consent to~~

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~~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 given precedence over other pending matters to the extent necessary to assure that the court reaches a decision promptly, regardless of whether the minor is granted an extension under this subsection.

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

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

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

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

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

consider all relevant factors, including:

(1) the minor's age;

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~~the performance of the abortion without notification under Section 33.002.]~~

Proceedings under this section shall be given precedence over other pending matters to the extent necessary to assure that the court reaches a decision promptly, regardless of whether the minor is granted an extension under this subsection.

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

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

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

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

(1) consider all relevant factors, including:

(A) the minor's age;

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(2) the minor's life experiences, such as working, traveling independently, or managing her own financial affairs;  
(3) steps taken by the minor to explore her options and the consequences of those options; and  
(4) the minor's decision not to notify and obtain consent from a parent, managing conservator, or guardian.  
(i-2) In determining whether the abortion is in the best interest of the minor, the court may:  
(1) inquire as to the minor's reasons for seeking an abortion;  
(2) consider the degree to which the minor is informed about the state-published informational materials described by Chapter 171, Health and Safety Code; and  
(3) require the minor to be evaluated by a licensed mental health counselor, who shall return the evaluation to the court for review within three business days.

(i-3) If the court finds that the minor is mature and sufficiently well informed, that the abortion [notification] would [not] be in the minor's best interest, or that notification or the attempt to obtain consent may lead to physical, sexual, or emotional abuse of the minor, the court shall enter an order

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(B) the minor's life experiences, such as working, traveling independently, or managing her own financial affairs; and  
(C) steps taken by the minor to explore her options and the consequences of those options;

(2) inquire as to the minor's reasons for seeking an abortion;  
(3) consider the degree to which the minor is informed about the state-published informational materials described by Chapter 171, Health and Safety Code; and  
(4) require the minor to be evaluated by a licensed mental health counselor, who shall return the evaluation to the court for review within three business days.

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

(1) the minor's reasons for not wanting to notify and obtain consent from a parent, managing conservator, or guardian;  
(2) whether notification or the attempt to obtain consent may lead to physical or sexual abuse;  
(3) whether the pregnancy was the result of sexual abuse by a parent, managing conservator, or guardian; and  
(4) any history of physical or sexual abuse from a parent, managing conservator, or guardian.

(i-3) The [If the court finds that the minor is mature and sufficiently well informed, that notification would not be in the minor's best interest, or that notification may lead to physical, sexual, or emotional abuse of the minor, the] court shall enter an order authorizing the minor to consent to the

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authorizing the minor to consent to the performance of the abortion without notification to and consent of a parent, [either of her parents or a] managing conservator, or guardian and shall execute the required forms.

(j) If the court finds that the minor does not meet the requirements of Subsection (i-3) [(+)], the court may not authorize the minor to consent to an abortion without the notification authorized under Section 33.002(a)(1) and consent under Section 33.0021.

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

(l) 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

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performance of the abortion without notification to and consent [either] of [her parents or] a parent, managing conservator, or guardian and shall execute the required forms if the court finds by clear and convincing evidence, as defined by Section 101.007, that:

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

(2) the notification and attempt to obtain consent would not be in the best interest of the minor. [FA2(7)]

(j) If the court finds that the minor does not meet the requirements of Subsection (i-3) [(+)], the court may not authorize the minor to consent to an abortion without the notification authorized under Section 33.002(a)(1) and consent under Section 33.0021.

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

(l) 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

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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.

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

- (1) the case number and style;
- (2) the applicant's county of residence;
- (3) the court of appeals district in which the proceeding occurred;
- (4) the date of filing;
- (5) the date of disposition; and
- (6) the disposition of the case.

(1-2) The Office of Court Administration of the Texas Judicial System shall annually compile and publish a report aggregating the data received under Subsections (1-1)(2), (3), and (6).

A report under this subsection must protect the anonymity of all minors and judges that are the subject of the report.

(o) A minor who has filed an application under this section

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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.

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

- (1) the case number and style;
- (2) the applicant's county of residence;
- (3) the court of appeals district in which the proceeding occurred;
- (4) the date of filing;
- (5) the date of disposition; and
- (6) the disposition of the case.

(1-2) The Office of Court Administration of the Texas Judicial System shall annually compile and publish a report aggregating the data received under Subsections (1-1)(3) and (6). A report submitted under Subsection (1-1) is confidential and privileged and is not subject to disclosure under Chapter 552, Government Code, or to discovery, subpoena, or other legal process. A report under this subsection must protect the confidentiality of: [FA2(8)-(9)]

- (1) the identity of all minors and judges who are the subject of the report; and
- (2) the information described by Subsection (1-1)(1).

(o) A minor who has filed an application under this section

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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.

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

(b) The court of appeals shall rule on an appeal under this

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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 notification to and consent of 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.

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

(b) The court of appeals shall rule on an appeal under this

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section not later than 5 p.m. on the fifth ~~[second]~~ business day after the date the notice of appeal is filed with the court that denied the application. On request by the minor, the court shall grant an extension of the period specified by this subsection. If a request for an extension is made, the court shall rule on the appeal not later than 5 p.m. on the fifth ~~[second]~~ business day after the date the minor states she is ready to proceed. ~~If the court of appeals fails to rule on the appeal within the period specified by 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 section shall be given precedence over other pending matters to the extent necessary to assure that the court reaches a decision promptly, regardless of whether the minor is granted an extension under this subsection.

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

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section not later than 5 p.m. on the fifth ~~[second]~~ business day after the date the notice of appeal is filed with the court that denied the application. On request by the minor, the court shall grant an extension of the period specified by this subsection. If a request for an extension is made, the court shall rule on the appeal not later than 5 p.m. on the fifth ~~[second]~~ business day after the date the minor states she is ready to proceed. ~~[If the court of appeals fails to rule on the appeal within the period specified by this subsection, the appeal is deemed to be 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.]~~

Proceedings under this section shall be given precedence over other pending matters to the extent necessary to assure that the court reaches a decision promptly, regardless of whether the minor is granted an extension under this subsection.

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

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

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

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

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

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

SECTION 7. Same as House version.

SECTION 8. Same as House version.

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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.

SECTION 8. 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

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SECTION 9. Same as House version.



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authority.

SECTION 9. 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.

No equivalent provision.

SECTION 10. Same as House version.

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

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

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

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

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

or

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

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

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

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

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

No equivalent provision.

SECTION \_\_.Section 245.006(a), Health and Safety Code, is amended to read as follows:

(a) The department shall inspect an abortion facility at random, unannounced, and reasonable times as necessary to ensure compliance with this chapter, ~~and~~ Subchapter B, Chapter 171, and Chapter 33, Family Code. [FA2(10)]

No equivalent provision.

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

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

- (1) submits to the board a false or misleading statement, document, or certificate in an application for a license;
- (2) presents to the board a license, certificate, or diploma that was illegally or fraudulently obtained;
- (3) commits fraud or deception in taking or passing an examination;
- (4) uses alcohol or drugs in an intemperate manner that, in the board's opinion, could endanger a patient's life;
- (5) commits unprofessional or dishonorable conduct that is likely to deceive or defraud the public, as provided by Section 164.053, or injure the public;
- (6) uses an advertising statement that is false, misleading, or

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deceptive;

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

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

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

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

(A) fraudulently purchased or issued;

(B) counterfeited; or

(C) materially altered;

(11) impersonates or acts as proxy for another person in an examination required by this subtitle for a medical license;

(12) engages in conduct that subverts or attempts to subvert an examination process required by this subtitle for a medical license;

(13) impersonates a physician or permits another to use the person's license or certificate to practice medicine in this state;

(14) directly or indirectly employs a person whose license to practice medicine has been suspended, canceled, or revoked;

(15) associates in the practice of medicine with a person:

(A) whose license to practice medicine has been suspended, canceled, or revoked; or

(B) who has been convicted of the unlawful practice of

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medicine in this state or elsewhere;

(16) performs or procures a criminal abortion, aids or abets in the procuring of a criminal abortion, attempts to perform or procure a criminal abortion, or attempts to aid or abet the performance or procurement of a criminal abortion;

(17) directly or indirectly aids or abets the practice of medicine by a person, partnership, association, or corporation that is not licensed to practice medicine by the board;

(18) performs an abortion on a woman who is pregnant with a viable unborn child during the third trimester of the pregnancy unless:

(A) the abortion is necessary to prevent the death of the woman;

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

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

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

(20) otherwise performs an abortion on an unemancipated minor in violation of Chapter 33, Family Code [~~authorizing the minor to consent to the abortion, unless the physician 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~~

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~~avoid a serious risk of substantial impairment of a major bodily function and that there is insufficient time to obtain the consent of the child's parent, managing conservator, or legal guardian]; or~~  
(21) [(20)] performs or induces or attempts to perform or induce an abortion in violation of Subchapter C, Chapter 171, Health and Safety Code.

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

(b) Sections 33.003 and 33.004, Family Code, as amended by this Act, apply only to a petition filed on or after the effective date of this Act. A petition filed before the effective date of this Act is governed by the law in effect on the date the petition was filed, and the former law is continued in effect for that purpose.

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

No equivalent provision.

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

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

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

SECTION 14. Section 33.012, Family Code, as added by this

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

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

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Act, applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 15. Same as House version.

SECTION 16. Same as House version.

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