

1-1 By: Campbell, et al. S.B. No. 10
 1-2 (In the Senate - Filed July 18, 2017; July 20, 2017, read
 1-3 first time and referred to Committee on Health & Human Services;
 1-4 July 22, 2017, reported favorably by the following vote: Yeas 6,
 1-5 Nays 3; July 22, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9		X		
1-10	X			
1-11	X			
1-12	X			
1-13		X		
1-14	X			
1-15	X			
1-16		X		

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to reporting requirements by certain physicians and health
 1-20 care facilities for abortion complications; authorizing a civil
 1-21 penalty.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-23 SECTION 1. Subchapter A, Chapter 171, Health and Safety
 1-24 Code, is amended by adding Section 171.006 to read as follows:

1-25 Sec. 171.006. ABORTION COMPLICATION REPORTING
 1-26 REQUIREMENTS; CIVIL PENALTY. (a) In this section "abortion
 1-27 complication" means any harmful event or adverse outcome with
 1-28 respect to a patient related to an abortion that is performed on the
 1-29 patient and that is diagnosed or treated by a health care
 1-30 practitioner or at a health care facility and includes:

- 1-31 (1) shock;
- 1-32 (2) uterine perforation;
- 1-33 (3) cervical laceration;
- 1-34 (4) hemorrhage;
- 1-35 (5) aspiration or allergic response;
- 1-36 (6) infection;
- 1-37 (7) sepsis;
- 1-38 (8) death of the patient;
- 1-39 (9) incomplete abortion;
- 1-40 (10) damage to the uterus; or
- 1-41 (11) an infant born alive after the abortion.

1-42 (b) The reporting requirements of this section apply only
 1-43 to:

- 1-44 (1) a physician who:
- 1-45 (A) performs at an abortion facility an abortion
 1-46 that results in an abortion complication diagnosed or treated by
 1-47 that physician; or
- 1-48 (B) diagnoses or treats at an abortion facility
 1-49 an abortion complication that is the result of an abortion
 1-50 performed by another physician at the facility; or
- 1-51 (2) a health care facility that is a hospital,
 1-52 abortion facility, freestanding emergency medical care facility,
 1-53 or health care facility that provides emergency medical care, as
 1-54 defined by Section 773.003.

1-55 (c) A physician described by Subsection (b)(1) shall submit
 1-56 to the commission in the form and manner prescribed by commission
 1-57 rule a report on each abortion complication diagnosed or treated by
 1-58 that physician or at the abortion facility not later than 72 hours
 1-59 after the complication is diagnosed or treated. Each health care
 1-60 facility described by Subsection (b)(2) shall electronically
 1-61 submit to the commission in the form and manner prescribed by

2-1 commission rule a report on each abortion complication diagnosed or
 2-2 treated at the facility not later than the 30th day after the date
 2-3 on which the complication is diagnosed or treatment is provided for
 2-4 the complication.

2-5 (d) The commission shall develop a form for reporting an
 2-6 abortion complication under Subsection (c) and publish the form on
 2-7 the commission's Internet website. The executive commissioner by
 2-8 rule may adopt procedures to reduce duplication in reporting under
 2-9 this section.

2-10 (e) A report under this section may not identify by any
 2-11 means the physician performing an abortion, other than a physician
 2-12 described by Subsection (b)(1), or the patient on whom the abortion
 2-13 was performed.

2-14 (f) A report under this section must identify the name of
 2-15 the physician submitting the report or the name and type of health
 2-16 care facility submitting the report and must include, if known, for
 2-17 each abortion complication:

2-18 (1) the date of the abortion that caused or may have
 2-19 caused the complication;

2-20 (2) the type of abortion that caused or may have caused
 2-21 the complication;

2-22 (3) the gestational age of the fetus at the time the
 2-23 abortion was performed;

2-24 (4) the name and type of the facility in which the
 2-25 abortion was performed;

2-26 (5) the date the complication was diagnosed or
 2-27 treated;

2-28 (6) the name and type of any facility other than the
 2-29 reporting facility in which the complication was diagnosed or
 2-30 treated;

2-31 (7) a description of the complication;

2-32 (8) the patient's year of birth, race, marital status,
 2-33 and state and county of residence;

2-34 (9) the date of the first day of the patient's last
 2-35 menstrual period that occurred before the date of the abortion that
 2-36 caused or may have caused the complication;

2-37 (10) the number of previous live births of the
 2-38 patient; and

2-39 (11) the number of previous induced abortions of the
 2-40 patient.

2-41 (g) Except as provided by Section 245.023, all information
 2-42 and records held by the commission under this section are
 2-43 confidential and are not open records for the purposes of Chapter
 2-44 552, Government Code. That information may not be released or made
 2-45 public on subpoena or otherwise, except release may be made:

2-46 (1) for statistical purposes, but only if a person,
 2-47 patient, or health care facility is not identified;

2-48 (2) with the consent of each person, patient, and
 2-49 facility identified in the information released;

2-50 (3) to medical personnel, appropriate state agencies,
 2-51 or county and district courts to enforce this chapter; or

2-52 (4) to appropriate state licensing boards to enforce
 2-53 state licensing laws.

2-54 (h) A report submitted under this section must include the
 2-55 most specific, accurate, and complete reporting for the highest
 2-56 level of specificity.

2-57 (i) The commission shall develop and publish on the
 2-58 commission's Internet website an annual report that aggregates on a
 2-59 statewide basis each abortion complication required to be reported
 2-60 under Subsection (f) for the previous calendar year.

2-61 (j) A physician described by Subsection (b)(1) or health
 2-62 care facility that violates this section is subject to a civil
 2-63 penalty of \$500 for each violation. The attorney general, at the
 2-64 request of the commission or appropriate licensing agency, may file
 2-65 an action to recover a civil penalty assessed under this subsection
 2-66 and may recover attorney's fees and costs incurred in bringing the
 2-67 action. Each day of a continuing violation constitutes a separate
 2-68 ground for recovery.

2-69 (k) The third separate violation of this section

3-1 constitutes cause for the revocation or suspension of a physician's
3-2 or health care facility's license, permit, registration,
3-3 certificate, or other authority or for other disciplinary action
3-4 against the physician or facility by the appropriate licensing
3-5 agency.

3-6 (1) The commission shall notify the Texas Medical Board of
3-7 any violations of this section by a physician.

3-8 SECTION 2. Not later than January 1, 2018:

3-9 (1) the Health and Human Services Commission shall
3-10 develop the forms required by Section 171.006, Health and Safety
3-11 Code, as added by this Act; and

3-12 (2) the executive commissioner of the Health and Human
3-13 Services Commission shall adopt the rules necessary to implement
3-14 Section 171.006, Health and Safety Code, as added by this Act.

3-15 SECTION 3. The Health and Human Services Commission shall
3-16 establish an electronic reporting system for purposes of Section
3-17 171.006, Health and Safety Code, as added by this Act, as soon as
3-18 practicable after the effective date of this Act.

3-19 SECTION 4. This Act takes effect immediately if it receives
3-20 a vote of two-thirds of all the members elected to each house, as
3-21 provided by Section 39, Article III, Texas Constitution. If this
3-22 Act does not receive the vote necessary for immediate effect, this
3-23 Act takes effect on the 91st day after the last day of the
3-24 legislative session.

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