

By: Hughes, et al.

S.B. No. 73

A BILL TO BE ENTITLED

# 1 AN ACT

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

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

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

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

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

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

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

2               (1) one of the following methods for obtaining

3       authorization for the abortion:

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

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

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

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

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

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

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

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

2                    (A) in person at the location where the abortion

3    was performed; or

4                    (B) at a place other than the location where the

5    abortion was performed; and

6                    (3) if the woman obtained the judicial authorization

7    described by Subdivision (1)(B):

8                    (A) if applicable, the process the physician or

9    physician's agent used to inform the woman of the availability of

10   petitioning for judicial authorization as an alternative to the

11   written consent required by Section 164.052(a)(19), Occupations

12   Code;

13                    (B) whether the court forms were provided to the

14   woman by the physician or the physician's agent; and

15                    (C) whether the physician or the physician's

16   agent made arrangements for the woman's court appearance.

17                    (b) Except as provided by Section 245.023, all information

18   and records held by the commission under this section are

19   confidential and are not open records for the purposes of Chapter

20   552, Government Code. That information may not be released or made

21   public on subpoena or otherwise, except release may be made:

22                    (1) for statistical purposes, but only if a person,

23   patient, or health care facility is not identified;

24                    (2) with the consent of each person, patient, and

25   facility identified in the information released;

26                    (3) to medical personnel, appropriate state agencies,

27   or county and district courts to enforce this chapter; or

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

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

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

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