

## **BILL ANALYSIS**

Senate Research Center  
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C.S.S.B. 30  
By: Shapiro  
Human Services  
3/10/1999  
Committee Report (Substituted)

### **DIGEST**

Currently, Texas law does not require parents to receive notification that their minor child is seeking an abortion. C.S.S.B. 30 requires parental notification before an abortion can be performed on a minor, and provides exceptions in which parental notification is not in the child's best interest.

### **PURPOSE**

As proposed, C.S.S.B. 30 relates to parental notification required before an abortion may be performed on a minor; provides a criminal penalty.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the supreme court in SECTION 1 (Sections 33.003(k) and (c), Family Code) and SECTION 2 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Title 2A, Family Code, by adding Chapter 33, as follows:

#### CHAPTER 33. NOTICE OF ABORTION

Sec. 33.001. DEFINITIONS. Defines "abortion," "fetus," "guardian," "medical emergency," and "physician."

Sec. 33.002. PARENTAL NOTICE. Prohibits a physician from performing an abortion on a pregnant unemancipated minor unless certain conditions are satisfied. Authorizes a physician to perform an abortion, if the physician gives 48 hours notice by certified mail if the person to whom notice may be given cannot be notified. Provides that the 48-hour period begins when the certified mail notice is mailed. Authorizes the abortion to proceed even if the certified mail notice is not received, if the person required to be notified is not notified within the 48-hour period. Requires the Texas Department of Health (TDH) to prepare a form to be used for making the required certification. Provides that a physician commits a Class A misdemeanor for violation of this section.

Sec. 33.003. JUDICIAL APPROVAL. Authorizes a pregnant minor to apply for a court order authorizing the minor to consent to the performance of an abortion without the notification of her parents or guardian. Authorizes the application to be filed in the county court at law or a court having probate jurisdiction or district court. Requires the application to be made under oath and include certain information. Requires the pregnant minor to deliver a courtesy copy of the application made under this section to the judge who is to hear the application. Requires the clerk of the court, at the time the application is filed with the court, to advise the minor of the place where the courtesy copy is to be delivered under this subsection. Requires the court to appoint a guardian ad litem for the minor. Provides that if the guardian ad litem is an attorney, the court may appoint the guardian ad litem to serve as the minor's attorney. Requires the court to fix a time for a hearing on the application and to keep records of all testimony. Requires the court to enter judgment on the application immediately after the hearing is concluded. Sets forth requirements and provisions regarding an application submitted under this section. Requires the court to determine whether the minor is mature and sufficiently well informed to make the decision to have an abortion performed without notification to parents or guardian or whether notification would not be in the best interest of the minor. Provides that if the court finds that the minor can have an abortion performed, the court shall enter an order authorizing the minor to

consent to the performance of the abortion without notification. Prohibits the court from authorizing a minor to consent to an abortion without notification if the minor does not meet the requirements of Subsection (h). Prohibits the court from notifying a parent or guardian that the minor is pregnant or wants to have an abortion. Requires the court proceedings to be conducted in a manner that protects the anonymity of the minor, and confidential court documents may not be made available to the public. Authorizes the minor to file the application using a pseudonym or her initials. Provides that an order of the court issued under this section is confidential and may not be released to any person but the pregnant minor, the guardian ad litem, the attorney, or another person designated to receive the order by the minor. Authorizes the supreme court to adopt rules to permit confidential docketing of an application under this section. Requires the supreme court proceedings and all other documents to be kept confidential. Requires the clerk of the court to prescribe the application form to be used by the minor filing an application under this section. Prohibits filing fees and court cost from being assessed against the minor.

Sec. 33.004. APPEAL. Authorizes the minor whose application is denied to appeal to the court of appeals having jurisdiction over civil matters in the county. Sets forth requirements for the appeal. Requires the court to rule on an appeal no later than 5 p.m. on the second business day after the date the notice of appeal is filed with the court. Provides that if the court fails to rule on the appeal, it is considered to be granted and the physician may perform the abortion. Requires the proceedings under this section to be given precedence over other pending matters. Provides that an appeals court ruling is confidential and may not be released to anyone other than the minor, the guardian ad litem, attorney or other person designated by the minor. Authorizes the supreme court to adopt rules to permit confidential docketing of an appeal. Requires the clerk of the supreme court to prescribe the notice of appeal form to be used by the minor appealing a judgment under this section. Provides that a filing fee is not required and court costs may not be assessed against a minor. Requires an expedited confidential appeal to be available to the minor.

Sec. 33.005. AD LITEM IMMUNITY. Provides that a guardian ad litem or attorney ad litem appointed under this chapter and acting in the course and scope of the appointment is not liable for damages arising from an act or omission of the guardian ad litem or attorney ad litem committed in good faith.

Sec. 33.006. COSTS PAID BY STATE. Authorizes a court acting under Section 33.003 or 33.004 to issue an order requiring the state to pay certain fees. Requires an order issued under Subsection (a) to be directed to the comptroller, who shall pay the amount ordered from funds appropriated to the Texas Department of Health, D.1.2. Strategy: Family Planning.

Sec. 33.007 REPORTING OF SEXUAL ABUSE OF A MINOR. Requires a court or the guardian ad litem or attorney ad litem for the minor to report sexual abuse of the minor based on information obtained during a confidential court proceeding held under this chapter to certain agencies.

SECTION 2. Requires the supreme court to issue rules promptly.

SECTION 3. Effective date: September 1, 1999, except as provided by SECTIONS 5 of this Act.

SECTION 4. Makes application of this Act prospective to January 1, 2000.

SECTION 5. Effective date for Section 33.002(d), Family Code: January 1, 2000.

SECTION 6. Requires the Texas Board of Health to adopt the form to be used under Section 33.002(a)(4), Family Code, no later than December 15, 1999.

SECTION 7. Requires the clerk of the Supreme Court of Texas to adopt the application form and notice of appeal form to be used under Sections 33.003 and 33.004, Family Code, no later than December 15, 1999.

SECTION 8. Emergency clause.

### **SUMMARY OF COMMITTEE CHANGES**

## SECTION 1.

Amends Section 33.002, Title 2A, Family Code, to prohibit a physician from performing an abortion on a pregnant minor unless the physician has consent from a county court at law, the judge of a district court or the judge of the court of appeals. Authorizes the abortion to proceed even if the certified mail notice is not received, if the person required to be notified is not notified within the 48-hour period. Makes a nonsubstantive change.

Amends Section 33.003, Title 2A, Family Code, to authorize a pregnant minor who wishes to have an abortion without notification to one of her parents, managing conservator, or her guardian to file an application for a court order authorizing the minor to consent to the performance of an abortion without notification to either of her parents or managing conservator or guardian. Authorizes the application to be filed in the county court at law, a court having probate jurisdiction, or a district court. Requires the pregnant minor to deliver a courtesy copy of the application made under this section to the judge who is to hear the application. Requires the clerk of the court, at the time the application is filed with the court, to advise the minor of the place where the courtesy copy is to be delivered under this subsection. Requires the court to enter judgment on the application immediately after the hearing is concluded. Provides that an order of the court issued under this section is confidential and may not be released to any person but the pregnant minor, the guardian ad litem, the attorney, or another person designated to receive the order by the minor. Authorizes the supreme court to adopt rules to permit confidential docketing of an application under this section. Make conforming and nonsubstantive changes. Deletes text regarding an unemancipated minor.

Amends Section 33.004, Title 2A, Family Code, to provide that an order of the court issued under this section is confidential and may not be released to any person but the pregnant minor, the guardian ad litem, the attorney, or another person designated to receive the order by the minor. Authorizes the supreme court to adopt rules to permit confidential docketing of an application under this section. Makes conforming and nonsubstantive changes.

Adds Section 33.005, Title 2A, Family Code, to provide that a guardian ad litem or attorney ad litem appointed under this chapter and acting in the course and scope of the appointment is not liable for damages arising from an act or omission of the guardian ad litem or attorney ad litem committed in good faith.

Adds Section 33.006, Title 2A, Family Code, to authorize a court acting under Section 33.003 or 33.004 to issue an order requiring the state to pay certain fees. Requires an order issued under Subsection (a) to be directed to the comptroller, who shall pay the amount ordered from funds appropriated to the Texas Department of Health, D.1.2. Strategy: Family Planning.

Adds Section 33.007, Title 2A, Family Code, to require a court or the guardian ad litem or attorney ad litem for the minor to report sexual abuse of the minor based on information obtained during a confidential court proceeding held under this chapter to certain agencies.

## SECTION 2.

Makes nonsubstantive changes.