

# HOUSE JOURNAL

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EIGHTY-FIFTH LEGISLATURE, FIRST CALLED SESSION

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## PROCEEDINGS

SEVENTH DAY — THURSDAY, JULY 27, 2017

The house met at 10:03 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 8).

Present — Mr. Speaker(C); Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Arévalo; Ashby; Bailes; Bell; Bernal; Biedermann; Blanco; Bohac; Bonnen, D.; Bonnen, G.; Burkett; Burns; Burrows; Button; Cain; Canales; Capriglione; Clardy; Coleman; Collier; Cook; Cortez; Cosper; Craddick; Cyrier; Dale; Darby; Davis, S.; Davis, Y.; Dean; Dutton; Faircloth; Fallon; Farrar; Flynn; Frank; Frullo; Geren; Gervin-Hawkins; Giddings; Goldman; Gonzales; González; Gooden; Guerra; Guillen; Gutierrez; Hefner; Hernandez; Herrero; Hinojosa; Holland; Howard; Huberty; Hunter; Isaac; Israel; Johnson, E.; Johnson, J.; Kacal; Keough; King, K.; King, P.; King, T.; Klick; Koop; Krause; Kuempel; Lambert; Landgraf; Lang; Larson; Laubenberg; Leach; Longoria; Lozano; Lucio; Martinez; Metcalf; Meyer; Miller; Minjarez; Moody; Morrison; Muñoz; Murphy; Murr; Neave; Nevárez; Oliverson; Ortega; Paddie; Parker; Paul; Perez; Phelan; Phillips; Pickett; Price; Raney; Raymond; Reynolds; Rinaldi; Roberts; Rodriguez, E.; Rodriguez, J.; Romero; Rose; Sanford; Schaefer; Schofield; Schubert; Shaheen; Sheffield; Shine; Simmons; Smithee; Springer; Stephenson; Stickland; Stucky; Swanson; Thierry; Thompson, E.; Thompson, S.; Tinderholt; Turner; Uresti; VanDeaver; Villalba; Vo; Walle; White; Wilson; Workman; Wray; Wu; Zedler; Zerwas.

Absent, Excused — Elkins; Oliveira.

Absent — Deshotel; Dukes.

The speaker recognized Representative Krause who offered the invocation.

The speaker recognized Representative Price who led the house in the pledges of allegiance to the United States and Texas flags.

### LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for today because of important business:

Elkins on motion of T. King.

### CAPITOL PHYSICIAN

The speaker recognized Representative Tinderholt who presented Dr. Justin Bartos of North Richland Hills as the "Doctor for the Day."

The house welcomed Dr. Bartos and thanked him for his participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

(Kuempel in the chair)

### **LEAVE OF ABSENCE GRANTED**

The following member was granted leave of absence for the remainder of today because of important business:

Huberty on motion of Kuempel.

### **MESSAGES FROM THE SENATE**

Messages from the senate were received at this time (see the addendum to the daily journal, Messages from the Senate, Message Nos. 1 and 2).

### **HR 22 - INTRODUCTION OF GUESTS**

The chair recognized Representative Ashby who introduced coaches and players of the Groveton High School baseball team.

(Speaker in the chair)

### **GENERAL STATE CALENDAR**

#### **HOUSE BILLS**

#### **SECOND READING**

The following bills were laid before the house and read second time:

#### **CSHB 2 ON SECOND READING**

(by Gonzales)

**CSHB 2**, A bill to be entitled An Act relating to the repeal of certain riders for the Texas Medical Board and the Texas State Board of Examiners of Psychologists from the General Appropriations Act that are contingent upon the approval of certain Acts continuing those agencies during the 85th Regular Session.

**CSHB 2** was passed to engrossment by (Record 9): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Arévalo; Ashby; Bailes; Bell; Bernal; Biedermann; Blanco; Bohac; Bonnen, D.; Bonnen, G.; Burkett; Burns; Burrows; Button; Cain; Canales; Capriglione; Clardy; Coleman; Collier; Cook; Cortez; Cospers; Craddick; Cyrier; Dale; Darby; Davis, S.; Davis, Y.; Dean; Dutton; Faircloth; Fallon; Farrar; Flynn; Frank; Frullo; Geren; Gervin-Hawkins; Giddings; Goldman; Gonzales; González; Gooden; Guerra; Guillen; Gutierrez; Hefner; Hernandez; Herrero; Hinojosa; Holland; Howard; Hunter; Isaac; Israel; Johnson, E.; Johnson, J.; Kacal; Keough; King, K.; King, P.; King, T.; Klick; Koop; Krause; Kuempel; Lambert; Landgraf; Lang; Larson; Laubenberg; Leach; Longoria; Lozano; Lucio; Martinez; Metcalf; Meyer; Miller; Minjarez; Moody; Morrison; Muñoz; Murphy; Murr; Neave; Nevárez; Oliverson; Ortega; Paddie; Parker; Paul; Perez; Phelan; Phillips; Pickett; Price; Raney; Raymond; Reynolds; Rinaldi; Roberts; Rodriguez, E.;

Rodriguez, J.; Romero; Rose; Sanford; Schaefer; Schofield; Schubert; Shaheen; Sheffield; Shine; Smithee; Springer; Stephenson; Stickland; Stucky; Swanson; Thierry; Thompson, E.; Thompson, S.; Tinderholt; Turner; Uresti; VanDeaver; Villalba; Vo; Walle; White; Wilson; Workman; Wray; Wu; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Elkins; Huberty; Oliveira.

Absent — Deshotel; Dukes; Simmons.

### STATEMENTS OF VOTE

When Record No. 9 was taken, I was in the house but away from my desk. I would have voted yes.

Deshotel

When Record No. 9 was taken, I was in the house but away from my desk. I would have voted yes.

Simmons

### LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business:

Murphy on motion of Schubert.

(Deshotel now present)

### HB 7 ON SECOND READING (by Phelan, Geren, Darby, and Larson)

**HB 7**, A bill to be entitled An Act relating to a tree planting credit to offset tree mitigation fees imposed by a municipality.

**HB 7** was passed to engrossment by (Record 10): 132 Yeas, 11 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson, C.; Anderson, R.; Arévalo; Ashby; Bailes; Bell; Bernal; Blanco; Bohac; Bonnen, D.; Bonnen, G.; Burkett; Burns; Burrows; Button; Capriglione; Clardy; Coleman; Collier; Cook; Cortez; Cospser; Craddick; Cyrier; Dale; Darby; Davis, S.; Davis, Y.; Dean; Deshotel; Dutton; Faircloth; Fallon; Flynn; Frank; Frullo; Geren; Gervin-Hawkins; Giddings; Goldman; Gonzales; González; Gooden; Guerra; Guillen; Gutierrez; Hernandez; Herrero; Hinojosa; Holland; Howard; Hunter; Isaac; Israel; Johnson, E.; Johnson, J.; Kacal; Keough; King, K.; King, P.; King, T.; Klick; Koop; Krause; Kuempel; Lambert; Landgraf; Larson; Laubenberg; Leach; Longoria; Lozano; Lucio; Martinez; Metcalf; Meyer; Miller; Minjarez; Moody; Morrison; Muñoz; Murr; Neave; Nevárez; Oliverson; Ortega; Paddie; Parker; Paul; Perez; Phelan; Phillips; Pickett; Price; Raney; Raymond; Reynolds; Roberts; Rodriguez, E.; Rodriguez, J.; Romero; Rose; Sanford; Schaefer; Schofield; Schubert;

Shaheen; Sheffield; Shine; Simmons; Smithee; Springer; Stephenson; Stucky; Thierry; Thompson, E.; Thompson, S.; Turner; Uresti; VanDeaver; Villalba; Vo; Walle; White; Wilson; Wray; Wu; Zedler; Zerwas.

Nays — Biedermann; Cain; Canales; Farrar; Hefner; Lang; Rinaldi; Stickland; Swanson; Tinderholt; Workman.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Elkins; Huberty; Murphy; Oliveira.

Absent — Alvarado; Dukes.

### STATEMENTS OF VOTE

When Record No. 10 was taken, I was in the house but away from my desk. I would have voted yes.

Alvarado

When Record No. 10 was taken, my machine malfunctioned, and I was shown voting no. I intended to vote yes.

Farrar

### REASON FOR VOTE

I voted for **HB 7** because it provides at least some limited relief for landowners who wish to remove trees on their own private property. By allowing landowners to avoid tree mitigation fines in cities that impose such fines by planting replacement trees, the bill at least gives some protection from government burdening the use of private property. I would have preferred a bill that prevented local governments from denying homeowners the right to remove trees from their own property.

Schofield

### HB 13 ON SECOND READING

(by Capriglione, Sheffield, Burkett, Springer, Laubenberg, et al.)

**HB 13**, A bill to be entitled An Act relating to reporting requirements by certain physicians and health care facilities for abortion complications; authorizing a civil penalty.

### HB 13 - REMARKS

REPRESENTATIVE CAPRIGLIONE: **HB 13** would provide more accurate disclosure of abortion complication reporting. This bill separates abortion complications from maternal health statistics to provide a more accurate, transparent picture of both maternal health and the aftereffects of abortion in Texas. **HB 13** would require hospitals, emergency care facilities, and abortion clinics to report within 30 days any complication or injury resulting from an abortion as a specific complication of abortion rather than a general complication of maternal health as has been the typical practice. Abortion doctors experiencing complication or treating a complication must report within 72 hours, which is similar to the reporting requirements for anesthesiologists and other medical

practitioners. The information that would be provided is confidential and may not be released except for statistical purposes, providing a physician, a patient, or facility is not identified. With that, I do have one amendment that includes some cleanup and clarifying language.

### **Amendment No. 1**

Representative Capriglione offered the following amendment to **HB 13**:

Amend **HB 13** (house committee report) as follows:

(1) On page 2, line 14, between "shall" and "submit", insert "electronically".

(2) On page 2, line 17, strike "or at the abortion facility".

(3) On page 4, line 26, following "calendar year", insert "The annual report may not include any duplicative data.".

### **AMENDMENT NO. 1 - REMARKS**

CAPRIGLIONE: Members, this amendment ensures that all physicians treating a complication report within 72 hours, that we don't double count certain complication, and adds the word "electronically" to ensure the 72-hour reporting requirement.

Amendment No. 1 was adopted by (Record 11): 105 Yeas, 37 Nays, 1 Present, not voting.

Yeas — Anderson, C.; Anderson, R.; Ashby; Bailes; Bell; Biedermann; Bohac; Bonnen, D.; Bonnen, G.; Burkett; Burns; Burrows; Button; Cain; Capriglione; Clardy; Cook; Cosper; Craddick; Cyrier; Dale; Darby; Dean; Faircloth; Fallon; Flynn; Frank; Frullo; Geren; Goldman; Gonzales; Gooden; Guerra; Guillen; Hefner; Herrero; Holland; Hunter; Isaac; Johnson, E.; Johnson, J.; Kacal; Keough; King, K.; King, P.; King, T.; Klick; Koop; Krause; Kuempel; Lambert; Landgraf; Lang; Larson; Laubenberg; Leach; Lozano; Martinez; Metcalf; Meyer; Miller; Morrison; Muñoz; Murr; Neave; Oliverson; Paddie; Parker; Paul; Phelan; Phillips; Pickett; Price; Raney; Raymond; Rinaldi; Roberts; Rodriguez, E.; Romero; Sanford; Schaefer; Schofield; Schubert; Shaheen; Sheffield; Shine; Simmons; Smithee; Springer; Stephenson; Stickland; Stucky; Swanson; Thompson, E.; Tinderholt; Uresti; VanDeaver; Villalba; Walle; White; Wilson; Workman; Wray; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Arévalo; Bernal; Blanco; Canales; Collier; Cortez; Davis, S.; Davis, Y.; Deshotel; Dutton; Farrar; Gervin-Hawkins; Giddings; González; Gutierrez; Hernandez; Hinojosa; Howard; Israel; Longoria; Lucio; Minjarez; Moody; Nevárez; Ortega; Perez; Reynolds; Rodriguez, J.; Rose; Thompson, S.; Turner; Vo; Wu.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Elkins; Huberty; Murphy; Oliveira.

Absent — Coleman; Dukes; Thierry.

### STATEMENTS OF VOTE

When Record No. 11 was taken, I was shown voting no. I intended to vote yes.

S. Davis

When Record No. 11 was taken, I was shown voting yes. I intended to vote no.

E. Johnson

When Record No. 11 was taken, my vote failed to register. I would have voted no.

Thierry

#### Amendment No. 2

Representative Howard offered the following amendment to **HB 13**:

Amend **HB 13** (house committee report) on page 2, lines 17-18, by striking "72 hours after" and substituting "the 30th day after the date on which".

#### AMENDMENT NO. 2 - REMARKS

REPRESENTATIVE HOWARD: This amendment simply ensures that physicians who perform abortions at abortion facilities are given the same amount of time to submit an abortion complication report as any other health care facility. We've been told that this bill is meant to gather data to help us establish best practices in women's health. As a medical professional myself, I can agree that we should always seek to provide the best medical care possible to our patients.

Currently, physicians who provide abortion services are already reporting complications to the state within 30 days of discovery. However, the bill's current language targets these physicians and places an undue burden on them by cutting the existing time frame by 90 percent. Reducing the amount of time physicians have by such a drastic amount takes away from time they need to serve patients and meet this state's high demand for quality health care. If this bill is truly about collecting accurate data in regard to abortion complications, I ask that we give all physicians, regardless of where they work, the appropriate time to properly and factually complete the abortion complication reports.

#### LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for today because of important business:

Dukes on motion of Reynolds.

#### HB 13 - (consideration continued)

Representative Capriglione moved to table Amendment No. 2.

HOWARD: My concern about this is we're singling out one particular surgical procedure, the complications from that procedure, and holding them to a much shorter period of time within which to report complications, ostensibly to

somehow ensure the health and safety of women when, in fact, there doesn't seem to be any evidence to support that this would be the case, especially when no other procedures seem to have this kind of requirement.

REPRESENTATIVE WU: Representative Howard, may I ask you some questions about legislative intent?

HOWARD: Please do.

WU: The current reporting requirements for all other medical complications—how many days is that?

HOWARD: My understanding is 30 days.

WU: Okay, and what does this bill propose to do?

HOWARD: To change that so that only those physicians reporting complications from abortion would have to report in 72 hours as opposed to the 30 days with which everyone else has to report.

WU: And does this bill change the reporting requirements for any other procedures?

HOWARD: No, it does not.

WU: Only abortions and only abortions performed by certain doctors?

HOWARD: Correct.

WU: The author of the bill stated that the purpose of this bill is merely data collection, correct?

HOWARD: I'm sorry?

WU: The purpose of this bill is merely to collect data.

HOWARD: That was stated, yes.

WU: Okay, and the information that's reported is actually going to be collected in the aggregate, correct?

HOWARD: That's my understanding.

WU: And no direct action will be taken on the data.

HOWARD: That's my understanding.

WU: And would it be fair to say that if this body votes down this amendment to make it equal to all other procedures, that it is the legislative intent of this body to create higher burdens for certain doctors performing abortions in the State of Texas?

HOWARD: That's absolutely what would happen with this legislation.

#### **REMARKS ORDERED PRINTED**

Representative Wu moved to print all remarks on **HB 13**.

The motion prevailed.

REPRESENTATIVE FARRAR: Ms. Howard, are you aware that the abortion complication rate as reported by the state is less than one percent? It's actually—in 2015, it was 0.05 percent.

HOWARD: I am aware of that. The fact is that this is the safest medical procedure that we seem to have on the record. I understand that some people believe that somehow that's not accurate just because they don't want to believe that that's accurate. However, that is what those statistics specifically state.

FARRAR: Are you aware also that in a national study, the vasectomy complication rate is 15 percent?

HOWARD: Fifteen percent for vasectomies?

FARRAR: Yet in the State of Texas, according to the commissioner in an article, a news article states that the State of Texas doesn't even collect that data. Are you aware of that?

HOWARD: I was not aware of that. That's startling.

FARRAR: Interesting. I thought you would like to know that. Are you also aware that there are higher incidences of complications in much more common procedures that are done every day on many more people, such as wisdom teeth extraction? That is high. I have got a number here. It's up to 30 percent, which I thought was kind of shocking.

HOWARD: For wisdom teeth?

FARRAR: For wisdom teeth, and a pancreatectomy was as high as 36 percent. Complications from pregnancy and actually giving birth can go up to 20 to 25 percent in those that require a caesarean section. Are you aware of those rates?

HOWARD: I am aware, because we've been trying to put more attention on pregnancy-related morbidity and mortality, that that has a significantly higher rate of complication. We should be spending our time addressing that. I will say, I had a pregnancy complication and could have died if not for the great intervention that I had from the physicians and nurses that cared for me. There are much more complications resulting from pregnancy, significantly more, than from abortion.

FARRAR: And don't you think that this body should be addressing some of those issues, considering especially that Texas leads in the maternal mortality rate?

HOWARD: Absolutely.

REPRESENTATIVE GONZÁLEZ: Thank you, Representative Howard, for your amendment. I think your amendment creates some transparency about why we're really having this debate. Is it not true that we've already debated this in the regular session?

HOWARD: We have.

GONZÁLEZ: In the regular session I had some conversations with Representative Capriglione, the author of the bill, discussing how vasectomies are actually even more dangerous, if you want to say, than abortions. And we got PolitiFact-checked and that was found as truth. Did you know that?



HOWARD: I did. You were. It was your truth. It's right.

GONZÁLEZ: Right, and so the fact that we're not talking about any other medical procedure but only talking about this is another effort to make this area of medical access seem bad or negative and limit access. Is that not true?

HOWARD: It certainly appears that way.

GONZÁLEZ: And so I just want to say thank you for bringing your amendment. There are things that we do need to focus on that you and Representative Farrar just talked about, and then there are things that are just politics. And this bill is about politics, especially if your amendment is tabled.

HOWARD: So members, I would appreciate you considering voting against tabling this. There is no reason to treat a certain group of physicians differently than another group of physicians. This is an added regulatory burden on a particular group of physicians for no reason other than harassment. The data can be collected in 30 days just like it is from every other group that has information collected from them. There is no reason to do this in 72 hours. It will do nothing to improve the health and well-being of women. It is purely a political requirement and overburdening, overregulation, and overreach by the state into the private practice of medical providers. I ask you to vote against tabling.

REPRESENTATIVE SCHAEFER: Representative Howard, are you aware of any other medical procedure that the purpose of that medical procedure is to take a person's life?

HOWARD: What does that have to do with the amendment?

SCHAEFER: The arguments that have just been made from the microphone are that the abortion procedure is just the same as other types of medical procedures so why should we have anything different. The difference is that an abortion—a successful abortion kills somebody. So if the abortion procedure is done properly, a person dies. A beating heart stops. And that's why this type of procedure is worthy of additional regulatory oversight. So that when a procedure goes wrong, wouldn't you say that if a procedure goes wrong that we need to know what happened in a timely manner?

HOWARD: I believe what this is about is complications to the woman. Is it not?

SCHAEFER: That's right, and so if we're having a procedure that the purpose is to kill somebody—

HOWARD: It has nothing to do with what you're just asking about.

SCHAEFER: And then if there is a complication that results to the living mother, we need to find out soon what is happening.

HOWARD: For what purpose?

SCHAEFER: For the purpose that we can make sure that these procedures are being done according to the rules and regulations that are in place so that DSHS can go in and make sure, if they need to, that things are being done—

HOWARD: As they already do.

SCHAEFER: Well, not in a timely manner.

HOWARD: It's already overregulated.

SCHAEFER: Thirty days—there's a lot that can happen in 30 days. Seventy-two hours is a much shorter period.

HOWARD: Are you suggesting to me, Representative, that you want to do this because you want to ensure that abortions are performed in a more medically accurate way? That they are being performed so that we have greater positive outcomes for the abortion procedure? Is that what you're suggesting to me?

SCHAEFER: I am suggesting to you that if abortions are going to take place, that we ought to do everything we can to make sure that the mother is treated properly.

HOWARD: And believe me, we do.

SCHAEFER: Are you aware that we are moving to an electronic reporting system?

HOWARD: And?

SCHAEFER: And that this is a click of the mouse.

HOWARD: Then why are we not doing that for every other procedure?

SCHAEFER: For 72 hours—

HOWARD: Why are we not doing that for every other procedure?

SCHAEFER: That's not what this bill is. We're here on this bill today.

HOWARD: What's the purpose of the 72 hours? Is DSHS supposed to act faster or something?

SCHAEFER: When there are complications, the purpose is to put DSHS on notice in a timely manner.

HOWARD: So DSHS will have to do something quicker?

SCHAEFER: So they can—if they see problems cropping up, that they can do that.

HOWARD: Why don't we do that then with maternal morbidity and mortality?

SCHAEFER: Let's have that conversation.

HOWARD: Let's have that bill. Let's have that up here first because that's where we have the complications.

The motion to table prevailed by (Record 12): 92 Yeas, 52 Nays, 1 Present, not voting.

Yeas — Anderson, C.; Anderson, R.; Ashby; Bailes; Bell; Biedermann; Bohac; Bonnen, D.; Bonnen, G.; Burkett; Burns; Burrows; Button; Cain; Capriglione; Clardy; Cook; Cosper; Craddick; Cyrier; Dale; Darby; Dean; Faircloth; Fallon; Flynn; Frank; Frullo; Geren; Goldman; Gonzales; Gooden; Guillen; Hefner; Holland; Hunter; Isaac; Kacal; Keough; King, K.; King, P.; Klick; Koop; Krause; Kuempel; Lambert; Landgraf; Lang; Larson; Laubenberg;

Leach; Lozano; Metcalf; Meyer; Miller; Morrison; Murr; Oliverson; Paddie; Parker; Paul; Phelan; Phillips; Pickett; Price; Raney; Rinaldi; Roberts; Sanford; Schaefer; Schofield; Schubert; Shaheen; Sheffield; Shine; Simmons; Smithee; Springer; Stephenson; Stickland; Stucky; Swanson; Thompson, E.; Tinderholt; VanDeaver; Villalba; White; Wilson; Workman; Wray; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Arévalo; Bernal; Blanco; Canales; Coleman; Collier; Cortez; Davis, S.; Davis, Y.; Deshotel; Dutton; Farrar; Gervin-Hawkins; Giddings; González; Guerra; Gutierrez; Hernandez; Herrero; Hinojosa; Howard; Israel; Johnson, E.; Johnson, J.; King, T.; Longoria; Lucio; Martinez; Minjarez; Moody; Muñoz; Neave; Nevárez; Ortega; Perez; Raymond; Reynolds; Rodriguez, E.; Rodriguez, J.; Romero; Rose; Thierry; Thompson, S.; Turner; Uresti; Vo; Walle; Wu.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Dukes; Elkins; Huberty; Murphy; Oliveira.

### **Amendment No. 3**

Representative Uresti offered the following amendment to **HB 13**:

Amend **HB 13** (house committee report) on page 2, lines 17 and 18, by striking "72 hours after" and substituting "the end of the third business day after the date on which".

### **AMENDMENT NO. 3 - REMARKS**

REPRESENTATIVE URESTI: This is a simple amendment. It substitutes the "72 hours" for "the end of the third business day." If we have a physician that does run into a complication with an abortion and they're stuck on a holiday or on a weekend, they would have to work all the way through Sunday to be able to report that. This way we give the physicians at least three working business days rather than 72 hours. And I think this is acceptable to the author? Yes, it is.

Amendment No. 3 was adopted by (Record 13): 115 Yeas, 23 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anderson, C.; Arévalo; Ashby; Bailes; Bernal; Biedermann; Blanco; Bohac; Bonnen, D.; Bonnen, G.; Burkett; Burns; Button; Canales; Capriglione; Clardy; Coleman; Collier; Cook; Cortez; Cosper; Craddock; Cyrier; Dale; Darby; Davis, S.; Davis, Y.; Dean; Deshotel; Dutton; Farrar; Flynn; Frank; Frullo; Geren; Gervin-Hawkins; Giddings; Goldman; Gonzales; Gooden; Guerra; Guillen; Gutierrez; Hernandez; Herrero; Hinojosa; Holland; Howard; Hunter; Israel; Johnson, E.; Johnson, J.; Kacal; Keough; King, K.; King, P.; King, T.; Koop; Kuempel; Lambert; Landgraf; Larson; Laubenberg; Lozano; Metcalf; Meyer; Miller; Minjarez; Morrison; Muñoz; Murr; Neave; Nevárez; Ortega; Paddie; Parker; Paul; Perez; Phelan; Phillips; Pickett; Price; Raney; Raymond; Reynolds; Roberts; Rodriguez, E.; Rodriguez, J.; Romero; Rose; Schubert; Sheffield; Shine; Simmons; Smithee; Springer; Stephenson; Stickland; Stucky; Thierry; Thompson, E.; Thompson, S.; Turner; Uresti; VanDeaver; Villalba; Vo; Workman; Wray; Wu; Zedler; Zerwas.

Nays — Anderson, R.; Bell; Burrows; Cain; Faircloth; Fallon; Hefner; Isaac; Klick; Krause; Lang; Leach; Moody; Oliverson; Rinaldi; Sanford; Schaefer; Schofield; Shaheen; Swanson; Tinderholt; White; Wilson.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Dukes; Elkins; Huberty; Murphy; Oliveira.

Absent — Anchia; González; Longoria; Lucio; Martinez; Walle.

### STATEMENTS OF VOTE

When Record No. 13 was taken, I was shown voting yes. I intended to vote no.

Bohac

When Record No. 13 was taken, I was shown voting yes. I intended to vote no.

Frullo

When Record No. 13 was taken, I was shown voting yes. I intended to vote no.

Hunter

When Record No. 13 was taken, I was shown voting yes. I intended to vote no.

Keough

When Record No. 13 was taken, I was shown voting yes. I intended to vote no.

Kuempel

When Record No. 13 was taken, I was shown voting yes. I intended to vote no.

Landgraf

When Record No. 13 was taken, I was shown voting yes. I intended to vote no.

Metcalf

When Record No. 13 was taken, I was shown voting yes. I intended to vote no.

Meyer

When Record No. 13 was taken, I was shown voting yes. I intended to vote no.

Murr

When Record No. 13 was taken, I was shown voting yes. I intended to vote no.

Phelan

When Record No. 13 was taken, I was shown voting yes. I intended to vote no.

Phillips

When Record No. 13 was taken, I was shown voting yes. I intended to vote no.

Stickland

When Record No. 13 was taken, I was shown voting yes. I intended to vote no.

E. Thompson

When Record No. 13 was taken, I was shown voting yes. I intended to vote no.

Wray

#### **Amendment No. 4**

Representative González offered the following amendment to **HB 13**:

Amend **HB 13** (house committee report) as follows:

(1) On page 3, lines 4-5, strike "other than a physician described by Subsection (b)(1),".

(2) On page 3, lines 7-8, strike "the name of the physician submitting the report or".

(3) On page 3, line 9, strike "submitting the report" and substitute "for which the report is submitted".

#### **AMENDMENT NO. 4 - REMARKS**

GONZÁLEZ: This amendment is a simple amendment that removes a physician's name from the report required by this bill. This small change in phrasing protects the privacy of the physicians performing abortions as well as those physicians who diagnose or treat any complications that arise.

REPRESENTATIVE COLLIER: Representative Capriglione, is there a reason why you want this information made public?

CAPRIGLIONE: Well, the information is not personally identifiable. So while the cumulative information and aggregate obviously for research purposes for public consumption will be public, no information that's uniquely identifiable to the individual would be made public. All the same rules that are a part of the Public Information Act, same rules as the federal level, HIPAA, and so on—so all of that information, the personal information, will remain private.

COLLIER: So will the physician's name be on the report?

CAPRIGLIONE: I'm sorry, can you say that again?

COLLIER: Will the physician's name be on the report?

CAPRIGLIONE: So the physician's name can be on the report, but again, this information is protected and confidential, and it will not be released to the public in general. I mean, we have all the same rules. We don't want this information to

identify any of the private patient's information. But of course, this is information that we want to collect, so if we find anomalies or anything else, we would be able to look at that closer.

COLLIER: Okay, so you're saying that if somebody does an open records request for this information, the doctor's name will not be disclosed?

CAPRIGLIONE: I'm sorry, can you repeat that again? I'm sorry. I can't hear you.

COLLIER: If somebody does an open records request for these documents, will the physician's name be disclosed?

CAPRIGLIONE: No. The information here—there's a section in the bill that talks about the privacy. And it specifically talks about only a handful of items that would allow this information to be—if you give me a moment, I can read that section of the bill. But basically "no" is the short answer to that. The Public Information Act will not let you get that identifying information.

COLLIER: I'm sorry. I cannot hear you. I apologize. The Public Information—

CAPRIGLIONE: No.

COLLIER: So it's no. It will not be disclosed. So will the HIPAA—does the disclosure comply with HIPAA?

CAPRIGLIONE: Does HIPAA apply? Yes. HIPAA applies to any procedures, complications, any hospital information, especially that related to this—

COLLIER: So only those who have a valid HIPAA form will be able to obtain this information?

CAPRIGLIONE: I guess I can just read that section of the bill. At the end of the day, DSHS will be able to obviously see the information, the people reporting the information. Unless everybody involved, including the patient, wants to release that information, it won't be released. But again, all federal and state privacy laws apply.

COLLIER: So that means that if somebody is asking for this information, if DSHS is going to release it, they have to get the permission of everybody involved. Is that right?

CAPRIGLIONE: Well, when you're talking about information, what are you saying? DSHS won't need information to say that there's a two percent or a three percent complication reporting rate or whatever it is. They obviously would need more than simple permission in order to provide the names of the patients and so on. So yes, I just want to put that to rest quickly. That patient's information is not going to be subject to a public information request.

COLLIER: Well, what I asked is if the physician's name is going to be subject to a Public Information Act.

CAPRIGLIONE: None of this information is going to be available other than the four items that were specifically outlined in the bill.

COLLIER: What was that again?

CAPRIGLIONE: So again, there are four specific items inside the bill that describe how the information can be released. And so no, that information will not be subject to a public information request. It follows HIPAA laws.

COLLIER: And so you understand that the physician, if there's a bad actor—if there's a bad actor physician, they will be subject to discipline through the Texas Medical Board, and that would be public.

CAPRIGLIONE: Right, if it's reported. Now, remember that the point of this is that we're not seeing reporting. And I know there's been some conversation about that. So I mean, if you look at the amount of complications that are reported today without this legislation, under the current statutes, versus what is typical in other states and in other countries on this, you'll see that there's a significant difference. Or there's a magnitude difference between what we're reporting and what's reported in other areas. So with that significant underreporting, I think that's why we want to make sure this is done, right? We want to be able to make sure that it's correct, complete, and unbiased.

COLLIER: So has DSHS done an audit? It sounds like you're asking DSHS to do the work of the Texas Medical Board when you're asking them to look for bad actors.

CAPRIGLIONE: No, that's not true. I mean, there's a different role in each one. For DSHS, their intent is to go and create the form, which they've done, to put it up online, to go and collect that information, and to make it available as cumulative data for research and for others that want to know and I think, quite frankly, for women who want to know what the actual real complication rate is in these procedures. Everybody wants to make educated decisions. To this day, I've never met a doctor that has said, you know what, I don't want people to really know what the rate of this is. I haven't met an individual, quite frankly, who has said, I don't want to know what the real rate of complications is with this. So all we're doing with this bill is getting that real information.

COLLIER: So you feel like we're missing information about the rate of complications in Texas?

CAPRIGLIONE: I'm sorry?

COLLIER: You have a reason to believe that we're missing information about the rate of complications? And what leads you to that?

CAPRIGLIONE: That's, in fact, the whole purpose of this bill. Again, if I go through and I go and show, for instance in California, that a subset—

COLLIER: But what about Texas? Let's talk about Texas.

CAPRIGLIONE: Well, I'd like to talk about Texas. And in two years, when this bill passes, we can find out what the real rate of complication reports are. But when I go and I look at any study and any research in any state that's out there, we're talking rates from two percent to five percent. When you go and you get actual—Dr. Paul Fine, who's actually a director of Planned Parenthood, testified in federal court that there's a two percent complication rate, okay? So I have

everything from studies to people on the Planned Parenthood side saying that we're at two percent or more. And in Texas we're at 0.04? It's clearly wrong. This isn't just an outlier. It's statistically significant.

COLLIER: And what do you plan to do with this information? Are you going to use it to disqualify physicians? What do you plan to do?

CAPRIGLIONE: Well, what I want this information to do is for it to be available to the public. I want this information for people to be able to go—you know, one of the things that you see when you see these other states that have done these studies, they have the data. Some of these states have been able to go and show that they have this data.

COLLIER: I know, but you just said the physician's name is not going to be released to the public. But you just want them to know the risks that would possibly be involved in this procedure? Is that the goal?

CAPRIGLIONE: I don't know if what you're suggesting is that we shouldn't get the right data. I don't know. I mean, because for me, all data—as long as it's comprehensive, it's complete, it's accurate, it's unbiased—will help everybody here regardless of what the data actually comes out to say. But once we have that information, once we have those numbers, I think that's what we need to make unbiased policy decisions. I know a lot of times several members will go and ask to have studies done—a study on this or a study on that. If that information was wrong, we would say, hey, we want the right information so we can actually make the right decisions. That's why we do this, and all this bill does is try and get that information.

COLLIER: So this will apply to the hospitals that perform emergency abortions. Is that right?

CAPRIGLIONE: This applies to hospitals, yes.

COLLIER: And so the physician at that hospital will have to be lumped in with all the other physicians that perform abortions elsewhere. Is that right?

CAPRIGLIONE: Well, I don't know what you mean by lumped in. You're asking if doctors at a hospital are going to be lumped in with the abortion—

COLLIER: Well, I mean, if they provide an emergency abortion, then they would be subject to this reporting. Isn't that right?

CAPRIGLIONE: This isn't the person taking care of the person in the ER. This has to do with the physician who's performing—

COLLIER: Right, so if I'm at the hospital and there's an emergency abortion, the physician that provides the emergency abortion has to fill out the report, send it in, do all the things that you're asking.

CAPRIGLIONE: It's whoever provides the procedure, but this information is already being collected. There's already statute requiring this. So this isn't—

COLLIER: Well, if it's already being required, I don't know why you need the bill. I'm sorry.



CAPRIGLIONE: Well, I'll tell you why. It's because they're not doing it. And so by doing this bill, what we're doing is we're making it easier. If you look at actually how the data is attempted to be collected today, it's done through paper. This information goes inside of a filing cabinet, okay?

COLLIER: But can you answer the question about the physicians at the hospital? They still have to do the reporting. Is that right?

CAPRIGLIONE: Yes, anyone performing the procedure.

COLLIER: Okay, so the physician at the hospital who performs an emergency abortion will be required to have their name listed on the form and do the same—

CAPRIGLIONE: It's the person who's performing the procedure. Again, we're trying to find this information so we can find out what the right data is.

COLLIER: What did you say? I'm sorry. I didn't hear what you said.

CAPRIGLIONE: I think I've answered the question, but I guess, again—

Representative Capriglione moved to table Amendment No. 4.

GONZÁLEZ: Members, we're just trying to make sure that our physicians are safe and taken care of. I move passage.

WU: Representative González, would you agree with me if I said that the issue of abortion is a heated issue?

GONZÁLEZ: Yes, sir. I would say it is. Obviously, here we are in a special session on it. So yes, sir.

WU: And there's very passionate people on both sides.

GONZÁLEZ: Yes, sir. And in fact, sometimes that passion leads people to target physicians who do abortions. So what this amendment is trying to do is make sure that these physicians are kept safe.

WU: And physicians have actually been hunted down and killed in their own homes.

GONZÁLEZ: Exactly. In Florida, Dr. David Gunn was shot in the back as he was walking into his office, and the gunman specifically targeted him. The gunman even said so and confessed to that.

WU: And in fact, we have members on the floor clapping for the fact that physicians have been killed.

GONZÁLEZ: Right, and so what this amendment tries to do is make sure that we are protecting our physicians. The point is that we don't know what could happen in this state. We've been talking in Appropriations about cybersecurity. We aren't investing enough. What if we're hacked? And what if those physicians names are then released? Why not be preemptive in possible problems and say we are not going to include that in the reporting form? This is really about making sure that these doctors are taken care of.

WU: Would it be fair to say that the intent of having the physician report their name is an effort to discourage physicians from performing abortions completely?

GONZÁLEZ: I think if a physician is concerned for their lives, if they're concerned that they could be potentially harmed, then definitely I would say yes.

WU: And would it be fair to say that if this amendment is voted down, that the intent of this body is to make sure that physicians are discouraged from performing this procedure completely?

GONZÁLEZ: I think that's part of the intent.

REPRESENTATIVE OLIVERSON: Are you familiar with Kermit Gosnell?

GONZÁLEZ: I'm sorry. I couldn't hear you.

OLIVERSON: Are you familiar with the case of Dr. Kermit Gosnell in Philadelphia?

GONZÁLEZ: No, sir.

OLIVERSON: He's been reported to be the greatest serial killer in the history of the United States. He ran an abortion clinic in an inner-city neighborhood in Philadelphia, performed numerous abortions, multiple complications. Long story short—he was on the radar screen for the medical board for almost a decade, and they never bothered to intervene even though there were multiple complaints reported. And so I guess my point here is that sometimes there are situations where there are bad actors out there. Is it your contention that there aren't any situations where a physician may be practicing below the standard of care and that certain complications related to certain procedures may be associated with the individual performing that procedure more so than the procedure itself?

GONZÁLEZ: One of my number one goals is to have healthy women in Texas. Of course I don't want bad actors. I think you and I can agree that we don't want bad actors.

OLIVERSON: Of course.

GONZÁLEZ: But at the same time we need good actors. And my concern is that good actors will be discouraged from doing this work and making sure that women have access to safe and legal abortions. And so that's why I'm doing this amendment. Look, I think we're both on the same side that we don't want bad actors. My amendment aims to keep in good actors.

OLIVERSON: Correct, and we don't want bad actors to hide behind the politically charged nature of the issue, which I think is exactly what happened in Pennsylvania.

The motion to table prevailed by (Record 14): 92 Yeas, 51 Nays, 1 Present, not voting.

Yeas — Anderson, C.; Anderson, R.; Ashby; Bailes; Bell; Biedermann; Bohac; Bonnen, D.; Bonnen, G.; Burkett; Burns; Burrows; Button; Cain; Capriglione; Clardy; Cook; Cosper; Craddick; Cyrier; Dale; Darby; Dean;

Faircloth; Fallon; Flynn; Frank; Frullo; Geren; Goldman; Gonzales; Gooden; Guillen; Hefner; Holland; Hunter; Isaac; Kacal; Keough; King, K.; King, P.; Klick; Koop; Krause; Kuempel; Lambert; Landgraf; Lang; Larson; Laubenberg; Leach; Lozano; Metcalf; Meyer; Miller; Morrison; Murr; Oliverson; Paddie; Parker; Paul; Phelan; Phillips; Price; Raney; Raymond; Rinaldi; Roberts; Sanford; Schaefer; Schofield; Schubert; Shaheen; Sheffield; Shine; Simmons; Smithee; Springer; Stephenson; Stickland; Stucky; Swanson; Thompson, E.; Tinderholt; VanDeaver; Villalba; White; Wilson; Workman; Wray; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Arévalo; Bernal; Blanco; Canales; Coleman; Collier; Cortez; Davis, S.; Davis, Y.; Deshotel; Dutton; Farrar; Gervin-Hawkins; Giddings; González; Guerra; Gutierrez; Hernandez; Herrero; Hinojosa; Howard; Israel; Johnson, E.; Johnson, J.; King, T.; Longoria; Lucio; Martinez; Minjarez; Moody; Muñoz; Neave; Nevárez; Ortega; Perez; Pickett; Reynolds; Rodriguez, E.; Rodriguez, J.; Rose; Thierry; Thompson, S.; Turner; Uresti; Vo; Walle; Wu.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Dukes; Elkins; Huberty; Murphy; Oliveira.

Absent — Romero.

CAPRIGLIONE: I close. I move passage.

COLLIER: Representative Capriglione, when you have the list of items that could be harmful—it says in this section on your first page, "'abortion complication' means any harmful event or adverse outcome with respect to a patient," and it says "cervical laceration." I'm concerned that—I mean, this seems like something that could happen regularly. So when you have a cervical laceration, does it have to be accompanied by any other harmful events or anything else? Because if somebody just does a cervical laceration, do they have to report it?

REPRESENTATIVE SHEFFIELD: Ms. Collier, what we mean by the diagnoses of cervical laceration would be a tear or a split in the cervix so severe that it causes significant bleeding, enough that the patient knows there's a problem; we're going to get this checked out. As a physician, there can be numerous minor cervical lacerations that do not bleed and heal themselves up just fine—just like a cut on your skin—and they require no intervention. So this cervical laceration as meant in this bill means severe enough to be a complication that needs intervention.

COLLIER: Okay. And then the damage to the uterus, is it the same issue? What requires reporting? What type of damage to the uterus would be required to be reported?

SHEFFIELD: Okay. The most common thing is uterine perforation. Not to give a biology lesson, but the uterus is like a pear turned upside down. The top part, the bigger part, is called the womb. Now, with some procedures that part of the tissue

is penetrated to its outside. There's a hole in the wall. Now, that obviously can lead to pain, air in the intra-abdominal cavity, infection, bleeding. Those are severe-type things. The lady knows there's a problem going on.

COLLIER: So just pain?

SHEFFIELD: No.

COLLIER: Oh, you said pain first.

SHEFFIELD: Pain and you can have infection. You can have massive bleeding. It would be the type of issue going on where that patient knows that this is not right, and I need to go seek medical care.

COLLIER: Okay, because I'm just asking for clarification so that if this goes into effect the physicians have clarity on what they're expected to do.

SHEFFIELD: By our training as physicians, and we've looked through this list, this is a very complete list about the complications of termination of pregnancy.

COLLIER: Okay. Thank you. And I have a question for Representative Capriglione. So just for clarification, this does apply to emergency room physicians. They do have to report to DSHS, correct?

CAPRIGLIONE: That's right. Yes.

COLLIER: And then DSHS—what does DSHS have to do with this information? Do they have a certain amount of time to act on this information?

CAPRIGLIONE: There's two parts to this bill. I'm sorry. Try again.

COLLIER: Did you want to change your answer or are you still—

CAPRIGLIONE: No, I didn't hear your question, but—

COLLIER: Are you still saying it applies to emergency room physicians?

CAPRIGLIONE: Yes.

COLLIER: Okay, so when DSHS gets this information, do they have a certain amount of time to act on it?

CAPRIGLIONE: Well, the way this is going to work, and it's actually that they have a new system that's going to make it much simpler to be able to get the information. So once the information is uploaded—now, remember, there are going to be some hospitals, some clinics, some whatever that are reporting this at different times, right? So there's going to be kind of a settle-up time, and by the end of each month that data will be available. Now, obviously, because the data is coming in, it can be in real time. So the question is at what point do you want to look at the information. I think at the end of the day this is just them reporting it to DSHS and getting the data.

COLLIER: And what is DSHS suppose to do with that data? I mean, we want them to get it in within 72 hours after the event, right?

CAPRIGLIONE: Right. We want to be able to get the information. I mean, listen, if anybody sees this information that's coming in and we start seeing quickly that the complication rate is significantly different than it used to be before or that

there's outliers or so on, of course we want to be able to act quickly. We want to be able to get that information and report it as fast as possible so that we can go, again, and protect the—

COLLIER: Well, I just want to know what DSHS is supposed to do with the information when they get it.

CAPRIGLIONE: Well, again, it's for their reporting purposes, right? So the information goes into an electronic module and it's available in aggregate again to the public.

COLLIER: So they don't have a responsible time. There's no time for them to keep, to do anything on it?

CAPRIGLIONE: It's the same thing that they do with any other public health information.

COLLIER: So they just hold it. They collect it.

CAPRIGLIONE: They make it available for legislators, for the public, and for others to analyze and research.

COLLIER: And there was no fiscal note on this. Is that right?

CAPRIGLIONE: There is no fiscal note.

COLLIER: So they already have a database that they can use to collect this information?

CAPRIGLIONE: Yes, but again, if you go back to where we were, there's already supposed to be the collecting of this information, right? But what we've seen is that information hasn't been complete, and it hasn't been accurate. There is no fiscal note on this bill. So they essentially already have the items in place in terms of the electronic module that's available and so on. You know, at the end of the day, I think this is going to make it not only completely accurate and unbiased, but it's also going to make the whole process more efficient.

COLLIER: Okay, so it says: "The commission shall develop a form for reporting an abortion complication under Subsection (c) and publish the form on the commission's Internet website." So should they be required to do that within 72 hours of receipt?

CAPRIGLIONE: No, so the form is a one-time form. In fact, the form is already developed. There's already—

COLLIER: This is just a blank form.

CAPRIGLIONE: They're talking about the blank form. Right. I mean, they have to develop the template.

COLLIER: Okay, so it's not going to identify the physician, and then the data that they collect is just going to be held by DSHS, and they have no obligation to submit it to the legislature within a certain amount of time, to the governor, to the speaker, or the lieutenant governor. Is that right?

CAPRIGLIONE: They don't have to—there isn't like a deadline or something like that, but any of us obviously would be able to get that information. And again, once it's reported electronically on the website then everybody will be able to get that information.

COLLIER: Okay, so I still don't understand what they're going to do with the report when they get it. And it does say that they shall notify the Texas Medical Board of any violations of this section. So it seems like they are going to be doing some of the medical board's work, but I'll pass.

REPRESENTATIVE GIDDINGS: If I can follow up, Representative Capriglione, on Representative Collier's question. The 72 hours is a point of contention here. And I just want to clearly understand what you think happens. The complication is reported to DSHS within 72 hours. At that point, what is the obligation of DSHS with the 72 hours? What is their directive?

CAPRIGLIONE: All right. So one, how we amended the bill is actually three business days. Okay, so it's not 72 hours.

GIDDINGS: Business days. Okay.

CAPRIGLIONE: In terms of getting this information out there, you had mentioned that it is a point of contention. I guess what you're suggesting is that doctors should report much later if there's a complication?

GIDDINGS: Well, here's what I'm trying to understand, and I think you can help me understand that. A report is just a report if there's not some action taken. So whether you get the report in 72 hours or 10 days—72 working hours or 10 days—I'm trying to find out why it's so significant. What's the difference unless there is some action to be taken?

CAPRIGLIONE: Okay, so just a little bit of response to what you said to whether a study is, you know, a report is just a report if there's no action taken. I would say a report is just a piece of paper if it doesn't have accurate information to begin with. So what we're trying to do by getting this information is making sure that we have that information as timely as possible. I don't really—I'm sorry, I maybe can't help you understand why we wouldn't want to report a complication that a woman has as quickly as possible.

GIDDINGS: Basically, I just want to know what we're going to do about it. I mean—if somebody, for goodness sake, had a heart attack on this house floor, and we just reported it, and didn't do anything about it. I mean, what is DSHS going to do in 72 hours with a 72-hour report that they couldn't do in 10 days? Are they going to go into the facility and make a change? What is DSHS' obligation when they get this report in 72 hours? Must they then act in a certain period of time?

CAPRIGLIONE: I think, again, there's a public health risk. There's a public safety risk. I have never found a situation where getting the information as close to the origin of the problem—it makes memories fresher. I mean, I guess I don't even know how to argue this in the sense that I can't see any reason whatsoever to delay the reporting of a complication that happens inside of abortion clinics.

GIDDINGS: I think the answer to my question is that DSHS or no one else takes any action with a 72-hour report that they couldn't take in a 10-day report, and that's the problem.

CAPRIGLIONE: I don't think that's true.

REPRESENTATIVE ALVARADO: Mr. Capriglione, I know that you do due diligence and you do homework on whatever bill that you have presented, so I wanted to ask you a few questions. What exactly in the process that's taking place now do you find some faults in? Because already these facilities have to report the complications, and they're to report details including the type of the abortion that preceded the complication, the age of the fetus at the time of the abortion, the date the complication was diagnosed or treated, and the number of abortions and children the patient previously had. And this is done within a 30-day window. So where in this process are you finding some shortcomings, some faulty information, a loophole?

CAPRIGLIONE: Well, that's a great question. I think that really gets to the intent of this bill, which is the current process, the current procedure, the current information that's being collected—is it properly and accurately informing the decisions that we make in this body and the decisions that women and others make when going and making their decisions? So what you do is you have to look at the data that we're collecting, and you see that each year while there's 50,000-plus abortions in the State of Texas, you get maybe 30 or so reports. Now, if that were accurate, that would be great. But when you look at, again, other states, other studies, other things that happen, other statistics, you see that we are completely off the map. And I'm talking about studies that *Obstetrics & Gynecology* in January 2015, when they did a California study, which is a subset of Medicaid patients which is very similar to the amount of Texas' annual number, they found a complication rate of 2.1 percent. One hundred and twenty-six of those were major issues. When you go and you look at studies—for instance, this is another one in ACOG in October 2009, but they found a complication rate of 5.6 percent for surgical abortions and 20 percent for medical abortions.

ALVARADO: And where was that?

CAPRIGLIONE: That was in the ACOG, *Obstetrics & Gynecology*, October 2009, Volume 114, Issue 4, pages 795 to 805. And when you go and you read this study—and I know it's dated, and I know it's not Texas, okay—but when you go and you look at that study, they collected all of this information. They collected the same information that I've been asked about before—marital status. They even go further. They ask income level. They ask education level. They go and get all this information, and what they found—

ALVARADO: Okay, we're legislating in Texas. We're governing in Texas.

CAPRIGLIONE: We are legislating in Texas, but the physics—

ALVARADO: So let's talk about the Texas number. What in the current process do you find a fault with? What was broken—

CAPRIGLIONE: Well, again, physics, chemistry, and math all work the same in Texas as they do in Finland. And if you go and you see in California, if you have an actual testimony from a Planned Parenthood Gulf Coast director who says in federal court that there's a two percent complication rate, if you take all of that, whether it's two percent, three percent, four percent, five percent—

ALVARADO: Two, two percent.

CAPRIGLIONE: If you take two percent, well then why are we getting 0.045 percent? That's not slightly off. That's 20, 30, 40 times less than others. And what I'm saying is that I don't know why we as a body, why we as Texans, wouldn't want this correct information. I want to know, and if we don't support this bill, we're telling people we're okay with incorrect information.

ALVARADO: Okay, but you're not answering my question specifically and directly. What in the process—where was it broken that it needed to be fixed? Are you saying that during the current administration, the Abbott administration, the Perry administration, that we had this process that just had so many holes in it that it was broken and needed to be fixed? Is that what you're saying?

CAPRIGLIONE: No. What I said was that if I look at the data today and the data that's being collected, when I started looking at it, when we started looking at it, you can see that it's just—the delta is too big. And I know that while we're—

ALVARADO: Okay, what data? The data. Let's talk about data in Texas.

CAPRIGLIONE: Sure. Well, again, you have data in Texas where you only have 30 reports annually from hospitals. And in 2015, there were 25 complications noted for a total of 55,000 abortions, which is less than one-tenth of one percent. I would say that the reason the process is broken is because one, it's not statutorily required; two, because it's done through paper. I mean, when you have a process where you're telling people that they have to do this but there's no penalty, where you go and you have to send something, and send it, and it goes inside of a filing cabinet—I think we could all agree that that's just ripe for inaccurate, incomplete information.

ALVARADO: So the topic of abortion has been recognized in the U.S. Supreme Court. Are you familiar with the *Whole Woman's Health v. Hellerstedt*, Mr. Capriglione?

CAPRIGLIONE: I'm sorry, can you say that—

ALVARADO: Are you familiar with the *Whole Woman's Health v. Hellerstedt*? Are you familiar with that?

CAPRIGLIONE: I'm not advised on that case. You know, what I'm trying to do my research on is just—I mean, it really is, I'm looking at the data. And we often use the data that we collect in Texas, and we compare it. Let's say, for instance, maternal morbidity rate. The first thing we did when we got that information is we went and we compared it to other states. Didn't we? I mean, I'm sure we all have, and we've said, okay, ours is different than other states. But what we also



want to make sure as we collect that information is that we're collecting it in—I mean, if you're going to compare ours versus others, you want to make sure that it's just as complete, just as accurate, just as unbiased, right?

ALVARADO: Okay, well, in this case, the Supreme Court acknowledged that abortions are so safe that the restrictions Texas had enacted to purportedly make the procedure even safer makes little sense. You know, once again we're in the courts, and we'll probably end up there again. I'm trying to understand why you're adding more regulation into this process. We pass so many bills taking away regulation, but here we are dealing with this issue and adding more bureaucracy, more regulation, more government.

CAPRIGLIONE: I'll disagree with that, because essentially we're already putting this in statute. This is already supposed to be done. I'm not saying that we need more regulations at all. I'm not adding more regulations. What I'm saying is, when we do this, let's do it right. Let's make sure that everybody knows what the right information is. But I agree. I think—I hope—that the laws that we've passed here in the State of Texas have made it safer. But what I'm trying to do with this law is validate and verify the information.

ALVARADO: Why not have an audit of this process instead of adding more legislation, more regulation?

CAPRIGLIONE: Well, I don't think it makes any sense to do a study of a study of a study. But I think what we do is we know we should go ahead and work on the most complete information we can, and then we can go back and audit it or not. I mean, there's either going to be a difference or there's not.

HOWARD: Representative Capriglione, are you aware of what the Texas Department of Health and Human Services currently collects in regard to preventable adverse affects?

CAPRIGLIONE: Of what? Of abortion complications?

HOWARD: No, just in general. Are you aware that they collect data right now? Let me just tell you if you do not know this. I'll ask if you know this, that actually they only require these reports done every six months for such things as patient death associated with all kinds of surgical procedures, blood clots, lung collapse, operating on the wrong patient, removing the wrong limb—kinds of things that you may want to know about—death associated with taking something metal into an MRI area, patient death or severe harm associated with medicine error. All of these things—severe, horrible complications—they are required to report this every six months. Are we not interested in the safety and efficacy of what's going on here and accurate reporting to make sure that these things are done properly?

CAPRIGLIONE: Representative Howard, you know, we all learn things when we file bills and learn more about the subject. And I'll tell you I think we should get more complete, accurate information for all complications.

HOWARD: But right now, right now, it's a long list.

CAPRIGLIONE: But at this time this is what's in this bill.

HOWARD: They're all six months. Why would we single out one particular medical procedure and have them report in 72 hours when all the others are six months?

CAPRIGLIONE: Again, you know, I honestly would be happy to work with you on this. We can change that from six months to one month.

**HB 13**, as amended, was passed to engrossment by (Record 15): 97 Yeas, 46 Nays, 1 Present, not voting.

Yeas — Anderson, C.; Anderson, R.; Ashby; Bailes; Bell; Biedermann; Bohac; Bonnen, D.; Bonnen, G.; Burkett; Burns; Burrows; Button; Cain; Canales; Capriglione; Clardy; Cook; Cospier; Craddick; Cyrier; Dale; Darby; Dean; Faircloth; Fallon; Flynn; Frank; Frullo; Geren; Goldman; Gonzales; Gooden; Guillen; Hefner; Herrero; Holland; Hunter; Isaac; Kacal; Keough; King, K.; King, P.; Klick; Koop; Krause; Kuempel; Lambert; Landgraf; Lang; Larson; Laubenberg; Leach; Lozano; Metcalf; Meyer; Miller; Morrison; Murr; Nevárez; Oliverson; Paddie; Parker; Paul; Phelan; Phillips; Pickett; Price; Raney; Raymond; Rinaldi; Roberts; Sanford; Schaefer; Schofield; Schubert; Shaheen; Sheffield; Shine; Simmons; Smithee; Springer; Stephenson; Stickland; Stucky; Swanson; Thompson, E.; Tinderholt; Uresti; VanDeaver; Villalba; White; Wilson; Workman; Wray; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Arévalo; Bernal; Blanco; Coleman; Collier; Cortez; Davis, S.; Davis, Y.; Deshotel; Dutton; Farrar; Gervin-Hawkins; Giddings; González; Guerra; Gutierrez; Hinojosa; Howard; Israel; Johnson, E.; Johnson, J.; King, T.; Longoria; Lucio; Martinez; Minjarez; Moody; Muñoz; Neave; Ortega; Perez; Reynolds; Rodriguez, E.; Rodriguez, J.; Romero; Rose; Thierry; Thompson, S.; Turner; Vo; Walle; Wu.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Dukes; Elkins; Huberty; Murphy; Oliveira.

Absent — Hernandez.

### STATEMENTS OF VOTE

When Record No. 15 was taken, I was excused because of important business. I would have voted yes.

Murphy

When Record No. 15 was taken, I was shown voting yes. I intended to vote no.

Raymond

### COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Public Health, upon adjournment today, Desk 122, for a formal meeting, to consider pending business.

State Affairs, 2 p.m. or upon adjournment today, 1W.14, for a formal meeting, to consider **HJR 31** and pending business.

### **PROVIDING FOR ADJOURNMENT**

At 11:38 a.m., Representative Phillips moved that, at the conclusion of the reading of bills and resolutions on first reading and referral to committees, the house adjourn until 10 a.m. tomorrow.

The motion prevailed.

### **BILLS AND JOINT RESOLUTIONS ON FIRST READING AND REFERRAL TO COMMITTEES RESOLUTIONS REFERRED TO COMMITTEES**

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. Resolutions were at this time laid before the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

(Simmons in the chair)

### **ADJOURNMENT**

In accordance with a previous motion, the house, at 11:43 a.m., adjourned until 10 a.m. tomorrow.

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### **ADDENDUM**

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### **REFERRED TO COMMITTEES**

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

#### **List No. 1**

**HB 32** (By D. Bonnen), Relating to the administration of the ad valorem tax system; authorizing fees.

To Ways and Means.

**HB 316** (By Dutton), Relating to the age of criminal responsibility and to certain substantive and procedural matters related to that age.

To Juvenile Justice and Family Issues.

**HB 317** (By Uresti), Relating to the repeal of certain provisions governing state and local enforcement of immigration laws and other provisions related to immigration law.

To State Affairs.

**HB 318** (By Burrows), Relating to the sunset review of the Legislative Budget Board.

To Appropriations.

**HB 319** (By Perez), Relating to an appropriation of money from the economic stabilization fund for the repair, restoration, and permanent dry berthing of the Battleship "Texas."

To Appropriations.

**HB 320** (By VanDeaver), Relating to the establishment and funding of an education enhancement program for certain students with disabilities.

To Public Education.

**HB 321** (By J. Rodriguez), Relating to required state contributions to the Teacher Retirement System of Texas; making an appropriation.

To Appropriations.

**HB 322** (By VanDeaver), Relating to the sunset review of the Red River Authority of Texas.

To Natural Resources.

**HB 323** (By Nevárez), Relating to the eligibility of a retired or former judge for assignment in certain proceedings.

To Judiciary and Civil Jurisprudence.

**HB 324** (By Dutton), Relating to public school students evaluated for purposes of accountability ratings in certain school districts.

To Public Education.

**HB 325** (By Dutton), Relating to including students enrolled in open-enrollment charter schools in the determination of a district's weighted average daily attendance for purposes of complying with equalized wealth level requirements.

To Public Education.

**HB 326** (By S. Davis), Relating to a study on the assessments used by the Board of Pardons and Paroles to make parole decisions.

To Corrections.

**HB 327** (By S. Davis), Relating to the placement of warning signs in areas where the use of a wireless communication device is prohibited.

To Transportation.

**HB 328** (By S. Davis), Relating to emergency health care services and trauma care systems.

To Public Health.

**HB 329** (By S. Davis), Relating to maternal health care.

To Public Health.

**HB 330** (By Neave), Relating to an investigation by the Department of Public Safety into the response by certain public and private institutions of higher education to reports of sexual assault at those institutions.

To Homeland Security and Public Safety.

**HB 331** (By S. Davis), Relating to the reappraisal for ad valorem tax purposes of property damaged in a disaster.

To Ways and Means.

**HB 332** (By S. Thompson), Relating to grand jury proceedings.

To Judiciary and Civil Jurisprudence.

**HB 333** (By Fallon), Relating to the timely filing of reports of political contributions and expenditures; increasing a criminal penalty.

To General Investigating and Ethics.

**HB 334** (By Moody), Relating to the civil and criminal penalties for possession of certain small amounts of marihuana and an exception to prosecution for possession of associated drug paraphernalia; creating a criminal offense.

To Criminal Jurisprudence.

**HJR 45** (By Larson), Proposing a constitutional amendment limiting to two the number of consecutive terms for which a person may be elected or appointed to hold certain state offices.

To State Affairs.

**HCR 21** (By Hunter), Requesting the lieutenant governor and the speaker of the house to create a joint interim committee to study human trafficking in Texas.

To State Affairs.

**HR 115** (By Schofield), Recognizing Sarah Singleton of Cypress on her outstanding record of civic engagement.

To Rules and Resolutions.

**HR 116** (By Schofield, Bell, and Zerwas), Congratulating the Cane Island Alers of Katy on winning the Gambrinus Club Award from the American Homebrewers Association.

To Rules and Resolutions.

**HR 117** (By Morrison), Congratulating Gwen Grigsby on her retirement as associate vice president for governmental relations at The University of Texas at Austin.

To Rules and Resolutions.

**HR 118** (By Schofield), Congratulating Memorial Hermann Katy Hospital on its receipt of a 2017 Texas Award for Performance Excellence from the Quality Texas Foundation.

To Rules and Resolutions.

**HR 119** (By Schofield, Bell, Zerwas, and Vo), Congratulating the Katy ISD Financial Services Department on its receipt of a Transparency Star for Traditional Finances from the Texas Comptroller of Public Accounts.

To Rules and Resolutions.

**HR 120** (By Wray), In memory of Johnnie I. Krajca of Ennis.

To Rules and Resolutions.

**HR 121** (By Geren), Congratulating Anne Cozart on her retirement as district director for State Representative Charlie Geren.

To Rules and Resolutions.

**HR 122** (By Leach), Congratulating musician Don Henley on his 70th birthday.

To Rules and Resolutions.

**HR 123** (By S. Davis), In memory of Sharon Nellums-Goosby of Houston.

To Rules and Resolutions.

**HR 124** (By Hunter), In memory of Edward G. Olivares of Corpus Christi.

To Rules and Resolutions.

**HR 125** (By Hunter), In memory of John Benard Fisher III of Corpus Christi.

To Rules and Resolutions.

**HR 126** (By Huberty), In memory of Patricia Gayle Eversole of Houston.

To Rules and Resolutions.

**HR 127** (By Price), Congratulating Alejandra Zuniga, salutatorian of the Class of 2017 at Caprock High School.

To Rules and Resolutions.

**HR 128** (By Martinez), Congratulating Hugo De La Cruz on his 50th anniversary in radio.

To Rules and Resolutions.

**HR 129** (By Bell), Congratulating Cane Island in Katy on its selection as one of the 50 best master-planned communities in the United States by Where to Retire magazine.

To Rules and Resolutions.

**HR 130** (By Dale), In memory of Bettye J. Glover of Cedar Park.

To Rules and Resolutions.

### MESSAGES FROM THE SENATE

The following messages from the senate were today received by the house:

#### Message No. 1

#### MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Thursday, July 27, 2017

The Honorable Speaker of the House

House Chamber

Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

## THE SENATE HAS PASSED THE FOLLOWING MEASURES:

**SB 1** Bettencourt  
Relating to ad valorem taxation.

**SB 2** Taylor, Larry  
Relating to public school finance, including the establishment of a tax credit scholarship and educational expense assistance program.

**SB 3** Kolkhorst  
Relating to the regulation of certain facilities and activities of political subdivisions, including public school districts, and open-enrollment charter schools.

**SB 7** Hughes  
Relating to payroll deductions for state and local government employee organizations.

**SB 9** Hancock  
Relating to the constitutional limit on the rate of growth of appropriations.

**SB 10** Campbell  
Relating to reporting requirements by certain physicians and health care facilities for abortion complications; authorizing a civil penalty.

**SB 11** Perry  
Relating to general procedures and requirements for do-not-resuscitate orders.

**SB 16** Taylor, Larry  
Relating to the creation of a commission to recommend improvements to the public school finance system.

**SB 17** Kolkhorst  
Relating to maternal health and safety, pregnancy-related deaths, and maternal morbidity, including postpartum depression.

**SB 19** Nelson  
Relating to bonuses for public school classroom teachers and state assistance for the Texas Public School Employees Group Insurance Program.

**SB 73** Hughes  
Relating to reporting and certification requirements by certain physicians regarding certain abortions.

Respectfully,  
Patsy Spaw  
Secretary of the Senate

**Message No. 2**

MESSAGE FROM THE SENATE  
SENATE CHAMBER  
Austin, Texas  
Thursday, July 27, 2017 - 2

The Honorable Speaker of the House  
House Chamber

Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

**SB 4** Schwertner

Relating to prohibiting certain transactions between a governmental entity and an abortion provider or affiliate of the provider.

**SB 5** Hancock

Relating to the prevention of fraud in the conduct of an election; creating a criminal offense; increasing criminal penalties.

**SB 6** Campbell

Relating to municipal annexation.

**SB 8** Creighton

Relating to health plan and health benefit plan coverage for elective abortion.

**SB 13** Burton

Relating to the issuance of a permit by a political subdivision.

**SB 14** Hall

Relating to a property owner's right to remove a tree or vegetation.

**SB 15** Huffines

Relating to prosecution of certain offenses involving and preemption of local regulation of the use of a wireless communication device while operating a motor vehicle.

Respectfully,

Patsy Spaw

Secretary of the Senate

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## APPENDIX

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### STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

**July 26**

Investments and Financial Services - **HB 111**

Public Education - **HB 21, HB 22, HB 23**