

# SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE — SECOND CALLED SESSION

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AUSTIN, TEXAS

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## PROCEEDINGS

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### SECOND DAY

(Continued)

(Friday, July 12, 2013)

### AFTER RECESS

The Senate met at 2:06 p.m. and was called to order by the President.

### AT EASE

The President at 2:07 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

### IN LEGISLATIVE SESSION

The President at 2:39 p.m. called the Senate to order as In Legislative Session.

### LEAVE OF ABSENCE

On motion of Senator Whitmire, Senator Williams was granted leave of absence for today on account of important business.

### ACKNOWLEDGMENT

The President acknowledged Senator Eltife, Chair, Senate Committee on Administration, who addressed the body and gallery guests regarding Senate decorum.

### MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Friday, July 12, 2013 - 1

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

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

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

**HCR 6**

Moody

In memory of El Paso County Commissioner Daniel Richard Haggerty.

**HCR 7** Larson  
In memory of William Douglas Jefferson of San Antonio.

**HCR 11** Frullo  
Congratulating former state representative Carl H. Isett on his promotion to the rank of captain in the U.S. Navy Reserve.

**SB 2** Huffman Sponsor: Kolkhorst  
Relating to the punishment for a capital felony committed by an individual younger than 18 years of age.

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

### HOUSE BILL 2 ON SECOND READING

The President laid before the Senate **HB 2**, sponsored by Senator Hegar, at this time on its second reading:

**HB 2**, Relating to the regulation of abortion procedures, providers, and facilities; providing penalties.

The bill was read second time.

Question—Shall **HB 2** be passed to third reading?

**(Senator Eltife in Chair)**

### POINT OF ORDER

Senator West raised a point of order that Senate Rule 11.13, providing that no Senate committee may meet while the Senate is meeting, was violated.

**(President in Chair)**

### POINT OF ORDER WITHDRAWN

Senator West withdrew the point of order.

**(Senator Estes in Chair)**

### AT EASE

The Presiding Officer at 6:29 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

### IN LEGISLATIVE SESSION

Senator Eltife at 6:40 p.m. called the Senate to order as In Legislative Session.

Question—Shall **HB 2** be passed to third reading?

Senator West offered the following amendment to the bill:

### Floor Amendment No. 1

Amend **HB 2** (Senate Committee Printing) in SECTION 2 of the bill, in added Section 171.0031(a)(1), Health and Safety Code (page 2, line 1), between "privileges at" and "a hospital", by inserting "or a written transfer agreement with".

The amendment to **HB 2** was read.

On motion of Senator Hegar, Floor Amendment No. 1 was tabled by the following vote: Yeas 19, Nays 11.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Lucio, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor.

Nays: Davis, Ellis, Garcia, Hinojosa, Rodríguez, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Absent-excused: Williams.

Senator Uresti offered the following amendment to the bill:

### **Floor Amendment No. 2**

Amend **HB 2** (Senate Committee Printing) in SECTION 3 of the bill, immediately after added Section 171.046(c), Health and Safety Code, by adding the following new subsection:

(d) The prohibitions and requirements under Sections 171.044 and 171.045(b) do not apply to an abortion performed when:

(1) the pregnancy is the result of rape or incest; and

(2) the probable post-fertilization age of the unborn child is not more than 24 weeks.

The amendment to **HB 2** was read.

### **(President in Chair)**

On motion of Senator Hegar, Floor Amendment No. 2 was tabled by the following vote: Yeas 18, Nays 12.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor.

Nays: Davis, Ellis, Garcia, Hinojosa, Lucio, Rodríguez, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Absent-excused: Williams.

Senator Garcia offered the following amendment to the bill:

### **Floor Amendment No. 3**

Amend **HB 2** (senate committee printing) as follows:

(1) In SECTION 1(a)(4)(B) of the bill (page 1, lines 44-45), strike "substantial and irreversible physical impairment of a major bodily function" and substitute "preserve the health".

(2) In SECTION 3 of the bill, in proposed Section 171.046(a), Health and Safety Code (page 2, lines 67-69), strike "a serious risk of substantial and irreversible physical impairment of a major bodily function, other than a psychological condition" and substitute "to preserve the woman's health".

(3) In SECTION 3 of the bill, in proposed Section 171.046(b), Health and Safety Code (page 3, lines 10-11), strike "a substantial and irreversible physical impairment of a major bodily function" and substitute "impairment of the woman's health".

(4) In SECTION 3 of the bill, in proposed Section 171.046(b), Health and Safety Code (page 3, lines 13-14), strike "in substantial and irreversible physical impairment of a major bodily function" and substitute "in impairment of her health".

The amendment to **HB 2** was read.

On motion of Senator Hegar, Floor Amendment No. 3 was tabled by the following vote: Yeas 19, Nays 11.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Lucio, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor.

Nays: Davis, Ellis, Garcia, Hinojosa, Rodríguez, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Absent-excused: Williams.

Senator Zaffirini offered the following amendment to the bill:

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

Amend **HB 2** (Senate Committee Printing) as follows:

(1) In SECTION 1 of the bill (page 1, line 23), strike the word "substantial" and substitute "some."

(2) In SECTION 3 of the bill, in added Section 171.046(a), Health and Safety Code (page 2, line 69), add the words "unless the psychological condition existed prior to the pregnancy" after the word "condition," and before the word "it".

(3) In SECTION 6 of the bill, in Section 164.052(a)(18), Occupations Code (pages 7, lines 13-14), strike "severe, irreversible brain impairment" and substitute "severe fetal abnormality [~~severe, irreversible brain impairment~~]".

The amendment to **HB 2** was read.

On motion of Senator Hegar, Floor Amendment No. 4 was tabled by the following vote: Yeas 19, Nays 11.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Lucio, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor.

Nays: Davis, Ellis, Garcia, Hinojosa, Rodríguez, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Absent-excused: Williams.

Senator Van de Putte offered the following amendment to the bill:

**Floor Amendment No. 5**

Amend **HB 2** (senate committee printing) in SECTION 3 of the bill, immediately following added Section 171.063(b), Health and Safety Code (page 5, between lines 7 and 8) insert the following:

(b-1) A person may administer the abortion-inducing drug orally or vaginally as outlined by the American Congress of Obstetricians and Gynecologists Practice Bulletin as those guidelines existed on January 1, 2013.

The amendment to **HB 2** was read.

On motion of Senator Hegar, Floor Amendment No. 5 was tabled by the following vote: Yeas 18, Nays 12.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor.

Nays: Davis, Ellis, Garcia, Hinojosa, Lucio, Rodríguez, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Absent-excused: Williams.

Senator Zaffirini offered the following amendment to the bill:

**Floor Amendment No. 6**

Amend **HB 2** (Senate Committee Printing) as follows:

(1) Strike the recital to SECTION 4 (page 5, lines 58-59) and substitute the following:

SECTION 4. Section 245.010, Health and Safety Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(2) In the SECTION amending Section 245.010, Health and Safety Code, immediately following amended Subsection (a) (page 5, between lines 66-67), insert the following new subsection:

(a-1) The Health and Human Services Commission shall reimburse an abortion facility constructed before January 1, 2014, for costs incurred by the facility in order to implement and comply with the standards described by Subsection (a). The executive commissioner of the commission shall adopt rules to implement this subsection.

The amendment to **HB 2** was read.

On motion of Senator Hegar, Floor Amendment No. 6 was tabled by the following vote: Yeas 19, Nays 11.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Lucio, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor.

Nays: Davis, Ellis, Garcia, Hinojosa, Rodríguez, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Absent-excused: Williams.

Senator Rodríguez offered the following amendment to the bill:

**Floor Amendment No. 7**

Amend **HB 2** (senate committee printing) in SECTION 4 of the bill, in amended Section 245.010(a), Health and Safety Code (page 5, line 66), between "centers" and the underlined period, by inserting ", except that an abortion facility may comply with 25 T.A.C. Section 139.48 instead of 25 T.A.C. Sections 135.51 and 135.52 regarding physical, environmental, and other construction standards".

The amendment to **HB 2** was read.

On motion of Senator Hegar, Floor Amendment No. 7 was tabled by the following vote: Yeas 19, Nays 11.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Lucio, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor.

Nays: Davis, Ellis, Garcia, Hinojosa, Rodríguez, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Absent-excused: Williams.

Senator Uresti offered the following amendment to the bill:

**Floor Amendment No. 8**

Amend **HB 2** as follows:

(1) Strike the SECTION of the bill that amends Section 245.010, Health and Safety Code, and substitute the following appropriately numbered SECTION:

SECTION \_\_\_\_. Section 245.010, Health and Safety Code, is amended by adding Subsections (a-1) and (a-2) and amending Subsection (c) to read as follows:

(a-1) Except as otherwise provided by Subsection (a-2), on or after September 1, 2014, the minimum standards for an abortion facility must be equivalent to the minimum standards adopted under Section 243.010 for ambulatory surgical centers.

(a-2) An abortion facility located more than 50 miles from the nearest other abortion facility must meet the minimum standards adopted under Subsection (c).

(c) The standards for a facility described by Subsection (a-2) may not be more stringent than Medicare certification standards, if any, for:

- (1) qualifications for professional and nonprofessional personnel;
- (2) supervision of professional and nonprofessional personnel;
- (3) medical treatment and medical services provided by an abortion facility and the coordination of treatment and services, including quality assurance;
- (4) sanitary and hygienic conditions within an abortion facility;
- (5) the equipment essential to the health and welfare of the patients;
- (6) clinical records kept by an abortion facility; and
- (7) management, ownership, and control of the facility.

(2) Strike the SECTION of the bill that repeals Section 245.010(c), Health and Safety Code, and renumber subsequent SECTIONS of the bill accordingly.

The amendment to **HB 2** was read.

On motion of Senator Hegar, Floor Amendment No. 8 was tabled by the following vote: Yeas 19, Nays 11.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Lucio, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor.

Nays: Davis, Ellis, Garcia, Hinojosa, Rodríguez, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Absent-excused: Williams.

Senator Davis offered the following amendment to the bill:

### **Floor Amendment No. 9**

Amend **HB 2** (senate committee printing) by adding the following to page 5 line 66 after "centers":

; and all ambulatory surgical centers providing abortion services shall have annual on-site inspections by the Department of State Health Services.

The amendment to **HB 2** was read.

On motion of Senator Hegar, Floor Amendment No. 9 was tabled by the following vote: Yeas 18, Nays 12.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor.

Nays: Davis, Ellis, Garcia, Hinojosa, Lucio, Rodríguez, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Absent-excused: Williams.

Senator Rodríguez offered the following amendment to the bill:

### **Floor Amendment No. 10**

Amend **HB 2** (senate committee printing) by adding the following appropriately numbered SECTION and renumbering existing SECTIONS and cross-references to existing SECTIONS of the bill accordingly:

SECTION \_\_\_\_ . Section 171.012(a), Health and Safety Code, is amended to read as follows:

(a) Consent to an abortion is voluntary and informed only if:

(1) the physician who is to perform the abortion informs the pregnant woman on whom the abortion is to be performed of:

(A) the physician's name;

(B) the particular medical risks associated with the particular abortion procedure to be employed, including, when medically accurate:

(i) the risks of infection and hemorrhage; and

(ii) the potential danger to a subsequent pregnancy and of infertility; ~~and~~

~~[(iii) the possibility of increased risk of breast cancer following an induced abortion and the natural protective effect of a completed pregnancy in avoiding breast cancer;]~~

(C) the probable gestational age of the unborn child at the time the abortion is to be performed; and

- (D) the medical risks associated with carrying the child to term;
- (2) the physician who is to perform the abortion or the physician's agent informs the pregnant woman that:
  - (A) medical assistance benefits may be available for prenatal care, childbirth, and neonatal care;
  - (B) the father is liable for assistance in the support of the child without regard to whether the father has offered to pay for the abortion; and
  - (C) public and private agencies provide pregnancy prevention counseling and medical referrals for obtaining pregnancy prevention medications or devices, including emergency contraception for victims of rape or incest;
- (3) the physician who is to perform the abortion or the physician's agent:
  - (A) provides the pregnant woman with the printed materials described by Section 171.014; and
  - (B) informs the pregnant woman that those materials:
    - (i) have been provided by the Department of State Health Services;
    - (ii) are accessible on an Internet website sponsored by the department;
    - (iii) describe the unborn child and list agencies that offer alternatives to abortion; and
    - (iv) include a list of agencies that offer sonogram services at no cost to the pregnant woman;
  - (4) before any sedative or anesthesia is administered to the pregnant woman and at least 24 hours before the abortion or at least two hours before the abortion if the pregnant woman waives this requirement by certifying that she currently lives 100 miles or more from the nearest abortion provider that is a facility licensed under Chapter 245 or a facility that performs more than 50 abortions in any 12-month period:
    - (A) the physician who is to perform the abortion or an agent of the physician who is also a sonographer certified by a national registry of medical sonographers performs a sonogram on the pregnant woman on whom the abortion is to be performed;
    - (B) the physician who is to perform the abortion displays the sonogram images in a quality consistent with current medical practice in a manner that the pregnant woman may view them;
    - (C) the physician who is to perform the abortion provides, in a manner understandable to a layperson, a verbal explanation of the results of the sonogram images, including a medical description of the dimensions of the embryo or fetus, the presence of cardiac activity, and the presence of external members and internal organs; and
    - (D) the physician who is to perform the abortion or an agent of the physician who is also a sonographer certified by a national registry of medical sonographers makes audible the heart auscultation for the pregnant woman to hear, if present, in a quality consistent with current medical practice and provides, in a manner understandable to a layperson, a simultaneous verbal explanation of the heart auscultation;

(5) before receiving a sonogram under Subdivision (4)(A) and before the abortion is performed and before any sedative or anesthesia is administered, the pregnant woman completes and certifies with her signature an election form that states as follows:

"ABORTION AND SONOGRAM ELECTION

(1) THE INFORMATION AND PRINTED MATERIALS DESCRIBED BY SECTIONS 171.012(a)(1)-(3), TEXAS HEALTH AND SAFETY CODE, HAVE BEEN PROVIDED AND EXPLAINED TO ME.

(2) I UNDERSTAND THE NATURE AND CONSEQUENCES OF AN ABORTION.

(3) TEXAS LAW REQUIRES THAT I RECEIVE A SONOGRAM PRIOR TO RECEIVING AN ABORTION.

(4) I UNDERSTAND THAT I HAVE THE OPTION TO VIEW THE SONOGRAM IMAGES.

(5) I UNDERSTAND THAT I HAVE THE OPTION TO HEAR THE HEARTBEAT.

(6) I UNDERSTAND THAT I AM REQUIRED BY LAW TO HEAR AN EXPLANATION OF THE SONOGRAM IMAGES UNLESS I CERTIFY IN WRITING TO ONE OF THE FOLLOWING:

\_\_\_ I AM PREGNANT AS A RESULT OF A SEXUAL ASSAULT, INCEST, OR OTHER VIOLATION OF THE TEXAS PENAL CODE THAT HAS BEEN REPORTED TO LAW ENFORCEMENT AUTHORITIES OR THAT HAS NOT BEEN REPORTED BECAUSE I REASONABLY BELIEVE THAT DOING SO WOULD PUT ME AT RISK OF RETALIATION RESULTING IN SERIOUS BODILY INJURY.

\_\_\_ I AM A MINOR AND OBTAINING AN ABORTION IN ACCORDANCE WITH JUDICIAL BYPASS PROCEDURES UNDER CHAPTER 33, TEXAS FAMILY CODE.

\_\_\_ MY FETUS HAS AN IRREVERSIBLE MEDICAL CONDITION OR ABNORMALITY, AS IDENTIFIED BY RELIABLE DIAGNOSTIC PROCEDURES AND DOCUMENTED IN MY MEDICAL FILE.

(7) I AM MAKING THIS ELECTION OF MY OWN FREE WILL AND WITHOUT COERCION.

(8) FOR A WOMAN WHO LIVES 100 MILES OR MORE FROM THE NEAREST ABORTION PROVIDER THAT IS A FACILITY LICENSED UNDER CHAPTER 245 OR A FACILITY THAT PERFORMS MORE THAN 50 ABORTIONS IN ANY 12-MONTH PERIOD ONLY:

I CERTIFY THAT, BECAUSE I CURRENTLY LIVE 100 MILES OR MORE FROM THE NEAREST ABORTION PROVIDER THAT IS A FACILITY LICENSED UNDER CHAPTER 245 OR A FACILITY THAT PERFORMS MORE THAN 50 ABORTIONS IN ANY 12-MONTH PERIOD, I WAIVE THE REQUIREMENT TO WAIT 24 HOURS AFTER

THE SONOGRAM IS PERFORMED BEFORE RECEIVING THE ABORTION PROCEDURE. MY PLACE OF RESIDENCE IS:\_\_\_\_\_.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE";

(6) before the abortion is performed, the physician who is to perform the abortion receives a copy of the signed, written certification required by Subdivision (5); and

(7) the pregnant woman is provided the name of each person who provides or explains the information required under this subsection.

The amendment to **HB 2** was read.

On motion of Senator Hegar, Floor Amendment No. 10 was tabled by the following vote: Yeas 18, Nays 12.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor.

Nays: Davis, Ellis, Garcia, Hinojosa, Lucio, Rodríguez, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Absent-excused: Williams.

Senator Rodríguez offered the following amendment to the bill:

### **Floor Amendment No. 11**

Amend **HB 2** (senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill and cross-references to those SECTIONS accordingly:

SECTION \_\_\_\_\_. Subtitle H, Title 2, Health and Safety Code, is amended by adding Chapter 172 to read as follows:

#### CHAPTER 172. LIMITED SERVICE PREGNANCY CENTERS

Sec. 172.001. DEFINITIONS. In this chapter:

(1) "Comprehensive birth control services" means all drugs and medical devices that have been approved by the United States Food and Drug Administration for birth control.

(2) "Licensed health care practitioner" means an individual who is licensed or certified by or registered in this state to provide health care services.

(3) "Limited service pregnancy center" means an organization, including a pregnancy counseling organization or crisis pregnancy center, that for a fee or free of charge provides pregnancy counseling or information but does not perform abortions or make referrals to an abortion provider, does not provide or make referrals for comprehensive birth control services, and is not licensed or certified by this state or the federal government to provide medical or health care services. The term does not include a licensed health care provider, hospital, or family planning clinic that performs abortions or provides contraception or provides abortion or contraception referrals.

(4) "Pregnancy-related medical service" means a medical service provided to a pregnant woman by a health care provider licensed in this state.

Sec. 172.002. REQUIREMENTS FOR MATERIALS PROVIDED. All materials and information provided to a pregnant woman by a limited service pregnancy center must be scientifically accurate and evidence-based, as determined by a medical organization or physician group.

Sec. 172.003. NON-DIRECTIVE COUNSELING AND INFORMATION REQUIRED. A limited service pregnancy center that receives state money shall provide to each client comprehensive, non-directive reproductive health care counseling and information, including information on planning, birth control, pregnancy, and post-partum health.

Sec. 172.004. POSTED NOTICE REQUIRED. (a) A limited service pregnancy center shall prominently display, at the entrance of the center, two black and white signs, one in English and one in Spanish, that contain the following statement: "This center is not a licensed medical facility."

(b) Each sign required under Subsection (a) must be at least 8-1/2 by 11 inches in size and clearly legible from outside the center. The text for the sign must be in at least 48-point font size.

Sec. 172.005. CIVIL AND CRIMINAL PENALTIES. (a) A person commits an offense if the person violates Section 172.002 or 172.003. An offense under this subsection is a Class A misdemeanor.

(b) In addition to being subject to a criminal penalty, a person who intentionally violates Section 172.002 or 172.003 is liable for a civil penalty in an amount not to exceed \$10,000 for each violation. The amount shall be based on:

- (1) the seriousness of the violation;
- (2) the history of previous violations;
- (3) the amount necessary to deter a future violation; and
- (4) any other matter that justice may require.

(c) The attorney general or a district or county attorney of the county in which the violation is alleged to have occurred may sue to collect a civil penalty under this section. In the suit the attorney general or a district or county attorney may recover reasonable expenses incurred in obtaining the penalty, including investigation and court costs and reasonable attorney's fees.

(d) A separate civil penalty may be collected for each day a continuing violation occurs.

(e) The penalties provided by this section are in addition to any other penalty provided by law, including Chapter 17, Business & Commerce Code, and Chapter 165, Occupations Code.

Sec. 172.006. APPLICATION OF DECEPTIVE TRADE PRACTICES ACT. (a) A person who violates Section 172.004 commits a false, misleading, or deceptive act or practice within the meaning of Section 17.46, Business & Commerce Code.

(b) A public or private right or remedy under Chapter 17, Business & Commerce Code, may be used to enforce Section 172.004.

The amendment to **HB 2** was read.

On motion of Senator Hegar, Floor Amendment No. 11 was tabled by the following vote: Yeas 19, Nays 11.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Lucio, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor.

Nays: Davis, Ellis, Garcia, Hinojosa, Rodríguez, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Absent-excused: Williams.

Senator Van de Putte offered the following amendment to the bill:

**Floor Amendment No. 12**

Amend **HB 2** (senate committee printing) by adding the following SECTION, appropriately numbered, to the bill and renumbering subsequent SECTIONS of the bill and cross-references to those SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 32.003(a), Family Code, is amended to read as follows:

(a) A child may consent to medical, dental, psychological, and surgical treatment for the child by a licensed physician or dentist if the child:

(1) is on active duty with the armed services of the United States of America;

(2) is:

(A) 16 years of age or older and resides separate and apart from the child's parents, managing conservator, or guardian, with or without the consent of the parents, managing conservator, or guardian and regardless of the duration of the residence; and

(B) managing the child's own financial affairs, regardless of the source of the income;

(3) consents to the diagnosis and treatment of an infectious, contagious, or communicable disease that is required by law or a rule to be reported by the licensed physician or dentist to a local health officer or the ~~[Texas]~~ Department of State Health Services, including all diseases within the scope of Section 81.041, Health and Safety Code;

(4) is unmarried and pregnant and consents to hospital, medical, or surgical treatment, other than abortion, related to the pregnancy;

(5) consents to examination and treatment for drug or chemical addiction, drug or chemical dependency, or any other condition directly related to drug or chemical use;

(6) is unmarried, is the parent of a child, and has actual custody of his or her child and consents to medical, dental, psychological, or surgical treatment for the child; ~~[or]~~

(7) is serving a term of confinement in a facility operated by or under contract with the Texas Department of Criminal Justice, unless the treatment would constitute a prohibited practice under Section 164.052(a)(19), Occupations Code; or

(8) is 15 years of age or older, is unmarried, is the mother of a child, and consents to examination or medical treatment, other than abortion or emergency contraception, related to contraception.

The amendment to **HB 2** was read.

On motion of Senator Hegar, Floor Amendment No. 12 was tabled by the following vote: Yeas 19, Nays 11.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Lucio, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor.

Nays: Davis, Ellis, Garcia, Hinojosa, Rodríguez, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Absent-excused: Williams.

Senator Garcia offered the following amendment to the bill:

### **Floor Amendment No. 13**

Amend **HB 2** (senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill and cross-references to those SECTIONS accordingly:

SECTION \_\_\_\_\_. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.095 to read as follows:

Sec. 531.095. UNINTENDED PREGNANCIES, ABORTION, AND SEXUALLY TRANSMITTED DISEASES: OUTREACH CAMPAIGN AND SERVICES PROVIDED. (a) To the extent money is available for the purposes provided by this section, the commission shall provide adequate and sufficient funding to conduct a comprehensive marketing and outreach campaign to reduce the number of unintended pregnancies, reduce the number of abortions performed or induced, and lower the rates of sexually transmitted diseases. The campaign must include print and broadcast media, Internet websites, and a toll-free telephone number.

(b) The commission, the Legislative Budget Board, or the governor, in providing adequate and sufficient funding for the campaign as required by Subsection (a), may not take any action to decrease the level of programs and services designed to reduce the number of unintended pregnancies, reduce the number of abortions performed or induced, and lower the rates of sexually transmitted diseases to below the level of programs and services provided on September 1, 2013.

The amendment to **HB 2** was read.

On motion of Senator Hegar, Floor Amendment No. 13 was tabled by the following vote: Yeas 18, Nays 12.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor.

Nays: Davis, Ellis, Garcia, Hinojosa, Lucio, Rodríguez, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Absent-excused: Williams.

Senator Watson offered the following amendment to the bill:

**Floor Amendment No. 14**

Amend **HB 2** (senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill and cross-references to those SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 28.004, Education Code, is amended by amending Subsection (i) and adding Subsection (p) to read as follows:

(i) Before each school year, a school district shall provide written notice to a parent of each student enrolled in the district of the board of trustees' decision regarding whether the district will provide human sexuality instruction to district students. If instruction will be provided, the notice must include:

(1) a summary of the basic content of the district's human sexuality instruction to be provided to the student, including a statement informing the parent that the instruction is required by [of the instructional requirements under] state law to:

(A) present abstinence from sexual activity as the preferred choice of behavior in relationship to all sexual activity for unmarried persons of school age; and

(B) devote more attention to abstinence from sexual activity than to any other behavior;

(2) a statement of whether the instruction is considered by the district to be abstinence-only instruction or comprehensive instruction, including an explanation of the difference between those types of instruction and a specific statement regarding whether the student will receive information on contraception;

(3) ~~(2)~~ a statement of the parent's right to:

(A) review curriculum materials as provided by Subsection (j); and

(B) remove the student from any part of the district's human sexuality instruction without subjecting the student to any disciplinary action, academic penalty, or other sanction imposed by the district or the student's school; and

(4) ~~(3)~~ information describing the opportunities for parental involvement in the development of the curriculum to be used in human sexuality instruction, including information regarding the local school health advisory council established under Subsection (a).

(p) In this section, "abstinence-only instruction" means instruction that does not include information about preventing pregnancy, sexually transmitted diseases, infection with human immunodeficiency virus, or acquired immune deficiency syndrome through any means other than total abstinence from sexual activity.

The amendment to **HB 2** was read.

**(Senator Eltife in Chair)**

On motion of Senator Hegar, Floor Amendment No. 14 was tabled by the following vote: Yeas 18, Nays 12.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor.

Nays: Davis, Ellis, Garcia, Hinojosa, Lucio, Rodríguez, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Absent-excused: Williams.

Senator Watson offered the following amendment to the bill:

**Floor Amendment No. 15**

Amend **HB 2** (senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill and cross-references to those SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 28.004, Education Code, is amended by amending Subsection (e) and adding Subsection (o) to read as follows:

(e) Any course materials and instruction relating to human sexuality, sexually transmitted diseases, or human immunodeficiency virus or acquired immune deficiency syndrome shall be selected by the board of trustees with the advice of the local school health advisory council and must:

(1) be evidence-based;

(2) present abstinence from sexual activity as the preferred choice of behavior in relationship to all sexual activity for unmarried persons of school age;

(3) ~~(2)~~ devote more attention to abstinence from sexual activity than to any other behavior;

(4) ~~(3)~~ emphasize that abstinence from sexual activity, if used consistently and correctly, is the only method that is 100 percent effective in preventing pregnancy, sexually transmitted diseases, infection with human immunodeficiency virus, ~~or~~ acquired immune deficiency syndrome, and the emotional trauma associated with adolescent sexual activity;

(5) ~~(4)~~ direct adolescents to a standard of behavior in which abstinence from sexual activity before marriage is the most effective way to prevent pregnancy, sexually transmitted diseases, ~~and~~ infection with human immunodeficiency virus, ~~and~~ ~~or~~ acquired immune deficiency syndrome; and

(6) ~~(5)~~ teach contraception and condom use in terms of human use reality rates instead of theoretical laboratory rates, if instruction on contraception and condoms is included in curriculum content.

(o) In this section, "evidence-based" means information verified or supported by research that is:

(1) conducted in compliance with accepted scientific methods;

(2) published in peer-reviewed journals, if appropriate;

(3) recognized as medically accurate, objective, and complete by mainstream professional organizations and agencies with expertise in the relevant field, including the federal Centers for Disease Control and Prevention and the United States Department of Health and Human Services; and

(4) proven through rigorous, scientific evaluation to achieve positive outcomes on measures of sexual risk behavior or its health consequences.

The amendment to **HB 2** was read.

**(President in Chair)**

On motion of Senator Hegar, Floor Amendment No. 15 was tabled by the following vote: Yeas 18, Nays 12.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor.

Nays: Davis, Ellis, Garcia, Hinojosa, Lucio, Rodríguez, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Absent-excused: Williams.

Senator Zaffirini offered the following amendment to the bill:

**Floor Amendment No. 16**

Amend **HB 2** (senate committee printing) as follows:

- (1) Strike SECTION 1 of the bill (page 1, lines 22-56).
- (2) Strike SECTION 2 of the bill, adding Section 171.0031, Health and Safety Code (page 1, line 57, through page 2, line 20).
- (3) In the recital to SECTION 3 of the bill (page 2, line 22), strike "Subchapters C and D" and substitute "Subchapter C".
- (4) In SECTION 3 of the bill, strike added Subchapter D, Chapter 171, Health and Safety Code (page 4, line 3, through page 5, line 57).
- (5) Strike SECTION 4 of the bill, amending Section 245.010(a), Health and Safety Code (page 5, lines 58-66).
- (6) Strike SECTION 8 of the bill, repealing Section 245.010(c), Health and Safety Code (page 7, lines 41-42).
- (7) Strike SECTION 11 of the bill, the transition language (page 8, lines 30-37).
- (8) Renumber SECTIONS of the bill and cross-references to those SECTIONS accordingly.

The amendment to **HB 2** was read.

On motion of Senator Hegar, Floor Amendment No. 16 was tabled by the following vote: Yeas 19, Nays 11.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Lucio, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor.

Nays: Davis, Ellis, Garcia, Hinojosa, Rodríguez, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Absent-excused: Williams.

Senator Davis offered the following amendment to the bill:

**Floor Amendment No. 17**

Amend **HB 2** (senate committee printing) by adding the following appropriately numbered SECTION and renumbering existing SECTIONS and cross-references to existing SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. The provisions of this Act shall not take effect unless, in addition to other amounts appropriated to the Department of State Health Services by Senate Bill No. 1, Acts of the 83rd Legislature, Regular Session, 2013 (the General Appropriations Act), \$40,000,000 is appropriated from the general revenue fund to the department for the state fiscal biennium ending August 31, 2015, for the purposes

of Strategy B.1.3, Family Planning Services, as listed in Senate Bill No. 1, Acts of the 83rd Legislature, Regular Session, 2013; and the number of entities providing effective family planning service is at least equal to the number that provided services on December 1, 2010.

The amendment to **HB 2** was read.

On motion of Senator Hegar, Floor Amendment No. 17 was tabled by the following vote: Yeas 18, Nays 12.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor.

Nays: Davis, Ellis, Garcia, Hinojosa, Lucio, Rodríguez, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Absent-excused: Williams.

Senator Garcia offered the following amendment to the bill:

### **Floor Amendment No. 18**

Amend **HB 2** (senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill and cross-references to those SECTIONS accordingly:

SECTION \_\_\_\_\_. (a) Chapter 62, Health and Safety Code, is amended by adding Subchapter E to read as follows:

#### SUBCHAPTER E. CHIP PERINATAL PROGRAM

Sec. 62.201. COVERAGE FOR CERTAIN SERVICES REQUIRED. (a) The covered services under the CHIP perinatal program must include for each woman who gives birth to a child who is enrolled in the CHIP perinatal program before birth at least six doctor visits relating to postpartum care during the six-month period after the date the woman gives birth to the child.

(b) The executive commissioner of the commission shall adopt any rules necessary to implement this section.

(b) If before implementing any provision of this section a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

(c) Notwithstanding any other provision of this Act, a state agency or other entity may not implement or enforce any provision of this Act other than this section until the date the coverage provided under the CHIP perinatal program includes the services required by Section 62.201, Health and Safety Code, as added by this section. The executive commissioner of the Health and Human Services Commission shall publish notice in the Texas Register of the date that coverage will include the required services.

The amendment to **HB 2** was read.

On motion of Senator Hegar, Floor Amendment No. 18 was tabled by the following vote: Yeas 18, Nays 12.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor.

Nays: Davis, Ellis, Garcia, Hinojosa, Lucio, Rodríguez, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Absent-excused: Williams.

Senator Ellis offered the following amendment to the bill:

### **Floor Amendment No. 19**

Amend **HB 2** (Senate committee printing) by adding the following appropriately numbered SECTION and renumbering the existing SECTIONS accordingly:

Section \_\_. The provisions of this Act do not take effect unless the state of Texas expands its Medicaid program to all individuals who apply and are eligible under the Patient Protection and Affordable Care Act (Pub. L. No. 111-148), as amended by the Health Care Education Reconciliation Act of 2010 (Pub. L. 111-152), or a successor law.

The amendment to **HB 2** was read.

On motion of Senator Hegar, Floor Amendment No. 19 was tabled by the following vote: Yeas 18, Nays 12.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor.

Nays: Davis, Ellis, Garcia, Hinojosa, Lucio, Rodríguez, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Absent-excused: Williams.

Senator Davis offered the following amendment to the bill:

### **Floor Amendment No. 20**

Amend **HB 2** (senate committee printing) by striking SECTION 12 of the bill on page 8, between lines 38 and 43, and substituting the following:

This act takes effect on the later of:

(a) The effective date of any other Act passed by the legislature that allows for a person to obtain relief for discriminatory compensation decisions or other unlawful employment practices regarding the discrimination in the payment of compensation;  
or

(b) The 91st day after the last day of the legislative session.

The amendment to **HB 2** was read.

On motion of Senator Hegar, Floor Amendment No. 20 was tabled by the following vote: Yeas 18, Nays 12.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor.

Nays: Davis, Ellis, Garcia, Hinojosa, Lucio, Rodríguez, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Absent-excused: Williams.

Question—Shall **HB 2** be passed to third reading?

**AT EASE**

The President at 9:30 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

**IN LEGISLATIVE SESSION**

The President at 9:36 p.m. called the Senate to order as In Legislative Session.

Question—Shall **HB 2** be passed to third reading?

**(Senator Eltife in Chair)**

**(President in Chair)**

**HB 2** was passed to third reading by the following vote: Yeas 19, Nays 11.

Yeas: Birdwell, Campbell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Lucio, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor.

Nays: Davis, Ellis, Garcia, Hinojosa, Rodríguez, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Absent-excused: Williams.

**CO-AUTHOR OF SENATE BILL 6**

On motion of Senator Seliger, Senator Eltife will be shown as Co-author of **SB 6**.

**CO-SPONSORS OF HOUSE BILL 2**

On motion of Senator Hegar, Senators Estes and Paxton will be shown as Co-sponsors of **HB 2**.

**RESOLUTIONS OF RECOGNITION**

The following resolutions were adopted by the Senate:

**Memorial Resolution**

**SR 41** by Hegar, In memory of Casey Lee Whitley Damen.

**Congratulatory Resolutions**

**SR 34** by Garcia, Recognizing Maria Casanova for being selected as the 2012 Jurist of the Year.

**SR 35** by Watson, Recognizing Gary W. Golden on the occasion of his retirement.

**SR 36** by Watson, Recognizing Lance Kinney for receiving the Southern Zone Award and the Meritorious Service Award.

**SR 37** by Paxton, Recognizing Richard S. Agnew for his service to his country.

**SR 38** by Paxton, Recognizing Keep Allen Beautiful for its contributions to its community.

**SR 39** by Birdwell, Recognizing the REACH Therapeutic Riding Center for its service to wounded veterans.

**SR 40** by Estes, Recognizing the Grayson County Alzheimer's Caregiver Respite Time Out Program for its contributions to its community.

**SR 42** by Schwertner, Recognizing Anna Ray Borho on the occasion of her 105th birthday.

**SR 43** by Schwertner, Recognizing Joyce and Eric Edge on the occasion of their 50th wedding anniversary.

**SR 44** by Schwertner, Recognizing Patricia and Dan Barr on the occasion of their 50th wedding anniversary.

**SR 45** by West, Recognizing Blanche Nedd on the occasion of her retirement.

**SR 46** by West, Recognizing Shirley Gladney on the occasion of her retirement.

**SR 47** by West, Recognizing Barbara A. Henderson on the occasion of her retirement.

**SR 48** by Garcia, Recognizing Nancy Blackwell on the occasion of her retirement.

**SR 49** by Campbell, Recognizing Joyce L. Stevens on the occasion of her retirement.

**HCR 11** (Duncan), Congratulating former state representative Carl H. Isett on his promotion to the rank of captain in the U.S. Navy Reserve.

#### **Official Designation Resolution**

**HCR 4** (Deuell), Designating the week beginning September 8, 2013, as Direct Support Professionals Recognition Week in Texas.

#### **ADJOURNMENT**

On motion of Senator Whitmire, the Senate at 11:48 p.m. adjourned until 11:50 p.m. today.

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#### **APPENDIX**

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#### **BILL AND RESOLUTION ENGROSSED**

July 11, 2013

**SB 2, SJR 1**

#### **RESOLUTIONS ENROLLED**

July 11, 2013

**SR 25, SR 26, SR 27, SR 28, SR 29, SR 30, SR 31, SR 32, SR 33**