

SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE — SECOND CALLED SESSION

AUSTIN, TEXAS

PROCEEDINGS

THIRD DAY

(Friday, July 12, 2013)

The Senate met at 11:51 p.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Birdwell, Campbell, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Garcia, Hancock, Hegar, Hinojosa, Huffman, Lucio, Nelson, Nichols, Patrick, Paxton, Rodríguez, Schwertner, Seliger, Taylor, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Absent-excused: Williams.

The President announced that a quorum of the Senate was present.

Patsy Spaw, Secretary of the Senate, offered the invocation as follows:

O holy Father, as we begin a new legislative day but continue the day's discussion of great importance to this body of wonderful Senators, I ask that Your blessings be poured out on each of them, and I lift them up to You as dedicated public servants worthy of Your love and protection. Give them patience and respect for each other, and most of all, Father, give them wisdom and awareness of Your presence. I thank You for each of them and for their willingness to serve this great state they love so deeply despite the personal sacrifices they must make to serve. For each of them, I ask that they be granted peace in the knowledge that they have represented their constituents with dignity and honor. Bless the Texas Senate, heal the wounds of passionate debate, and bind their hearts together into one heart. Amen.

Senator Whitmire moved that the reading of the Journal of the proceedings of the previous day be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

LEAVE OF ABSENCE

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

INTRODUCTION OF BILLS AND RESOLUTIONS POSTPONED

The President announced that the introduction of bills and resolutions on first reading would be postponed until the end of today's session.

There was no objection.

BILL SIGNED

The President announced the signing of the following enrolled bill in the presence of the Senate after the caption had been read: **SB 2**.

CONCLUSION OF MORNING CALL

The President at 11:53 p.m. announced the conclusion of morning call.

HOUSE BILL 2 ON THIRD READING

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

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

The bill was read third time and was passed 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.

REASON FOR VOTE

Senator Zaffirini submitted the following reason for vote on **HB 2**:

I voted against House Bill 2 for a very simple reason: I am pro-life. I always have been, and I always will be. I believe, however, that this is NOT a pro-life bill, but, rather, that it is a bill that reduces women's access to health care; does nothing to reduce unintended pregnancies; does nothing to reduce the number of abortions; intrudes upon the doctor-patient relationship; and is opposed strongly by the American Congress of Obstetricians and Gynecologists and the Texas Hospital Association, whose priorities certainly include the health care of women.

Unfortunately, many divide us all into two categories—as being either pro-life or pro-choice. Reality is, however, that there are countless pro-lifers like me who also support Planned Parenthood; family planning; sex education; access to health care; and, because abortion is the law of the land, access to safe and legal abortions. Reality also is that there are pro-choicers who, like me, oppose aborting unborn children in the third trimester—after five months—and who also support issues associated closely with pro-life, such as parental consent and parental notification. The lines are not as clear-cut as some think—or wish.

During the regular legislative session I voted for Senate Bill 13 in committee because it would have prohibited the abortion of an unborn child after five months (or 20 weeks, as the bill states). I also voted against SB 537 and SB 1198 because I believed they restricted women's access to health care. When the bills were combined into an omnibus bill during a special session, namely, HB 2, I—like many other pro-lifers I know—could not support it.

Today I voted against HB 2 not only because it does not make abortions less necessary, but also because it would preclude women receiving critical health care services by causing the closure of licensed abortion facilities. As a result it could endanger the life of a woman by requiring her to travel as far as 550 miles to an ambulatory surgical center—1,100 miles round-trip—even when in ill health and regardless of her ability to pay travel expenses. Limiting women's access to safe and legal abortions will result in desperate women taking desperate measures—resorting to coat hangers, and, in my part of the world, going across the river into Mexico to get abortions or using medical drugs improperly and without the guidance of a doctor.

I respectfully disagree with those who believe that HB 2 improves safety standards for licensed abortion facilities by making them subject to ambulatory surgical center requirements. The new requirements for licensed abortion facilities would make them widen halls, provide separate lockers for men, and meet other expensive non-health standards that are unfunded mandates. Simultaneously, it would lower standards for licensed abortion facilities by making them subject to inspections every three-six years, instead of requiring their current unannounced annual inspections.

Whether we are pro-life or pro-choice, we should not close our minds to reasonable arguments that do not fit neatly within these classifications. As a pro-lifer, I tried mightily to amend this bill to honor the original intent of Senator Hegar's Senate Bill 13—to prohibit the abortion of an unborn child after five months. Today eleven Democrats voted for that amendment—to prohibit the abortion of an unborn child after five months. If the intended purpose at hand was to pass a pro-life bill with bipartisan support, the vote on that amendment proved that goal could have been realized.

On a related note, the majority also rejected my other attempts to improve HB 2. These included my amendments to substitute the term "severe fetal abnormality" in the Occupations Code section to preclude the possibility of authorizing the abortion of unborn children with Downs Syndrome; to include psychological conditions that existed before pregnancy among the exceptions to prohibitions; and requiring the state to fund the cost of upgrading existing facilities to ambulatory surgical centers. Accordingly, HB 2 is an unfunded mandate that could have passed with bipartisan support, had it been a true pro-life bill.

As a pro-lifer who simultaneously supports women's access to health services and because abortion is the law of the land, access to safe and legal abortions, I respectfully voted "no."

ZAFFIRINI

REASON FOR VOTE

Senator Rodríguez submitted the following reason for vote on **HB 2**:

First and foremost, a woman's right to choose and access safe abortion services is constitutionally protected.

What we are seeing here is a thinly veiled attempt to eliminate that access. This is not about women's health. It's political medicine with little scientific or medical basis. It's that simple.

The so-called "fetal pain" provision would ban abortions after 20 weeks. I've seen the pictures. I am a father. I understand the emotional attachment that begins with a pregnancy.

But, we are not here to debate emotions. We are here to determine the best public health policy and when it is constitutionally appropriate for government to intervene in people's lives for the public benefit - in this case, a healthy population.

Our guide in this endeavor should be the most accurate scientific and medical information.

The portion of the bill that deals with fetal pain becomes a measure of faith, because there is no conclusive medical evidence - indeed, the evidence is largely to the contrary - to support this concept.

Our faith is our own, and it is dear to us, each in our own way, but our constitution mandates that we cannot impose it on others whether they believe in one deity, or many, or none.

Requiring health clinics that perform abortions to be certified as ambulatory surgery centers, which would force closure of all but five of the 42 clinics that perform abortions in Texas, including the two clinics in El Paso, is medically unnecessary and simply amounts to harassment. That's why health care groups representing providers oppose it, as they oppose the other unnecessary and intrusive provisions.

How can proponents of the bill claim it's about women's health when health care professionals oppose it? How can proponents of the bill claim they are for the constitution, and then impose faith-based proposals on everyone? How can people who oppose government involvement in health care on the grounds that it is intrusive go to such lengths to intrude upon women's bodies?

There's a bigger picture here. From defunding the Women's Health Program and family planning clinics in 2011 to the Governor's veto of the Lily Ledbetter Fair Pay Act this session, we have failed to truly support women, and life for that matter.

Although we have some of the worst rates of childhood indicators - poverty, literacy, dropout rates, not to mention teen pregnancy - we do little to address those issues. And while we did better in funding education as a whole this session, we still did not completely restore the draconian cuts of 2011 and left \$12 billion in the Rainy Day Fund.

Nevertheless, we have been called back for two special sessions for the divisive proposals contained in H.B. 2 while much-needed work, like authorizing tuition revenue bonds for Texas universities - which most of us support - remains undone.

These proposals place an undue burden on women, especially low-income and minority women. From my district, El Paso and West Texas, women would have to travel hundreds of miles, take days to do it, and spend huge amounts.

There are many proven strategies to increase access to health care, reduce pregnancy and reduce abortion. These include annual well-woman exams, counseling on pregnancy planning and access to birth control, screening for breast and cervical cancers, testing for hypertension and tuberculosis, and screening for sexually transmitted infections, including HIV.

Yet the bills and amendments I and others have filed were ignored. Ignored were proposals to expand Medicaid to low-income women; remove medically inaccurate language from state-sponsored health literature; repeal the literally invasive sonogram law; require state-funded crisis pregnancy centers to provide scientifically accurate and evidence-based information; give teen moms the legal ability to consent to receive contraception; require comprehensive and evidence-based sex education; and extend the Children's Health Insurance Program perinatal coverage from 60 days to six months.

What happens when women cannot access health services? Illegal and unsafe abortions will skyrocket. More people will cross the border for dangerous abortion-inducing pills. 1,500 women died while getting an abortion in 1940. That number dropped to 33 in 1974. And each year since 1980, the number of deaths from illegal abortion has been between 0 and 2. We will not go back to 1940s!

H.B. 2 does not enhance women's health, and it will not stop abortions. It will only make legal abortion services less available, and therefore, more dangerous.

Political medicine is bad for the health of women, our constitutional republic, and the lives of Texans, and it's part of a historical pattern of oppression that has afflicted women, people of color, the LGBTQ community, the poor - the powerless.

For these reasons, I stand with Texas women in opposition to this bill.

RODRÍGUEZ

STATEMENT REGARDING HOUSE BILL 2

Senator Williams submitted the following statement regarding **HB 2**:

Regretfully, business obligations prevent my attendance during the floor debate on HB 2/SB 1 for the Second Called Special Session of the 83rd Legislature. Had I been present, I would have voted "aye." Current Texas law prohibits elective abortions after six months, except in the case of rape, incest or life of the mother. Given what we know today about fetal development, HB 2/SB 1 is entirely appropriate in that it moves the prohibition to five months from six. The other provisions, specifically requiring abortion clinics to meet the same standards as other outpatient surgery centers and requiring physicians performing abortions to have admitting privileges at nearby hospitals, are sensible measures aimed at improving the quality of healthcare.

WILLIAMS

STATEMENTS REGARDING HOUSE BILL 2

Senator Lucio submitted the following statements regarding **HB 2**:

From Daniel Cardinal DiNardo, Archbishop of Galveston-Houston:

For the last two weeks, Texas has been the focus of an intense, and sometimes acrimonious, conflict over a legislative proposal to protect the lives of the unborn and to ensure the health and safety of women. The intensity of the debate has attracted international attention and a flood of outside campaigning throughout the state.

At issue is a proposal to protect the health, safety, and dignity of life—the life of the child in the womb and the life of the woman enduring the procedure. The bill improves facility standards to address abortion complications, requires compliance with FDA standards for distributing the abortion drug RU-486, requires abortion providers to have admitting privileges at nearby hospitals, and prohibits abortion after five months of pregnancy, when scientific evidence shows babies can feel pain.

The proposal is unambiguously focused on protecting both the child and the mother. In the eyes of our faith, both are sacred and precious. In our hearts, both are deserving of steps that ensure their health and safety. Short of closing these abortions facilities, the state is obligated to ensure providers meet reasonable standards of medical care.

My plea to our lawmakers is to remain strong in your beliefs for doing what is right and just. Know that there are millions of individuals across this state who are grateful to you for keeping to your principles, and will continue to support efforts to protect life.

From Dr. David Hardage, Executive Director, Baptist General Convention of Texas:

With the recent addition of abortion-related legislation to the call of the special session, I write today to remind you of the position of the Baptist General Convention of Texas and urge your careful consideration of bills intent on reducing abortion in Texas.

Texas Baptists have had a consistent and clear position regarding the morality of abortion. Abortion is inconsistent with Christian practice and should be avoided. Scripture is clear that each person is created in God's image and abortion as birth control is not compatible with the call of the gospel to reverence life. Importantly, the biblical narratives teach us to reverence every life involved in a crisis pregnancy: the unborn, the mother, the father, the extended family, the whole of society.

This understanding is to be taught first and foremost in our homes and churches, but there is also a place for a public witness and legislative action. Texas Baptists support legislative remedies which serve to limit abortion except in extreme circumstances.

PERSONAL PRIVILEGE STATEMENT ORDERED PRINTED

On motion of Senator Birdwell and by unanimous consent, his personal privilege statement was ordered reduced to writing and printed in the *Senate Journal* as follows:

This evening I rise to honor the lives of two sons of Texas given in the line of duty. I wish to honor the life of United States Army Sergeant William R. Moody, who was killed June 18th this year by hostile enemy action at the age of 30 while serving his country in Afghanistan. Sergeant Moody was a native of Johnson County, Burleson, member of the 68th Combat Sustainment Support Battalion, 43rd Sustainment Brigade, 4th

Infantry Division, based at Fort Carson, Colorado, and he was serving his third tour of duty in Afghanistan when he gave his last full measure of devotion in service to his country. I also rise to recognize the life of Deputy Sergeant Lance McLean of the Hood County Sheriff's Office, who died in the line of duty by hostile action on June 29, 2013, at the age of 38. Sergeant McLean leaves behind his wife, Katy; his son, Quinton; and his daughter, Abigail. Members, thank you for affording me this opportunity to honor two of our finest Texans, and I ask that we recess today, that we do so in the honored memory of U.S. Army Sergeant William R. Moody and Hood County Sheriff's Deputy Sergeant Lance McLean.

MOTION TO RECESS

On motion of Senator Whitmire and by unanimous consent, the Senate at 12:02 a.m. Saturday, July 13, 2013, agreed to recess, in memory of William R. Moody and Lance McLean, pending the introduction of bills and resolutions on first reading, the receipt of messages, and the receipt of committee reports, until 11:00 a.m. Wednesday, July 17, 2013.

IN LEGISLATIVE SESSION (Monday, July 15, 2013)

The President at 2:52 p.m. called the Senate to order as In Legislative Session.

BILL SIGNED

The President announced the signing of the following enrolled bill in the presence of the Senate after the caption had been read: **HB 2**.

RECESS

Pursuant to a previously adopted motion, the Senate at 2:53 p.m. recessed, in memory of William R. Moody and Lance McLean, until 11:00 a.m. Wednesday, July 17, 2013.

APPENDIX

SENT TO GOVERNOR

July 15, 2013

SB 2

