

## **BILL ANALYSIS**

C.S.H.B. 3771  
By: Cook  
State Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties contend that there is confusion regarding the applicability of various definitions of abortion provided in state law. C.S.H.B. 3771 seeks to create more uniformity in state law as it pertains to the definition of abortion.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 3771 amends the Health and Safety Code to redefine "abortion," for purposes of the Texas Abortion Facility Reporting and Licensing Act, as the act of using or prescribing an instrument, a drug, a medicine, or any other substance, device, or means with the intent to terminate a clinically diagnosable intrauterine pregnancy of a woman, including the elimination of one or more unborn children in a multifetal pregnancy, and with knowledge that the termination by those means will, with reasonable likelihood, cause the death of the woman's unborn child. The bill specifies that an act is not an abortion if the act is done with the intent to save the life or preserve the health of an unborn child, remove an ectopic pregnancy, or remove a dead, unborn child whose death was caused by spontaneous abortion. The bill removes existing definitions of the term "abortion" applicable to the Woman's Right to Know Act and provisions relating to prohibited acts regarding abortion and instead applies the definition of abortion applicable to the Texas Abortion Facility Reporting and Licensing Act to the Woman's Right to Know Act and those provisions.

C.S.H.B. 3771 amends the Family Code to remove the existing definition of the term "abortion" applicable to statutory provisions governing notice of and consent to abortion and the Family Code in general and instead applies the definition of abortion applicable to the Texas Abortion Facility Reporting and Licensing Act to those statutory provisions and the Family Code.

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.

## COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3771 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

### INTRODUCED

SECTION 1. Section 245.002(1), Health and Safety Code, is amended to read as follows:

(1) "Abortion" means an act or procedure performed after pregnancy has been medically verified and with the intent to cause the termination of a pregnancy

other than for the purpose of either the birth of a live fetus

or removing a dead fetus.

The term does not include birth control devices or oral contraceptives

or an act or procedure to remove an ectopic pregnancy.

No equivalent provision.

### HOUSE COMMITTEE SUBSTITUTE

SECTION 6. Section 245.002(1), Health and Safety Code, is amended to read as follows:

(1) "Abortion" means the act of using or prescribing an instrument, a drug, a medicine, or any other substance, device, or means with the intent to terminate a clinically diagnosable intrauterine pregnancy of a woman, including the elimination of one or more unborn children in a multifetal pregnancy, and with knowledge that the termination by those means will, with reasonable likelihood, cause the death of the woman's unborn child.

An act is not an abortion if the act is done with the intent to:

(A) save the life or preserve the health of an unborn child;

(B) remove a dead, unborn child whose death was caused by spontaneous abortion; or

(C) remove an ectopic pregnancy [an act or procedure performed after pregnancy has been medically verified and with the intent to cause the termination of a pregnancy other than for the purpose of either the birth of a live fetus or removing a dead fetus. The term does not include birth control devices or oral contraceptives].

SECTION 1. Section 33.001(1), Family Code, is amended to read as follows:

(1) "Abortion" has the meaning assigned by Section 245.002, Health and Safety Code [means the use of any means to terminate the pregnancy of a female known by the attending physician to be pregnant, with the intention that the termination of the pregnancy by those means will with reasonable likelihood cause the death of the fetus. This definition, as applied in this chapter, applies only to an unemancipated

~~minor known by the attending physician to be pregnant and may not be construed to limit a minor's access to contraceptives].~~

No equivalent provision.

SECTION 2. Section 161.006(b), Family Code, is amended to read as follows:

(b) In this code, "abortion" has the meaning assigned by Section 245.002, Health and Safety Code ~~[means an intentional expulsion of a human fetus from the body of a woman induced by any means for the purpose of causing the death of the fetus].~~

No equivalent provision.

SECTION 3. Section 170.001(1), Health and Safety Code, is amended to read as follows:

(1) "Abortion" has the meaning assigned by Section 245.002 ~~[means an act involving the use of an instrument, medicine, drug, or other substance or device developed to terminate the pregnancy of a woman if the act is done with an intention other than to:~~  
[(A) ~~increase the probability of a live birth of the unborn child of the woman;~~  
[(B) ~~preserve the life or health of the child;~~  
or  
[(C) ~~remove a dead fetus].~~

No equivalent provision.

SECTION 4. Section 171.002(1), Health and Safety Code, is amended to read as follows:

(1) "Abortion" has the meaning assigned by Section 245.002 ~~[means the use of any means to terminate the pregnancy of a female known by the attending physician to be pregnant with the intention that the termination of the pregnancy by those means will, with reasonable likelihood, cause the death of the fetus].~~

No equivalent provision.

SECTION 5. Section 171.061(1), Health and Safety Code, is amended to read as follows:

(1) "Abortion" has the meaning assigned by Section 245.002 ~~[means the act of using, administering, prescribing, or otherwise providing an instrument, a drug, a medicine, or any other substance, device, or means with the intent to terminate a clinically diagnosable pregnancy of a woman and with knowledge that the termination by those~~

~~means will, with reasonable likelihood, cause the death of the woman's unborn child. An act is not an abortion if the act is done with the intent to:~~

~~[(A) save the life or preserve the health of an unborn child;~~

~~[(B) remove a dead, unborn child whose death was caused by spontaneous abortion;~~

~~[(C) remove an ectopic pregnancy; or~~

~~[(D) treat a maternal disease or illness for which a prescribed drug, medicine, or other substance is indicated].~~

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

SECTION 7. Same as introduced version.