

SENATE JOURNAL

EIGHTY-FIFTH LEGISLATURE — FIRST CALLED SESSION

AUSTIN, TEXAS

PROCEEDINGS

TENTH DAY

(Sunday, August 13, 2017)

The Senate met at 8:18 p.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Garcia, Hall, Hancock, Hinojosa, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Menéndez, Miles, Nelson, Nichols, Perry, Rodríguez, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin, Uresti, Watson, West, Whitmire, Zaffirini.

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

Senator Hancock offered the invocation as follows:

Gracious heavenly Father, we thank You for Your love for us, for Your mercy and Your grace that You give us, which we don't deserve, but You've poured upon us so lavishly. God, we thank You for the opportunity to serve here with friends, with colleagues, and we pray that as we serve on this day that You would be glorified in it and that You would grant each of us wisdom to do the will of those that sent us here. In Your name I pray. 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.

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.

CONCLUSION OF MORNING CALL

The President at 8:20 p.m. announced the conclusion of morning call.

HOUSE BILL 214 ON THIRD READING

The President laid before the Senate **HB 214** sponsored by Senator Creighton at this time on its third reading:

HB 214, Relating to health plan and health benefit plan coverage for elective abortion.

The bill was read third time and was passed by the following vote: Yeas 20, Nays 10.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Nays: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Absent: Lucio.

STATEMENT REGARDING HOUSE BILL 214

Senator Rodríguez submitted the following statement regarding **HB 214**:

House Bill 214 will prohibit private plans, public group health benefit plans, and insurance plans offered through the federal insurance exchange in Texas from covering elective abortions, requiring women to purchase a supplemental rider for coverage of abortions. This legislation ignores the fact that abortions are the result of an *unplanned* pregnancy or a pregnancy in which the fetus develops a fatal abnormality. Common sense tells us that these situations are not ones that we can plan for in advance. Additionally, H.B. 214 places an undue burden on women, when the state does not otherwise require men or women to buy a supplemental policy for coverage of other procedures.

Roe v. Wade established access to safe and legal abortion as a constitutional right in 1973, and, just one year ago, that decision was reinforced in *Whole Woman's Health v. Hellerstedt*, which held that a woman should be able to get safe abortion care without undue burdens. This legislation disregards these rulings.

When politicians place restrictions on abortion coverage, they put Texans' health and safety at risk by taking away a person's ability to make the health decisions that are best for their circumstances. Restricting insurance coverage for abortion jeopardizes Texans' health and disproportionately impacts low-income Texans, immigrants, people of color and their families, young people, and people in rural communities, thereby blocking their access to health care. As shown in the recent Turnaway Study conducted by University of California San Francisco, when a woman seeks an abortion, but is denied one, she is more likely to fall into poverty, endangering herself, and potentially her newborn baby. In Texas, 1.2 million women earn less than 250 percent of the federal poverty level and are in need of publicly funded family planning services. Women in our state are struggling to make ends meet and should not have to pay out-of-pocket for necessary health care.

A few weeks ago, during the floor debate for S.B. 8, the companion to H.B. 214, I proposed three amendments that would have created exceptions for the treatment of an involuntary miscarriage, serious mental impairment, and fetal abnormality. These would have provided a woman greater access to necessary health care in extenuating circumstances. The first amendment would ensure that the insurance would cover treatment for an involuntary miscarriage (i.e., one that is not an elective abortion). The second amendment applies to situations in which the mental health of the mother is at

a substantial risk of serious impairment. This would include a woman who is forced to discontinue usage of a medication she is prescribed for a mental illness, due to the potential harm it may have on the fetus. The third amendment relates to fetal abnormalities that are so severe that no medical treatment can save the fetus' life. Other Senators proposed amendments to make exceptions for rape and incest. The bill's author refused to accept any of these amendments.

During the Senate's consideration of H.B. 214, I offered three amendments.

As we have discussed before, fetal development is a complex process that can tragically go awry. Birth defects are a leading cause of infant mortality, and in many cases of severe fetal abnormalities, no medical treatment can save the fetus' life. Although the House author said that some fetal abnormalities may be covered, under the current language in H.B. 214, there is no stated exception for a fetal abnormality. This amendment would have created an exception for a "severe fetal abnormality," which is defined in the Texas Health and Safety Code as "a life threatening physical condition that, in reasonable medical judgment, regardless of the provision of life saving medical treatment, is incompatible with life outside the womb." This amendment would have made it clear that, in a situation when a woman receives devastating news about her fetus, that on top of this tragic situation, she would not have to deal with a surprise medical bill because her insurer denies her coverage for the procedure.

My second amendment related to the situation when a woman miscarries. The fact is that few women anticipate or plan for a possible miscarriage or fetal death. Pregnant women who would not normally seek insurance coverage for abortion could find themselves in need of treatment for miscarriage, which may be the same medical procedure used to terminate a pregnancy. Under H.B. 214, the medically necessary procedures involving treatment of a miscarriage may be interpreted to require separate insurance coverage. Previously, the bill sponsor stated that he did not think this legislation would affect a woman who has miscarried. However, since the bill is silent and the medical procedure involved may be the same, I offered this amendment to make it clear that a woman could receive coverage for treatment of an involuntary miscarriage.

My third amendment related to the restrictions placed by this legislation on private businesses. As stated by the bill author and the bill sponsor, the purpose of this bill is to limit taxpayer money that is spent on insurance plans that offer abortion coverage. However, this bill intrudes into the free market process by dictating how private insurance companies price their products, and how Texans spend their money on insurance products. With the premium calculation provisions of the bill, we are imposing additional regulation on private insurance companies to change how they price, market, and sell their products. To the best of my knowledge, there isn't another situation where the state dictates to insurance companies that they cannot calculate their premiums for privately purchased plans based on the costs of coverage offered. My amendment would have allowed insurance companies the freedom to calculate their premiums in the manner they choose. It is in line with a number of bills that we have passed this year that seek to limit governmental regulation of private businesses. Notably, the amendment would not have impacted the provisions of the bill relating to insurance purchased with taxpayer money.

Other members offered amendments related to a situation in which a woman is sexually assaulted as well as requiring insurers to offer sliding scale premiums based on a woman's income for the supplemental rider.

All of these amendments were summarily rejected.

In particular, the lack of exceptions for fetal abnormality, miscarriage, rape and incest exposes this legislation for what it really is – an attempt to limit access to abortion. H.B. 214 ultimately seeks to strip women of the ability to make decisions regarding their own pregnancy. Many factors play a role in this decision, including health risks, financial concerns, and other familial considerations. The state should not intrude on a women's pregnancy when they are not aware of her circumstances. Ultimately, this legislation does nothing to further the health and safety of women and adds yet another barrier to a woman's constitutional right to control her reproductive health. For these reasons, I strongly oppose H.B. 214.

RODRÍGUEZ

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Sunday, August 13, 2017 - 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:

SB 11 Perry Sponsor: Bonnen, Greg
Relating to general procedures and requirements for certain do-not-resuscitate orders; creating a criminal offense.
(Committee Substitute)

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

(Senator Taylor of Collin in Chair)

HOUSE BILL 215 ON SECOND READING

Senator Hughes moved to suspend the regular order of business to take up for consideration **HB 215** at this time on its second reading:

HB 215, Relating to reporting and certification requirements by certain physicians regarding certain abortions.

The motion prevailed by the following vote: Yeas 21, Nays 10.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Nays: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

The bill was read second time.

Senator Garcia offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 215** (senate committee report) in SECTION 2 of the bill, by striking added Section 171.006(a), Health and Safety Code (page 1, line 39, through page 2, line 27), and substituting the following:

(a) For each abortion performed on a woman who is younger than 18 years of age, the physician who performed the abortion shall document in the woman's medical record and report to the commission in the report required under Section 245.011 one of the following methods for obtaining authorization for the abortion:

(1) the woman's parent, managing conservator, or legal guardian provided the written consent required by Section 164.052(a)(19), Occupations Code;

(2) the woman obtained judicial authorization under Section 33.003 or 33.004, Family Code;

(3) the woman consented to the abortion if the woman has had the disabilities of minority removed and is authorized under law to have the abortion without the written consent required by Section 164.052(a)(19), Occupations Code, or without judicial authorization under Section 33.003 or 33.004, Family Code; or

(4) the physician concluded and documented in writing in the woman's medical record that on the basis of the physician's good faith clinical judgment:

(A) a condition existed that complicated the medical condition of the woman and necessitated the immediate abortion of the woman's pregnancy to avert the woman's death or to avoid a serious risk of substantial impairment of a major bodily function; and

(B) there was insufficient time to obtain the consent of the woman's parent, managing conservator, or legal guardian.

The amendment to **HB 215** was read and failed of adoption by the following vote: Yeas 10, Nays 21.

Yeas: Garcia, Hinojosa, Lucio, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin, Zaffirini.

Senator Garcia offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 215** (senate committee report) in SECTION 2 of the bill as follows:

(1) In added Section 171.006(a)(3)(C), Health and Safety Code (page 2, line 24), following the underlined semicolon, strike "and".

(2) In added Section 171.006(a)(3)(D), Health and Safety Code (page 2, line 27), between "Services" and the underlined period, insert the following:
; and

(E) if known, whether the woman could not obtain the written consent described by Subdivision (1)(A) because:

(i) the woman's parent, managing conservator, or legal guardian is incarcerated;

(ii) the woman's parent, managing conservator, or legal guardian is incapable of giving consent because of drug or alcohol addiction or mental health issues;

(iii) the woman's parent, managing conservator, or legal guardian is deceased;

(iv) the woman does not know the location of or contact information for her parent, managing conservator, or legal guardian; or

(v) the woman is in foster care or in the managing conservatorship of the Department of Family and Protective Services

The amendment to **HB 215** was read and failed of adoption by the following vote: Yeas 11, Nays 20.

Yeas: Garcia, Hinojosa, Lucio, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

(President in Chair)

Senator Rodríguez offered the following amendment to the bill:

Floor Amendment No. 3

Amend **HB 215** (senate committee report) in SECTION 2 of the bill, in added Section 171.006(c), Health and Safety Code (page 2, line 44), between "county" and "in", by inserting "in which a minor resides or the county".

The amendment to **HB 215** was read and failed of adoption by the following vote: Yeas 11, Nays 20.

Yeas: Garcia, Hinojosa, Lucio, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

HB 215 was passed to third reading by the following vote: Yeas 22, Nays 9.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin, Zaffirini.

Nays: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire.

REMARKS ORDERED PRINTED

On motion of Senator Rodríguez and by unanimous consent, the remarks regarding **HB 215** were ordered reduced to writing and printed in the *Senate Journal* as follows:

President: Senator Rodríguez, for what purpose?

Senator Rodríguez: To ask the Senator some questions, if he will yield.

President: Do you yield?

Senator Hughes: Of course I'll yield.

President: Senator Rodríguez.

Senator Rodríguez: Thank you, Mr. President. Senator Hughes, I want to follow up with you on our discussion that we had when you brought the bill initially. When it was considered on the Senate floor, we had a discussion about the various forms that must be filled out for an abortion. Do you recall that?

Senator Hughes: I do, Senator.

Senator Rodríguez: Yeah. And do you recall that the induced abortion form on which the physician is already required to disclose the county of residence and the date of birth for any woman who receives an abortion, that particular form?

Senator Hughes: Yes, Senator. And as you'll recall, much of the information required on the current forms is required by agency rule, and so, with this bill we're trying to put things in statute that the Legislature, the people of Texas acting through us, think are important. But yes, Sir, I do remember our discussion. I certainly do.

Senator Rodríguez: And so, your bill, House Bill 215, is intending to add to the list of data points the state, that the state requires. The data points that the state requires abortion clinics to collect, whether a minor obtained a bypass order, correct?

Senator Hughes: That's correct, Senator.

Senator Rodríguez: Yeah. Did you know that a judicial bypass case has to be filed in the minor's county of residence if the county has more than 10,000 people in it?

Senator Hughes: Senator, the process for the minor seeking an abortion and getting judicial bypass, as you'll recall that last session Senator Perry had a bill that I know everybody worked on to improve that process. And with House Bill 2015 you know we're not doing anything to the procedures, this is just about reporting. My understanding of the law is that the reporting is fi— that the court has to be where the minor resides or where they're seeking to get the abortion.

Senator Rodríguez: But is it if the county has more than 10,000 people in it?

Senator Hughes: Okay. And again, this bill doesn't affect those procedures whatever. This is only about reporting under the current system.

Senator Rodríguez: It, did you, did you know that 99.9 percent of bypass cases are filed in the minor's county of residence?

Senator Hughes: Ninety-nine percent of what? I'm sorry, I couldn't—

Senator Rodríguez: 9.9.

Senator Hughes: —quite hear you.

Senator Rodríguez: Ninety-nine point nine percent of the cases are filed in the minor's county of residence.

Senator Hughes: I believe you. I didn't know that. I believe you.

Senator Rodríguez: I believe that's the case. So, anyone who has access to this data, that is the minor's county of residence, will likely know the county where the minor obtained a bypass.

Senator Hughes: Well, Senator, to be clear, what you're describing is current law. None of that is affected by House Bill 215 at all. That's, what you're talking about is all current law today.

Senator Rodríguez: Well, I understand that, but this is where I'm heading to. I have a few more questions for you because—

Senator Hughes: Okay.

Senator Rodríguez: —I think that's relevant. Did you know that the bypass statute, that's the Family Code, of course, Chapter 33, it only allows the release of this data by the Court of Appeals District and not by county?

Senator Hughes: And I think, Senator, you are right. I think the idea behind that is to protect the identity of the judges. Because if a judge is performing—

Senator Rodríguez: Correct.

Senator Hughes: —a judicial function, we want to make sure that they're protected in exercising constitutional duties.

Senator Rodríguez: That's correct. So, please take a look at page two, line 44 of the Senate Committee Report version of House Bill 215. Are, are you seeing that?

Senator Hughes: Page two, line 44.

Senator Rodríguez: Yes.

Senator Hughes: I got it right here.

Senator Rodríguez: Do you agree with Representative Murphy that, quote, by any means, unquote, includes prohibiting the commission from releasing any data that connects the fact that patient had had a bypass order to that patient's county of residence?

Senator Hughes: Well actually, the language here talks about the county where the bypass was obtained, if I'm reading it correctly.

Senator Rodríguez: Well.

Senator Hughes: We talking about line, page two, starting on—

Senator Rodríguez: Forty, line 44.

Senator Hughes: Yes, Sir. I d– help me if I get this right. It says, identify by any means the county in which the minor obtained judicial authorization for an abortion.

Senator Rodríguez: Yeah. Does that not include the patient's county of residence?

Senator Hughes: As I read that, it would depend on where, if the little girl sought the bypass in her county of residence, that would apply. If she sought the bypass in a county where the abortion clinic took–

Senator Rodríguez: Yeah.

Senator Hughes: –was, then it would be that county, as I, unless I'm missing something.

Senator Rodríguez: Well, but we, we mentioned earlier that 99.9 percent of the cases are brought in the county of residence of the minor.

Senator Hughes: Okay.

Senator Rodríguez: So, that's why I'm mentioning that. And the reason why I mention that is because earlier I provided you with a copy of an amendment that I would like to offer that I hope you will consider accepting that's intended to clarify that this bill will not result in inadvertently or otherwise disclosing information regarding the minor's county of residence.

Senator Hughes: Well, Senator, I see what you mean, and it sounds like, if I understand you correctly, the majority of these bypasses are filed in the county of the minor's residence.

Senator Rodríguez: Ninety-nine point nine percent.

Senator Hughes: Okay. And under the language of the bill before us that we've already passed a couple of times, it says cannot identify, quote, by any means the county in which the minor obtained judicial authorization. So, it sounds like it's already covered.

Senator Rodríguez: Well, identify by any means, so, I want to make sure with the amendment that I'm offering that there is absolutely no way that the information is going to be released, disclosing the minor's county of residence, that's all.

Senator Hughes: Okay. And, Senator–

Senator Rodríguez: I think it's what we all want. I mean that, that's the whole purpose.

Senator Hughes: Well, Senator, I understand. And I read the language as already covering that, and I would be pleased to have a dialogue and have it reduced to writing and placed in the Journal for legislative intent to guide the agency and a court. But the, it's already covered in the current language as I read it, respectfully.

Senator Rodríguez: Alright. Well, I would like to offer that amendment just to make sure.

Senator Hughes: I understand.

Senator Rodríguez: So, hopefully we'll be able to, when we have that discussion, convince you that it's important to have it in there.

Senator Hughes: Thank you, Senator.

Senator Rodríguez: I appreciate your answering my questions.

Senator Hughes: Of course.

Senator Rodríguez: Thank you, Mr. President.

Senator Hughes: Of course. Thank you.

(Senator Taylor of Collin in Chair)

Presiding Officer: Senator Garcia, for what purpose?

Senator Garcia: To ask a couple of questions of the author, Mr. President.

Presiding Officer: Do you—

Senator Garcia: If he'll yield.

Presiding Officer: —yield?

Senator Hughes: Of course I'll yield.

Presiding Officer: The gentleman yields.

Senator Garcia: Thank you, Mr. President, and thank you, Senator. I wanted to focus a little bit on a couple of the changes that the House met, made. And you mentioned one, and I think you and I had a short little discussion during recess about this. You mentioned the Neave amendment that added asking a question about whether or not the child had been under CPS, is that correct?

Senator Hughes: Yes, Senator, that's right.

Senator Garcia: Right. And I have an amendment that I've given you that kind of falls in line with that. Because I think it's important that we also know the status of the parents of the young girls involved. So, do we know, do we have any, anything in this bill that would give us information on the parents of the girls who obtained judicial consent for an abortion?

Senator Hughes: Senator, generally the focus of this bill is on the little girl who's making this really, really big decision and making sure that she's not being prodded or pushed in a certain direction. And so, except to the extent that they come up in that context, this bill is really about the little girl, about the, about the expectant mother, not about her parents.

Senator Garcia: Right. But doesn't it involve the judicial bypass process?

Senator Hughes: Oh, yes. Oh, yes. That's the heart of the bill.

Senator Garcia: The judicial process is prompted because of the need for parental, not having the parental permission, correct?

Senator Hughes: That's exactly right.

Senator Garcia: So, then it is related?

Senator Hughes: Well, to the extent that it implicates the—

Senator Garcia: Because—

Senator Hughes: —minor's rights, yes, Ma'am, of course.

Senator Garcia: Right. Because in my mind many of the girls who seek the judicial consent are what I consider de facto orphans. I mean they either have a parent that has died, or both parents have died, have either been abandoned, they've been abused, or they have other issues that have left them with no one else to turn to, which is why they are going to the court. Is that not true?

Senator Hughes: These are tragic situations to be at this point. Of course, you are right, Senator.

Senator Garcia: So, you agree that in many cases they have to go to court because they have no parent that can provide the information. So, wouldn't you agree that it might be important to have information on that because it could assist CPS and so many other state agencies that are involved in keeping families together?

Senator Hughes: That information would be good to have from a broader standpoint. I don't believe it adds to the effect of this particular bill, but I'm sure we always like to have as much information as we can get.

Senator Garcia: Do you know the average age of a young girl? You keep saying, you know, these are, this is a child or little girls. But do you know the average age of a girl that seeks going through this process?

Senator Hughes: Well, Senator, I'm trying to use the, I guess, child would be the legal term, since we're talking about minors. I'm saying girls, I hope that's not offensive, girls or minors, minors seeking to terminate a pregnancy.

Senator Garcia: Well, I just want to make sure that people don't get the idea that we are talking about little bitty girls. I mean, do you know the average age?

Senator Hughes: Oh, no, Senator, I do not.

Senator Garcia: Well, would you be surprised that the average age is actually 17?

Senator Hughes: That, I believe you, if that's what you say, I trust you.

Senator Garcia: And do you know the number one reason why they do not seek the parental consent?

Senator Hughes: That's really, the heart of this bill is finding out more about that process and what their options are. But go ahead, if you have something, I'd love to hear it, though.

Senator Garcia: You're the author of the bill—

Senator Hughes: Sounds like you have information for me.

Senator Garcia: —you put this bill together, so I just wondered if you knew. If you're putting a bill together, I would think that you would know the reason why you need the bill.

Senator Hughes: Well, Senator, we put the bill in, pardon me, we put the bill together to seek information. So that's, it sounds like we're on the same page here. We need more information. That's—

Senator Garcia: Well, I have another amendment that will address, will also talk about that because, quite frankly, I already think we already have a lot of data through the commission and through the folks that are already keeping track of this. But the number one reason is because, at least from what I can find, 40 percent feared physical and emotional abuse if their parent or legal guardian were notified of the pregnancy, 30 percent said that they feared being kicked out of their home if they notified a parent or guardian. So, there's several reasons why they go through the process. So, do you think that a girl in a single-parent household who is being physically abused by the parent could really receive their consent for an abortion after she tells them that she is pregnant?

Senator Hughes: Senator, I'm glad you brought up physical abuse. That's an unspeakable situation in which no child of any age should have to deal with. You may recall the discussion Senator Watson and I had where at least one witness testified during the 2015 session, when this whole process was being redone. Amy testified, now an adult, but testified how as a young girl she was brought into this with no information. The lawyer who was given to her told her, check this box, say you're being abused, even though she told us she wasn't. So, we definitely want to get behind these numbers to get behind this process. If there's abuse taking place, it needs to be dealt with swiftly. We just want to know if that's, when that's happening and when the abortion clinic is pushing girls or putting false information out. And that's what Amy testified about when she was here, in sworn testimony before the Senate committee on this very topic.

Senator Garcia: Well, don't you think it would be helpful if the parent was, wasn't, was involved in that physical abuse, that child abuse?

Senator Hughes: The parents being involved is ideal unless there is an abuse situation like that, of course.

Senator Garcia: Well, and again, I think it's important that we know about the status of the parents. For another example, of course, is when the parent is either, you know, a drug addict or involved with a lot of alcohol abuse, cannot effectively give consent or is out of the home. So, the girl has no other choice then, if she has no parent in the home that can give consent.

Senator Hughes: And the situation you are describing I believe is what the Supreme Court had in mind when they said you have to have a judicial bypass for minors in those situations. I think that's the idea. I believe that's right.

Senator Garcia: Well then, of course, there's the other one that I mentioned already, and that's the case where, you know, the parent or one parent, the one parent that is, one parent has died and it's the other parent who's being the abuser or the person who abandoned the child. So, what I'm getting at here is that while it's good, you know, I'm not, don't really like your bill, but if we're going to gather data, it seems to me that it would be beneficial to just get a little more also on the parent or the lack of parents so that we can really see what is, what the needs of the child is because, again, we have so many state agencies that work together to try to keep families together. While Representative Neave's amendment, which I of course support, goes to the issue of whether the child was under CPS, I think it would be beneficial if we

gathered data on the status of the parents, so that we can really, as you, to borrow your words, we can drive home and really find out what's going on here. I hope that you will consider the amendment when I present it later on.

Senator Hughes: Thanks, Senator.

Senator Garcia: And lastly, I wanted to ask you, I know you and I had a discussion the first time around on your bill and this whole notion of the information that the physicians are supposed to put on the form. And I think, you know I joke with you that you know it's hard sometimes for me, and no offense to any doctors on the floor, that you can't even read their writing. So, will there be, you know, a prescribed form or what is it that you want on there, because it seems to me that the language in your bill at line 16, page two just says, the process by which the physician used to, trying to get to it myself, the process the physician or physician's agent used to inform the woman of the availability of petitioning for additional authorization. What do you have in mind when you say the process? It seems so vague to me, it could be anything that a physician writes down. I mean, who are we to judge what mental process they went through or what their thinking was?

Senator Hughes: Well, Senator, I don't, I wouldn't read that to imply a mental process but a process if we mean by that acts and if they follow. Again, this isn't pleasant, but we have to go back to this woman's testimony, and I just kind of blurred through it earlier. But she testified in 2015 on House Bill 3994 that Senator Perry sponsored in the Senate and went through the committee. And she said, or when she went there as a young girl, not sure what her options were, not sure she wanted an abortion. She went to Planned Parenthood, they didn't ask her if that was what she wanted to do, they pushed her in that way, assumed that. They didn't ask her whether she wanted to talk to her parents, they told her, you are a minor, you are going to need a judicial bypass.

Senator Garcia: But you're—

Senator Hughes: I'm respectful. I'm trying to answer your question. This is the process that she went through that the abortion clinic led her through. They said we got a lawyer for you over here. They brought the lawyer in. He said, sign here, check this box, sign here, took her to the court, she never spoke to the judge. And the bypass was granted, and she told us that she deeply regrets that decision. And she emotionally, she scolded us for not protecting her when she was a young girl in that vulnerable situation. So, I do want to answer your question. That's the processes we're looking for, is the abortion clinic providing options to the girl or are they running her through a system with a desired end, regardless of what she really wants or what's in her best interests. Respectfully, that really is what we're looking for there. I hope that answers your question.

Senator Garcia: Well, it doesn't, because, this says the process the physician or physician's agent, it's not talking about the abortion clinic, it's not talking about the judge. I'm asking you, what do you mean by the process the physician uses?

Senator Hughes: The physician or physician's agent are involved in the process I just described to you at this one Planned Parenthood clinic that Amy testified about. And it's, you may have seen the video, I mean it's sworn testimony, she told us what happened to her.

Senator Garcia: So, again, what process are we looking for?

Senator Hughes: The process I just described to you, we want to know if that's happening anywhere else, because that is not acceptable. I, Senator, I don't think that is acceptable, what I just described to you, do you?

Senator Garcia: No. I think that what you described is, that wouldn't make anybody happy. But we're looking at a bill that is going to have impact throughout the entire state on a great number of people, physicians, doctors, you know, clinicians, judges. And I just want to get a better idea, because when I see the process, I think it's kind of vague. You and I are both lawyers, we know what happens when there is vague language. I mean, if a physician just writes, explain it to her, is that going to be enough?

Senator Hughes: We are looking for detail as to the clinic's processes, their procedures when a girl comes in in this situation.

Senator Garcia: Well—

Senator Hughes: That's what we want to know.

Senator Garcia: —can you give me a couple of examples of what you're after, that's all I'm asking you, Senator.

Senator Hughes: Senator, the example I shared with you, I just offered you a detailed synopsis of sworn testimony of a girl who went through this process and how she was treated. And again, I knew, you didn't, I knew none of us agreed with what happened to her. But we know it happened to her. So, let's don't let that happen again. Let's find out what these processes are, what's going on in these clinics.

Senator Garcia: Senator, and I totally agree with you, I'm just trying to get an idea from you under your bill, what do you envision a physician should detail when you're saying a process?

Senator Hughes: Just what I was describing to you.

Senator Garcia: So that, as they say in the talk shows, that's your final answer?

Senator Hughes: It is, Senator. Thank you.

Senator Garcia: Alright, because it doesn't quite answer the question, but if that's your final answer, there's, we'll go on to the next, the next item. So, do you think that the process, in your mind, when you talk about it here also includes the courts and the judges and the clinicians?

Senator Hughes: Well so, the language is about the process followed by the doctors, the doctors' agents, as we were describing. As far as the judicial process itself, as you know in that bill, in 3994, just last session, well, I guess it was session before last, now in 2015. You know, the Senate and the House took a good look at that and put

those processes in place. We want to know if they are being followed, but again the language here talks about the physician and the physicians' agents, if that's what you're talking about.

Senator Garcia: Well, again, no. But it doesn't seem like we're making much movement on this, and I think it's quite frankly, again I think it's because it is vague. And I do think that the mandates and the requirements of a judge are just already there and it's unnecessary. But I'll conclude since we can't seem to, I can't seem to get something more specific on the process. And I really do think, Senator, that there is already enough data, and I just think that this bill is just adding more paperwork and more things to discourage physicians and perhaps even judges from being involved in this process. So, thank you for your questions, my, your answers.

Senator Hughes: No, Senator. Thank you.

Senator Garcia: Thank you, Mr. President.

Senator Hughes: Thank you for the discussion. Thank you.

ACKNOWLEDGMENT

The President acknowledged Senator Zaffirini casting her 60,000th consecutive vote in the Texas Senate.

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 6**.

CO-SPONSOR OF HOUSE BILL 214

On motion of Senator Creighton, Senator Hall will be shown as Co-sponsor of **HB 214**.

CO-SPONSOR OF HOUSE BILL 215

On motion of Senator Hughes, Senator Hall will be shown as Co-sponsor of **HB 215**.

RECESS

On motion of Senator Whitmire and by unanimous consent, the Senate at 9:13 p.m. recessed, pending the receipt of messages and committee reports and the introduction of bills and resolutions on first reading, until 4:00 p.m. Monday, August 14, 2017.

APPENDIX

COMMITTEE REPORT

The following committee report was received by the Secretary of the Senate:

August 13, 2017

FINANCE — **CSHB 30**

