

PRESENTED AT

Advanced Texas Administrative Law Seminar

August 24-25, 2017

Austin, TX

## **The Dominance of the Religious Right in the Texas 85th Legislative Session**

**Representative Gina Hinojosa**

Representative Gina Hinojosa  
Texas House of Representatives  
Austin, TX

[Gina.hinojosa@house.texas.gov](mailto:Gina.hinojosa@house.texas.gov)  
512.463.0668

July 28, 2017  
State Representative Gina Hinojosa

### **85th Legislative Session Administrative Law Bills**

One of the prominent themes of this legislative session was the influence of social, religious issues in many areas of policy debate and decisions. These social issues were frequently advanced by the Governor's Office, Lieutenant Governor's Office and the Texas House Freedom Caucus. Below are brief examples of several bills that passed this 85th Legislative Session that demonstrate this pattern:

#### **SB 8, Senator Schwertner (Abortion Restrictions)**

This was an omnibus abortion restriction that provided for five primary restrictions on abortion rights or abortion remains: 1) The first restriction has very little, if any, meaningful impact as it is a ban on partial birth abortions which are already prohibited under federal law. It also creates a state jail felony for any doctor performing a partial birth abortion. Tex Health & Safety Code §171.103 (2017). It creates a private right of action by the father of the fetus or parent of the mother, if the mother is under 18. Sec. 171.104. 2). It bans an abortion by dilation and extraction (D & E) except in a medical emergency. Sec. 171.152 This is one of the most common and safest forms of second trimester abortions. This section of the law also creates a criminal penalty of a state jail felony for anyone who performs the abortion. Sec. 171.153. 3) The new statute bans the donation of human fetal tissue from an elective abortion, creating a Class A misdemeanor for soliciting or accepting this fetal tissue. Sec. 173.005(b), Sec. 173.007. 4) The bill creates new monthly reporting requirements for doctors performing abortions. Sec.

245.011. 5) Finally, the bill puts into statute the administrative practice (which was halted in federal court in January) of requiring a health care facility to dispose of fetal remains by internment or cremation. Sec. 697.004. The penalty for failing to dispose of fetal remains in this manner can be suspension or revocation of license. Sec. 697.007. There is also a Civil Penalty of \$1000 for each violation. Sec. 697.008.

The Center for Reproductive Rights and Planned Parenthood announced on Thursday, July 20th, 2017 that they are suing over a provision in Texas' Senate Bill 8 bill that outlaws D & E abortions. SB 8 only allows the procedure to be done if the fetus is deceased. Medical professionals deem the dilation and evacuation method the safest way to perform an abortion on a pregnant woman, and reproductive rights groups have said this change would subject women to an unnecessary medical procedure.

Still, the statute does contain a "severability clause" that specifies the Legislature's intent that any part of the bill that is *not* struck down by the courts shall continue in full force and effect.

### **SB 11, Schwertner (Contracting re. CPS)**

SB 11 transfers certain case management services from the Department of Family and Protective Services (DFPS) to a contractor that would provide "community-based" foster care. A contractor would oversee case management services including: caseworker visits, family caregiver visits, developing child and family plans of service, monitoring of services, court-related duties, and other services DFPS deemed necessary. Sec. 264.151- Sec. 264.152.

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

## Title search: The Dominance of the Religious Right in the Texas 85th Legislative Session

Also available as part of the eCourse

[2017 Advanced Texas Administrative Law eConference](#)

First appeared as part of the conference materials for the  
12<sup>th</sup> Annual Advanced Texas Administrative Law Seminar session  
"Legislative Update"