



## In the Dark of the Night??

December 2015

Conventional wisdom is that the passage of [S.L. 2013-366](#), *Health and Safety Law Changes*, was effected in the *dark of night* by the General Assembly.<sup>1</sup> This was the pro-life law of the 2013 session. [S.L. 2013-366](#) was a combination of several bills that were available online for months, then debated at length by members of each party.

### **S.L. 2013-366/Health and Safety Law Changes**

[S.L. 2013-366](#), as ratified, limited abortion coverage under health insurance plans offered under a health benefit exchange or offered by a county or municipality. It prohibits sex selection abortions. It directs the Department of Health and Human Services (DHHS) to amend rules pertaining to abortion. It requires DHHS to list resources on its website for unborn children who may have a disability or serious abnormality. It required a doctor to be physically present to perform an abortion. It includes additional conscience protection for health care workers. Prompting feigned outrage was the fact that it was added to a bill originally dealing only with motorcycle safety (section 5.(a)).<sup>2</sup>

### **House Bill 716/Clarify Law/Prohibit Sex-Selective Abortion**

[House Bill 716](#), *Clarify Law/Prohibit Sex-Selective Abortion*, was sponsored by Representatives Ruth Samuelson, Pat McElraft, Jacqueline Schaffer, and Rena Turner and filed on April 10, 2013. This bill prohibited sex-selection abortions. [House Bill 716](#) was referred to House Judiciary A where it was debated three weeks later on May 1, 2013. It passed the House by a [vote of 79-40](#) after 40 minutes of debate on May 7, 2013, and was sent to the Senate on May 8, 2013.

On June 25, 2013, the language from [House Bill 716](#) was added to [House Bill 695](#) in the Senate Judiciary Committee. Originally, [House Bill 695](#) was titled *Foreign Laws/Protect Constitutional Rights*.<sup>3</sup> The title of [House Bill 695](#) was changed to “*Family, Faith, and Freedom Protection Act*” on July 2, 2013. The foreign law portion did not end up in [S.L. 2013-366](#).

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<sup>1</sup> Leslie, Laura, “Sweeping NC Abortion Bill Clears Senate.” Posted July 3, 2013, updated July 4, 2013. Available at <http://www.wral.com/sweeping-anti-abortion-bill-clears-nc-senate/12623666/>.

<sup>2</sup> *The Motorcycle Safety Act*, [SB 353](#), was filed on March 19, 2013. Language concerning abortion clinics was added on June 25, 2013, in the House Judiciary B and added to the House Calendar for debate on July 10, 2013.

<sup>3</sup> HB 695 was filed by Representatives Whitmire, Cleveland, Schaffer and Pittman.

Section 5.(a) of [House Bill 695](#) included language from [House Bill 716](#) prohibiting sex-selective abortions.

### **House Bill 730/ Insurance & Health Care Conscience Protection**

[House Bill 730](#), *Insurance & Health Care Conscience Protection*, was sponsored by Representatives Jacqueline Schaffer, Debra Conrad, Rayne Brown, and Susan Martin and was filed on April 10, 2013. This bill limited coverage for abortion services provided under health insurance plans and broadened conscience protection for health care providers. [House Bill 730](#) was referred to House Judiciary A and debated and passed on May 15, 2013.

[House Bill 730](#) was debated on the House Floor on May 15, 2013, for 30 minutes and passed the House [by a vote of 73-39](#).

Sections 3.(a) and 4.(a) of [House Bill 695](#) included this same language from [House Bill 730](#).

### **Senate Bill 308/Amend Woman's Right to Know Act**

[Senate Bill 308](#) was filed March 13, 2013 by Senators Warren Daniel, Shirley Randleman and Neal Hunt. It required that a physician performing a surgical abortion be physically present during the performance of the abortion. For a chemical abortion, the physician prescribing the inducing abortion drug must be physically present in the same room when the first drug or chemical is administered to the patient.<sup>4</sup>

It required DHHS to amend its rules pertaining to abortion clinics. It also requires that DHHS have documents available on its website for women who have received a poor prenatal diagnosis.

[Senate Bill 308](#) was placed in the Senate Rules committee and was available to the public after March 14, 2013. Thereafter, on July 2, 2013, the language of [Senate Bill 308](#) was revised slightly and along with [House Bill 730](#) and [House Bill 716](#) inserted into [House Bill 695](#) during consideration by the Senate Judiciary Committee. The proposed committee substitute was distributed the night before to all members. The members of Senate Judiciary I committee debated it for over 30 minutes.

### **House Bill 695/Family, Faith, and Freedom Protection Act**

[House Bill 695](#) was debated at length in the Senate with the new provisions from [House Bill 716](#), [House Bill 730](#) and [Senate Bill 308](#) on July 2 and 3, 2013.<sup>5</sup> After two and a half hours of debate, the bill passed the Senate [by a vote of 29-12](#) and was sent to the House. It was referred to the House Health Committee which held a public hearing and debated it for two hours on July 3, 2013.

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<sup>4</sup> The original bill included two portions that did not become law: 1) The physician must be on the premises immediately available to the patient while the patient is recovering from the procedure and until the patient leaves the premises and 2) A physician comply with the requirements of this sub-subdivision, a physician performing an abortion shall have admitting privileges to a hospital located within 30 miles of the place where the abortion is performed.

<sup>5</sup> Please email [paul.stam@ncleg.net](mailto:paul.stam@ncleg.net) for a copy of the 38 page transcription of the debate on July 3, 2013.

Almost the exact language of [House Bill 695](#) (as it had passed the Senate) was consolidated into [Senate Bill 353](#) on July 10, 2013, in the House Judiciary Subcommittee B. Before this consolidation, [Senate Bill 353](#) was titled “*Motorcycle Safety Act.*” However, after the new language was added, the title was renamed to “*Health and Safety Law Changes*” to reflect the added provisions. The House Judiciary Committee B debated it at length. *(No amendments were considered in the committee-only the PCS. You motioned to take up the PCS & moved for favorable report of PCS and unfavorable as to original bill- 2<sup>nd</sup> by voice vote of 10-5 and debated from 10:00am – 11:45am.)*

[Senate Bill 353](#) was debated by the House on July 11, 2013, and passed 2<sup>nd</sup> reading by [a vote of 74 to 41](#) after almost 3 hours of debate and passed 3<sup>rd</sup> reading after debate on July 11, 2013, by [a vote of 74-41](#). On July 25, 2013 (14 days later), the Senate concurred by [a vote of 32 to 13](#) after over an hour of debate, with the House. The Governor signed it on July 26, 2013.

Representative Samuelson discussed the process by which [Senate Bill 353](#) reached the House floor:

I did want to address the process that got us to where we are right now. Over the course of this session, we had passed a couple of other bills that are now incorporated and we sent them over to the Senate. The Senate took those pieces, put them together, added a piece of their own and sent it back over to us. The normal reaction we would do is to vote to *concur* or *not concur*. If we had chosen to concur, the only debate on their changes would have been here on the House Floor- with no opportunity for amendments and only one debate. If we had chosen not to concur, the normal action would be that we would not concur and appoint a small conference committee. Those members would meet in private and bring it back to the floor. The only public debate would be on this floor one time.

By doing it the way we have done it here, what we have allowed is for there to be a public hearing that we had on Tuesday to let the public voice their interest and their concerns about this bill. We also let members do the same thing, and most importantly, to let Secretary Vos of DHHS address the concerns that she and the Governor had with the way the language had been done. We then took it before a committee and that committee thoroughly debated the bill, had opportunities for amendments, and now we are bringing it back here under a very public process. So I wanted to show some of the people who have complained about the process that we have had more opportunity for change, discussion, and corrections under this process than we would if we had followed the normal process to *concur* or *not concur*.

This law was not debated in the dark. In fact, it was mid-July when these bills were all debated, with the longest days of summer upon us! These provisions were never hidden from the public as some contend. All of the contents of the new law were publically filed in either March or April, giving ample time to communicate with legislators about any concerns.<sup>6</sup>

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<sup>6</sup> As noted in *Sweeping NC Abortion Bill Clears Senate (supra)*, “Shouts of *shame, shame, shame* rained down on the Senate after the vote” to approve [House Bill 695](#).

The content of this new law was discussed and debated at length in three House committees, one Senate committee, and at great length on the House and Senate floors. None of the provisions that actually made it into the law substantially changed from the time of filing until the time 3-4 months later when the Governor signed [Senate Bill 353](#) into law as [S.L. 2013-366](#).