

1-1 By: Lucio, Springer S.B. No. 4  
 1-2 (In the Senate - Filed August 6, 2021; August 7, 2021, read  
 1-3 first time and referred to Committee on Health & Human Services;  
 1-4 August 9, 2021, reported favorably by the following vote: Yeas 6,  
 1-5 Nays 2; August 9, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10		X		
1-11	X			
1-12	X			
1-13	X			
1-14			X	
1-15		X		
1-16	X			

1-17 A BILL TO BE ENTITLED  
 1-18 AN ACT

1-19 relating to abortion complication reporting and the regulation of  
 1-20 drug-induced abortion procedures, providers, and facilities;  
 1-21 creating a criminal offense.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. The legislature finds that:

1-24 (1) this state has an interest in protecting the  
 1-25 health and welfare of every woman considering a drug-induced  
 1-26 abortion;

1-27 (2) the use of Mifeprex or mifepristone presents  
 1-28 significant medical complications including, but not limited to,  
 1-29 uterine hemorrhage, viral infections, abdominal pain, cramping,  
 1-30 vomiting, headache, fatigue, and pelvic inflammatory disease; and

1-31 (3) the failure rate and risk of complications  
 1-32 increases with advancing gestational age.

1-33 SECTION 2. Sections 171.006(a) and (b), Health and Safety  
 1-34 Code, as added by Chapter 4 (H.B. 13), Acts of the 85th Legislature,  
 1-35 1st Called Session, 2017, are amended to read as follows:

1-36 (a) In this section, "abortion complication" or "adverse  
 1-37 event" means any harmful event or adverse outcome with respect to a  
 1-38 patient related to an abortion that is performed or induced on the  
 1-39 patient and that is diagnosed or treated by a health care  
 1-40 practitioner or at a health care facility and includes:

- 1-41 (1) shock;
- 1-42 (2) uterine perforation;
- 1-43 (3) cervical laceration;
- 1-44 (4) hemorrhage;
- 1-45 (5) aspiration or allergic response;
- 1-46 (6) infection;
- 1-47 (7) sepsis;
- 1-48 (8) death of the patient;
- 1-49 (9) incomplete abortion;
- 1-50 (10) damage to the uterus; ~~or~~
- 1-51 (11) an infant born alive after the abortion;
- 1-52 (12) blood clots resulting in pulmonary embolism or  
 1-53 deep vein thrombosis;
- 1-54 (13) failure to actually terminate the pregnancy;
- 1-55 (14) pelvic inflammatory disease;
- 1-56 (15) endometritis;
- 1-57 (16) missed ectopic pregnancy;
- 1-58 (17) cardiac arrest;
- 1-59 (18) respiratory arrest;
- 1-60 (19) renal failure;
- 1-61 (20) metabolic disorder;

- 2-1                   (21) embolism;
- 2-2                   (22) coma;
- 2-3                   (23) placenta previa in subsequent pregnancies;
- 2-4                   (24) preterm delivery in subsequent pregnancies;
- 2-5                   (25) fluid accumulation in the abdomen;
- 2-6                   (26) hemolytic reaction resulting from the
- 2-7 administration of ABO-incompatible blood or blood products;
- 2-8                   (27) adverse reactions to anesthesia or other drugs;
- 2-9 or
- 2-10                   (28) any other adverse event as defined by the United
- 2-11 States Food and Drug Administration's criteria provided by the
- 2-12 MedWatch Reporting System.

2-13                   (b) The reporting requirements of this section apply only

2-14 to:

- 2-15                   (1) a physician who:
- 2-16                   (A) performs or induces at an abortion facility
- 2-17 an abortion that results in an abortion complication diagnosed or
- 2-18 treated by that physician; or
- 2-19                   (B) diagnoses or treats [~~at an abortion facility~~]
- 2-20 an abortion complication that is the result of an abortion
- 2-21 performed or induced by another physician [~~at the facility~~]; or
- 2-22                   (2) a health care facility that is a hospital,
- 2-23 abortion facility, freestanding emergency medical care facility,
- 2-24 or health care facility that provides emergency medical care, as
- 2-25 defined by Section 773.003.

2-26                   SECTION 3. Section 171.061, Health and Safety Code, is

2-27 amended by amending Subdivisions (2) and (5) and adding

2-28 Subdivisions (2-a) and (8-a) to read as follows:

2-29                   (2) "Abortion-inducing drug" means a drug, a medicine,

2-30 or any other substance, including a regimen of two or more drugs,

2-31 medicines, or substances, prescribed, dispensed, or administered

2-32 with the intent of terminating a clinically diagnosable pregnancy

2-33 of a woman and with knowledge that the termination will, with

2-34 reasonable likelihood, cause the death of the woman's unborn child.

2-35 The term includes off-label use of drugs, medicines, or other

2-36 substances known to have abortion-inducing properties that are

2-37 prescribed, dispensed, or administered with the intent of causing

2-38 an abortion, including the Mifeprex regimen, misoprostol

2-39 (Cytotec), and methotrexate. The term does not include a drug,

2-40 medicine, or other substance that may be known to cause an abortion

2-41 but is prescribed, dispensed, or administered for other medical

2-42 reasons.

2-43                   (2-a) "Adverse event" or "abortion complication"

2-44 means any harmful event or adverse outcome with respect to a patient

2-45 related to an abortion, including the abortion complications listed

2-46 in Section 171.006, as added by Chapter 4 (H.B. 13), Acts of the

2-47 85th Legislature, 1st Called Session, 2017.

2-48                   (5) "Medical abortion" means the administration or use

2-49 of an abortion-inducing drug to induce an abortion, and may also be

2-50 referred to as a "medication abortion," a "chemical abortion," a

2-51 "drug-induced abortion," "RU-486," or the "Mifeprex regimen".

2-52                   (8-a) "Provide" means, as used with regard to

2-53 abortion-inducing drugs, any act of giving, selling, dispensing,

2-54 administering, transferring possession, or otherwise providing or

2-55 prescribing an abortion-inducing drug.

2-56                   SECTION 4. The heading to Section 171.063, Health and

2-57 Safety Code, is amended to read as follows:

2-58                   Sec. 171.063. PROVISION                   [~~DISTRIBUTION~~]                   OF

2-59 ABORTION-INDUCING DRUG.

2-60                   SECTION 5. Section 171.063, Health and Safety Code, is

2-61 amended by amending Subsections (a), (c), and (e) and adding

2-62 Subsection (b-1) to read as follows:

2-63                   (a) A person may not knowingly [~~give, sell, dispense,~~

2-64 ~~administer,~~] provide[~~, or prescribe~~] an abortion-inducing drug to a

2-65 pregnant woman for the purpose of inducing an abortion in the

2-66 pregnant woman or enabling another person to induce an abortion in

2-67 the pregnant woman unless:

2-68                   (1) the person who [~~gives, sells, dispenses,~~

2-69 ~~administers,~~] provides[~~, or prescribes~~] the abortion-inducing drug

3-1 is a physician; and

3-2 (2) [~~except as otherwise provided by Subsection (b),~~  
3-3 the provision [~~, prescription, or administration~~] of the  
3-4 abortion-inducing drug satisfies the protocol [~~tested and~~  
3-5 authorized by this subchapter [~~the United States Food and Drug~~  
3-6 ~~Administration as outlined in the final printed label of the~~  
3-7 ~~abortion-inducing drug~~].

3-8 (b-1) A manufacturer, supplier, physician, or any other  
3-9 person may not provide to a patient any abortion-inducing drug by  
3-10 courier, delivery, or mail service.

3-11 (c) Before the physician [~~gives, sells, dispenses,~~  
3-12 ~~administers,~~] provides [~~, or prescribes~~] an abortion-inducing drug,  
3-13 the physician must:

3-14 (1) examine the pregnant woman in person;

3-15 (2) independently verify that a pregnancy exists;

3-16 (3) [~~and~~] document, in the woman's medical record, the  
3-17 gestational age and intrauterine location of the pregnancy to  
3-18 determine whether an ectopic pregnancy exists;

3-19 (4) determine the pregnant woman's blood type, and for  
3-20 a woman who is Rh negative, offer to administer Rh immunoglobulin  
3-21 (RhoGAM) at the time the abortion-inducing drug is administered or  
3-22 used or the abortion is performed or induced to prevent Rh  
3-23 incompatibility, complications, or miscarriage in future  
3-24 pregnancies;

3-25 (5) document whether the pregnant woman received  
3-26 treatment for Rh negativity, as diagnosed by the most accurate  
3-27 standard of medical care; and

3-28 (6) ensure the physician does not provide an  
3-29 abortion-inducing drug for a pregnant woman whose pregnancy is more  
3-30 than 49 days of gestational age.

3-31 (e) A [~~The~~] physician who [~~gives, sells, dispenses,~~  
3-32 ~~administers,~~] provides [~~, or prescribes~~] the abortion-inducing  
3-33 drug, or the physician's agent, must schedule a follow-up visit for  
3-34 the woman to occur not later [~~more~~] than the 14th day [~~14 days~~]  
3-35 after the earliest date on which the abortion-inducing drug is  
3-36 administered [~~administration~~] or used or the abortion is performed  
3-37 or induced [~~use of the drug~~]. At the follow-up visit, the physician  
3-38 must:

3-39 (1) confirm that the woman's pregnancy is completely  
3-40 terminated; and

3-41 (2) assess any continued blood loss [~~the degree of~~  
3-42 ~~bleeding~~].

3-43 SECTION 6. Subchapter D, Chapter 171, Health and Safety  
3-44 Code, is amended by adding Sections 171.0631, 171.0632, 171.065,  
3-45 and 171.066 to read as follows:

3-46 Sec. 171.0631. VOLUNTARY AND INFORMED CONSENT REQUIRED. A  
3-47 person may not provide an abortion-inducing drug to a pregnant  
3-48 woman without satisfying the applicable informed consent  
3-49 requirements of Subchapter B.

3-50 Sec. 171.0632. REPORTING REQUIREMENTS. A physician who  
3-51 provides an abortion-inducing drug must comply with the applicable  
3-52 physician reporting requirements under Section 245.011.

3-53 Sec. 171.065. CRIMINAL OFFENSE. (a) A person who  
3-54 intentionally, knowingly, or recklessly violates this subchapter  
3-55 commits an offense. An offense under this subsection is a state  
3-56 jail felony.

3-57 (b) A pregnant woman on whom a drug-induced abortion is  
3-58 attempted, induced, or performed in violation of this subchapter is  
3-59 not criminally liable for the violation.

3-60 (c) Conduct constituting an offense under this section may  
3-61 also be the basis for an administrative violation under Section  
3-62 171.064.

3-63 Sec. 171.066. ENFORCEMENT OF SUBCHAPTER. A state executive  
3-64 or administrative official may not decline to enforce this  
3-65 subchapter, or adopt a construction of this subchapter in a way that  
3-66 narrows its applicability, based on the official's own beliefs on  
3-67 the requirements of the state or federal constitution, unless the  
3-68 official is enjoined by a state or federal court from enforcing this  
3-69 subchapter.

4-1 SECTION 7. The following provisions of the Health and  
4-2 Safety Code are repealed:

4-3 (1) Sections 171.061(3) and (6); and

4-4 (2) Section 171.063(b).

4-5 SECTION 8. (a) Nothing in this Act shall be construed as  
4-6 creating or recognizing a right to abortion.

4-7 (b) It is not the intention of this Act to make lawful an  
4-8 abortion that is otherwise unlawful.

4-9 (c) Except as specifically provided by Section 7 of this  
4-10 Act, nothing in this Act repeals, replaces, or otherwise  
4-11 invalidates existing Texas laws, regulations, or policies.

4-12 SECTION 9. Any provision of this Act held to be invalid or  
4-13 unenforceable by its terms or as applied to any person or  
4-14 circumstance shall be construed to give the provision the maximum  
4-15 effect permitted by law, unless such holding is one of utter  
4-16 invalidity or unenforceability, in which event the provision shall  
4-17 be considered severable from the other provisions of this Act and  
4-18 shall not affect the remainder or the application of the provisions  
4-19 to other persons not similarly situated or to other, dissimilar  
4-20 circumstances.

4-21 SECTION 10. (a) Except as provided by Subsection (b) of  
4-22 this section, the changes in law made by this Act apply only to an  
4-23 abortion performed or induced on or after the effective date of this  
4-24 Act.

4-25 (b) Section 171.065, Health and Safety Code, as added by  
4-26 this Act, applies only to an abortion performed or induced on or  
4-27 after January 1, 2022.

4-28 SECTION 11. This Act takes effect immediately if it  
4-29 receives a vote of two-thirds of all the members elected to each  
4-30 house, as provided by Section 39, Article III, Texas Constitution.  
4-31 If this Act does not receive the vote necessary for immediate  
4-32 effect, this Act takes effect on the 91st day after the last day of  
4-33 the legislative session.

4-34 \* \* \* \* \*