

By: Chisum

H.B. No. 2907

A BILL TO BE ENTITLED

AN ACT

relating to the protection of life, including unborn life, from the point of conception; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 170, Health and Safety Code, is amended by adding Section 170.003 to read as follows:

Sec. 170.003. POLICY; CONTINGENT REPEALER. (a)

Notwithstanding this chapter, Chapter 171 of this code, Chapter 245 of this code, Chapter 33, Family Code, or any other statute regulating abortion, it is the policy of this state that life, including unborn life, is protected from the point of conception.

(b) In the event that the attorney general of this state determines that the United States Constitution no longer prohibits a state from banning abortion and publishes and widely publicizes that fact as required by Section 50.01, Penal Code, the following laws are repealed on the date Chapter 50, Penal Code, takes effect:

(1) Sections 170.001 and 170.002 of this code;

(2) Chapter 171 of this code;

(3) Chapter 245 of this code; and

(4) Chapter 33, Family Code.

SECTION 2. Articles 4512.1, 4512.2, 4512.3, 4512.4, and 4512.6, Revised Statutes, are transferred to Title 10, Penal Code, redesignated as Chapter 50, Penal Code, and reenacted and amended to read as follows:

CHAPTER 50. ABORTION

Sec. 50.01. EFFECT OF CHAPTER; DETERMINATION BY ATTORNEY GENERAL. (a) This chapter takes effect only after the attorney general of this state:

(1) determines based on a decision by the United States Supreme Court or a newly ratified amendment to the federal constitution that the United States Constitution no longer prohibits a state from banning abortion that is not procured on medical advice for the purpose of saving the life of the mother; and

(2) publishes that determination in the Texas Register and contemporaneously widely publicizes that determination by a variety of means, including publication in a newspaper of general circulation in each county for which there is a newspaper of general circulation.

(b) The attorney general shall monitor federal legal developments for purposes of this section.

(c) This chapter takes effect on the 60th day after the date the attorney general's determination is published in the Texas Register.

Sec. 50.02. DEFINITION. In this chapter, "abortion" means the destruction, or the causation of premature birth for the purpose of destruction, of ~~[Art. 4512.1. ABORTION. If any person shall designedly administer to a pregnant woman or knowingly procure to be administered with her consent any drug or medicine, or shall use towards her any violence or means whatever externally or internally applied, and thereby procure an abortion, he shall be confined in the penitentiary not less than two nor more than five~~

1 ~~years; if it be done without her consent, the punishment shall be~~
2 ~~doubled. By "abortion" is meant that] the life of the fetus or~~
3 ~~embryo [shall be destroyed] in a pregnant [the] woman's womb [or~~
4 ~~that a premature birth thereof be caused].~~

5 Sec. 50.03. ABORTION. (a) A person commits an offense if
6 the person, with the pregnant woman's consent, produces an abortion
7 by:

8 (1) administering to the woman or procuring for
9 administration to the woman any drug or medicine for the purpose of
10 producing an abortion;

11 (2) applying any external or internal means to the
12 pregnant woman for the purpose of producing an abortion; or

13 (3) furnishing to another the means to produce an
14 abortion knowing that the person intends to use those means to
15 produce an abortion with the pregnant woman's consent.

16 (b) A person commits an offense if the person, without the
17 pregnant woman's consent, produces an abortion by:

18 (1) administering to the woman or procuring for
19 administration to the woman any drug or medicine for the purpose of
20 producing an abortion;

21 (2) applying any external or internal means to the
22 pregnant woman for the purpose of producing an abortion; or

23 (3) furnishing to another the means to produce an
24 abortion knowing that the person intends to use those means to
25 produce an abortion without the pregnant woman's consent.

26 (c) An offense under Subsection (a) is a felony of the third
27 degree.

1 (d) An offense under Subsection (b) is a felony of the
2 second degree.

3 ~~[Art. 4512.2. FURNISHING THE MEANS. Whoever furnishes the~~
4 ~~means for procuring an abortion knowing the purpose intended is~~
5 ~~guilty as an accomplice.~~

6 ~~[Art. 4512.3. ATTEMPT AT ABORTION. If the means used shall~~
7 ~~fail to produce an abortion, the offender is nevertheless guilty of~~
8 ~~an attempt to produce abortion, provided it be shown that such means~~
9 ~~were calculated to produce that result, and shall be fined not less~~
10 ~~than one hundred nor more than one thousand dollars.]~~

11 Sec. 50.04 ~~[Art. 4512.4].~~ MURDER IN PRODUCING ABORTION.

12 (a) A person commits an offense if the person produces or attempts
13 to produce an abortion that results in ~~[If]~~ the death of the mother
14 ~~[is occasioned by an abortion so produced or by an attempt to effect~~
15 ~~the same it is murder].~~

16 (b) An offense under this section is a felony of the first
17 degree.

18 Sec. 50.05 ~~[Art. 4512.6].~~ BY MEDICAL ADVICE. It is an
19 exception to the application of Sections 50.03 and 50.04 that the
20 ~~[Nothing in this chapter applies to an]~~ abortion was procured or
21 attempted on ~~[by]~~ medical advice for the purpose of saving the life
22 of the mother.

23 Sec. 50.06. CONFLICTS. This chapter controls over any
24 statute or rule in conflict with this chapter.

25 SECTION 3. (a) Chapter 50, Penal Code, as added by this Act
26 applies only to an offense committed on or after the date Chapter
27 50, Penal Code, takes effect. For purposes of this section, an

1 offense is committed before the date Chapter 50, Penal Code, takes
2 effect if any element of the offense occurs before the date Chapter
3 50, Penal Code, takes effect.

4 (b) An offense committed before the date Chapter 50, Penal
5 Code, takes effect is covered by the law in effect when the offense
6 was committed, and the former law is continued in effect for that
7 purpose.

8 SECTION 4. This Act takes effect immediately if it receives
9 a vote of two-thirds of all the members elected to each house, as
10 provided by Section 39, Article III, Texas Constitution. If this
11 Act does not receive the vote necessary for immediate effect, this
12 Act takes effect September 1, 2005.