

By: Chisum

H.B. No. 175

A BILL TO BE ENTITLED

AN ACT

relating to the protection of life, including unborn life, from the point of fertilization; 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 fertilization.

(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:

(1) the following laws are repealed on the date Sections 50.02-50.06, Penal Code, take effect:

(A) Sections 170.001 and 170.002 of this code;

(B) Chapter 171 of this code;

(C) Chapter 245 of this code; and

(D) Chapter 33, Family Code; and

(2) Sections 164.052(a)(18) and (19), Occupations Code, have no effect and may not be enforced.

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

5 CHAPTER 50. ABORTION

6 Sec. 50.01. EFFECT OF CHAPTER; DETERMINATION BY ATTORNEY
7 GENERAL. (a) Sections 50.02-50.06 take effect only after the
8 attorney general of this state:

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

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

20 (b) The attorney general shall monitor federal legal
21 developments for purposes of this section and shall act as required
22 by Subsection (a) not later than the 60th day after the date a
23 decision described by Subsection (a) becomes final or an amendment
24 described by Subsection (a) becomes effective.

25 (c) Sections 50.02-50.06 take effect on the 60th day after
26 the date the attorney general's determination is published in the
27 Texas Register.

1 Sec. 50.02. DEFINITION. In this chapter, "abortion" means
2 the destruction, or the causation of premature birth for the
3 purpose of destruction, of [~~Art. 4512.1. ABORTION. If any person~~
4 ~~shall designedly administer to a pregnant woman or knowingly~~
5 ~~procure to be administered with her consent any drug or medicine, or~~
6 ~~shall use towards her any violence or means whatever externally or~~
7 ~~internally applied, and thereby procure an abortion, he shall be~~
8 ~~confined in the penitentiary not less than two nor more than five~~
9 ~~years; if it be done without her consent, the punishment shall be~~
10 ~~doubled. By "abortion" is meant that] the life of the fetus or
11 embryo [~~shall be destroyed~~] in a [~~the~~] woman's womb [~~or that a~~
12 ~~premature birth thereof be caused~~].~~

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

15 (1) administering to the woman or procuring for
16 administration to the woman any drug or medicine for the purpose of
17 producing an abortion;

18 (2) applying any external or internal means to the
19 woman for the purpose of producing an abortion; or

20 (3) furnishing to another the means to produce an
21 abortion knowing that the person intends to use those means to
22 produce an abortion with the woman's consent.

23 (b) A person commits an offense if the person, without a
24 woman's consent, produces an abortion by:

25 (1) administering to the woman or procuring for
26 administration to the woman any drug or medicine for the purpose of
27 producing an abortion;

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

3 (3) furnishing to another the means to produce an
4 abortion knowing that the person intends to use those means to
5 produce an abortion without the woman's consent.

6 (c) An offense under Subsection (a) is a felony of the third
7 degree.

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

10 ~~[Art. 4512.2. FURNISHING THE MEANS. Whoever furnishes the~~
11 ~~means for procuring an abortion knowing the purpose intended is~~
12 ~~guilty as an accomplice.~~

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

18 Sec. 50.04 [Art. 4512.4]. MURDER IN PRODUCING ABORTION.

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

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

25 Sec. 50.05 [Art. 4512.6]. BY MEDICAL ADVICE. It is an
26 exception to the application of Sections 50.03 and 50.04 that the
27 [Nothing in this chapter applies to an] abortion was procured or

1 attempted on [~~by~~] medical advice for the purpose of preventing the
2 death [~~saving the life~~] of the mother.

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

5 SECTION 3. (a) Sections 50.02-50.06, Penal Code, as added
6 by this Act, apply only to an offense committed on or after the date
7 those sections take effect. For purposes of this section, an
8 offense is committed before the date Sections 50.02-50.06, Penal
9 Code, take effect if any element of the offense occurs before the
10 date those sections take effect.

11 (b) An offense committed before the date Sections
12 50.02-50.06, Penal Code, take effect is covered by the law in effect
13 when the offense was committed, and the former law is continued in
14 effect for that purpose.

15 SECTION 4. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2007.