

By: Fletcher

H.B. No. 55

A BILL TO BE ENTITLED

1 AN ACT

2 relating to prohibiting abortion that is based on the sex of the
3 unborn child; creating an offense.

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

5 SECTION 1. Chapter 170, Health and Safety Code, is amended
6 by adding Sections 170.003 and 170.004 to read as follows:

7 Sec. 170.003. SEX-SELECTIVE ABORTION. (a) A person may
8 not:

9 (1) knowingly perform or attempt to perform on a
10 pregnant woman an abortion that is based on the sex of the pregnant
11 woman's unborn child; or

12 (2) use force or the threat of force to intentionally
13 injure or intimidate a person in order to coerce the performance or
14 attempted performance of an abortion that is based on the sex of the
15 pregnant woman's unborn child.

16 (b) A person other than a physician who violates this
17 section commits an offense. An offense under this section is a
18 Class B misdemeanor.

19 (c) A physician who violates Subsection (a)(1) engages in
20 unprofessional conduct for which the physician's license may be
21 suspended or revoked under Chapter 164, Occupations Code.

22 (d) A physician who violates Subsection (a)(2) commits an
23 offense. An offense under this subsection is a misdemeanor
24 punishable by a fine not to exceed \$10,000.

1 (e) A woman on whom an abortion is performed or attempted in
2 violation of this section may not be prosecuted under this section
3 or for conspiracy to commit a violation of this section.

4 Sec. 170.004. CIVIL REMEDIES. (a) A civil action may be
5 brought against a person who violates Section 170.003 by:

6 (1) the woman on whom an abortion was performed or
7 attempted in violation of Section 170.003;

8 (2) the father of the unborn child of the woman on whom
9 the abortion was performed or attempted in violation of Section
10 170.003, unless the pregnancy resulted from the father's criminal
11 conduct; or

12 (3) a maternal grandparent of an unborn child if the
13 woman on whom the abortion was performed or attempted in violation
14 of Section 170.003 was less than 18 years of age at the time of the
15 violation, unless the pregnancy resulted from the maternal
16 grandparent's criminal conduct.

17 (b) A person who brings an action under this section may
18 obtain:

19 (1) injunctive relief;

20 (2) damages incurred by the person, including:

21 (A) actual damages for all psychological,
22 emotional, and physical injuries resulting from the violation of
23 Section 170.003;

24 (B) court costs; and

25 (C) reasonable attorney's fees; or

26 (3) both injunctive relief and damages.

27 (c) An action for damages or injunctive relief under this

1 section must be filed:

2 (1) in a district court in the county in which the
3 woman on whom an abortion was performed or attempted in violation of
4 Section 170.003 resides; and

5 (2) not later than the sixth anniversary of the date
6 the abortion was performed or attempted in violation of Section
7 170.003.

8 (d) The damages and injunctive relief authorized by this
9 section are in addition to any other remedy available by law.

10 SECTION 2. The change in law made by this Act applies only
11 to an abortion performed or attempted on or after the effective date
12 of this Act. An abortion performed or attempted before the
13 effective date of this Act is governed by the law in effect at the
14 time the abortion was performed or attempted, and the former law is
15 continued in effect for that purpose.

16 SECTION 3. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect on the 91st day after the last day of the
21 legislative session.