



852235

FLOOR AMENDMENT NO. \_\_\_\_\_

BY: *Stephanie Hlick*

1 Amend C.S.S.B. No. 8 (house committee printing) as follows:

2 (1) On page 1, line 8, strike "Subchapter F" and  
3 substitute "Subchapters F and G".

4 (2) On page 3, between lines 18 and 19, insert the  
5 following:

6 SUBCHAPTER G. DISMEMBERMENT ABORTIONS

7 Sec. 171.151. DEFINITION. In this subchapter,  
8 "dismemberment abortion" means an abortion in which a person,  
9 with the purpose of causing the death of an unborn child,  
10 dismembers the living unborn child and extracts the unborn child  
11 one piece at a time from the uterus through the use of clamps,  
12 grasping forceps, tongs, scissors, or a similar instrument that,  
13 through the convergence of two rigid levers, slices, crushes, or  
14 grasps, or performs any combination of those actions on, a piece  
15 of the unborn child's body to cut or rip the piece from the  
16 body. The term does not include an abortion that uses suction  
17 to dismember the body of an unborn child by sucking pieces of  
18 the unborn child into a collection container. The term includes  
19 a dismemberment abortion that is used to cause the death of an  
20 unborn child and in which suction is subsequently used to  
21 extract pieces of the unborn child after the unborn child's  
22 death.

23 Sec. 171.152. DISMEMBERMENT ABORTIONS PROHIBITED. (a) A  
24 person may not intentionally perform a dismemberment abortion  
25 unless the dismemberment abortion is necessary in a medical  
26 emergency.

27 (b) A woman on whom a dismemberment abortion is performed,  
28 an employee or agent acting under the direction of a physician  
29 who performs a dismemberment abortion, or a person who fills a

1 prescription or provides equipment used in a dismemberment  
2 abortion does not violate Subsection (a).

3 Sec. 171.153. CRIMINAL PENALTY. (a) A person who  
4 violates Section 171.152 commits an offense.

5 (b) An offense under this section is a state jail felony.

6 Sec. 171.154. CONSTRUCTION OF SUBCHAPTER. (a) This  
7 subchapter shall be construed, as a matter of state law, to be  
8 enforceable to the maximum possible extent consistent with but  
9 not further than federal constitutional requirements, even if  
10 that construction is not readily apparent, as such constructions  
11 are authorized only to the extent necessary to save the  
12 subchapter from judicial invalidation. Judicial reformation of  
13 statutory language is explicitly authorized only to the extent  
14 necessary to save the statutory provision from invalidity.

15 (b) If any court determines that a provision of this  
16 subchapter is unconstitutionally vague, the court shall  
17 interpret the provision, as a matter of state law, to avoid the  
18 vagueness problem and shall enforce the provision to the maximum  
19 possible extent. If a federal court finds any provision of this  
20 subchapter or its application to any person, group of persons,  
21 or circumstances to be unconstitutionally vague and declines to  
22 impose the saving construction described by this subsection, the  
23 Supreme Court of Texas shall provide an authoritative  
24 construction of the objectionable statutory provisions that  
25 avoids the constitutional problems while enforcing the statute's  
26 restrictions to the maximum possible extent and shall agree to  
27 answer any question certified from a federal appellate court  
28 regarding the statute.

29 (c) A state executive or administrative official may not  
30 decline to enforce this subchapter, or adopt a construction of  
31 this subchapter in a way that narrows its applicability, based

1 on the official's own beliefs concerning the requirements of the  
2 state or federal constitution, unless the official is enjoined  
3 by a state or federal court from enforcing this subchapter.

4 (d) This subchapter may not be construed to:

5 (1) authorize the prosecution of or a cause of action  
6 to be brought against a woman on whom an abortion is performed  
7 or induced in violation of this subchapter; or

8 (2) create or recognize a right to abortion or a  
9 right to a particular method of abortion.

10 (3) On page 13, on both lines 4 and 13, strike "or F" and  
11 substitute ", F, or G".

12 (4) On page 15, line 24, strike "Subchapter F" and  
13 substitute "Subchapters F and G".

14 (5) On page 15, line 25, strike "applies" and substitute  
15 "apply".

16 (6) Add the following appropriately numbered SECTION to  
17 the bill and renumber the SECTIONS of the bill accordingly:

18 SECTION \_\_\_\_\_. (a) If some or all of the provisions of this  
19 Act are ever temporarily or permanently restrained or enjoined  
20 by judicial order, all other provisions of Texas law regulating  
21 or restricting abortion shall be enforced as though the  
22 restrained or enjoined provisions had not been adopted;  
23 provided, however, that whenever the temporary or permanent  
24 restraining order or injunction is stayed or dissolved, or  
25 otherwise ceases to have effect, the provisions shall have full  
26 force and effect.

27 (b) Mindful of Leavitt v. Jane L., 518 U.S. 137 (1996), in  
28 which in the context of determining the severability of a state  
29 statute regulating abortion the United States Supreme Court held  
30 that an explicit statement of legislative intent is controlling,  
31 it is the intent of the legislature that every provision,

1 section, subsection, sentence, clause, phrase, or word in this  
2 Act, and every application of the provisions in this Act, are  
3 severable from each other. If any application of any provision  
4 in this Act to any person, group of persons, or circumstances is  
5 found by a court to be invalid, the remaining applications of  
6 that provision to all other persons and circumstances shall be  
7 severed and may not be affected. All constitutionally valid  
8 applications of this Act shall be severed from any applications  
9 that a court finds to be invalid, leaving the valid applications  
10 in force, because it is the legislature's intent and priority  
11 that the valid applications be allowed to stand alone. Even if  
12 a reviewing court finds a provision of this Act to impose an  
13 undue burden in a large or substantial fraction of relevant  
14 cases, the applications that do not present an undue burden  
15 shall be severed from the remaining provisions and shall remain  
16 in force, and shall be treated as if the legislature had enacted  
17 a statute limited to the persons, group of persons, or  
18 circumstances for which the statute's application does not  
19 present an undue burden. The legislature further declares that  
20 it would have passed this Act, and each provision, section,  
21 subsection, sentence, clause, phrase, or word, and all  
22 constitutional applications of this Act, irrespective of the  
23 fact that any provision, section, subsection, sentence, clause,  
24 phrase, or word, or applications of this Act, were to be  
25 declared unconstitutional or to represent an undue burden.

26 (c) If any provision of this Act is found by any court to  
27 be unconstitutionally vague, then the applications of that  
28 provision that do not present constitutional vagueness problems  
29 shall be severed and remain in force.