

BILL ANALYSIS

Senate Research Center
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S.B. 25
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State Affairs
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The wrongful birth cause of action was first recognized in the Texas Supreme Court in 1975 in *Jacobs v Theimer*. The parents of the disabled child argued they would have terminated the pregnancy if they had known about the disabilities beforehand. The Texas Supreme Court awarded the parents the recovery of expenses reasonably necessary for the care and treatment of their child's physical impairment for its entire life. This ruling was based on the existence of a life.

Since Texas first recognized a wrongful birth claim, 27 other states have done so. At least nine states have eliminated the cause of action. Of these nine states, three of the states have challenged the law in court.

S.B. 25 prohibits the wrongful birth cause of action in which parents can seek legal action against their doctors. This legislation will also end the negative precedent that disabled persons should not have been born, are an extreme burden on their parents, and do not have the same rights and protections as completely-able persons.

As proposed, S.B. 25 amends current law relating to eliminating the wrongful birth cause of action.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 4, Civil Practice and Remedies Code, by adding Chapter 71A, as follows:

CHAPTER 71A. PROHIBITED CAUSES OF ACTION

Sec. 71A.001. **WRONGFUL BIRTH.** Prohibits a cause of action from arising, and damages from being awarded, on behalf of any person, based on the claim that but for the act or omission of another, a person would not have been permitted to have been born alive but would have been aborted.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2017.