

By: Tinderholt

H.B. No. 948

A BILL TO BE ENTITLED

1 AN ACT
2 relating to prohibiting abortion and recognizing the rights,
3 powers, and privileges of all unborn children at every stage of
4 gestation from fertilization until birth; affecting criminal
5 offenses and penalties.

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

7 SECTION 1. This Act may be cited as the Abolition of
8 Abortion in Texas Act.

9 SECTION 2. Section 151.002(a), Family Code, is amended to
10 read as follows:

11 (a) A living human child, from the moment of fertilization
12 upon the fusion of a human spermatozoon with a human ovum, [~~born~~
13 ~~alive after an abortion or premature birth]~~ is entitled to the same
14 rights, powers, and privileges as are secured or granted by the laws
15 of this state to any other human child [~~born alive after the normal~~
16 ~~gestation period~~].

17 SECTION 3. Subchapter B, Chapter 402, Government Code, is
18 amended by adding Section 402.0375 to read as follows:

19 Sec. 402.0375. ABORTION PROHIBITION ENFORCEMENT. The
20 attorney general shall monitor this state's enforcement of Chapter
21 19, Penal Code, in relation to abortion. The attorney general shall
22 direct state agencies to enforce those laws regardless of any
23 contrary or conflicting federal statutes, regulations, executive
24 orders, or court decisions.

1 SECTION 4. Chapter 370, Local Government Code, is amended
2 by adding Section 370.007 to read as follows:

3 Sec. 370.007. ABORTION PROHIBITION ENFORCEMENT. The
4 governing body of a political subdivision of this state shall
5 ensure that the political subdivision enforces Chapter 19, Penal
6 Code, in relation to abortion regardless of any contrary or
7 conflicting federal statutes, regulations, executive orders, or
8 court decisions.

9 SECTION 5. Section 19.06, Penal Code, is amended to read as
10 follows:

11 Sec. 19.06. APPLICABILITY TO CERTAIN CONDUCT.
12 Notwithstanding any other provision of law, this ~~[This]~~ chapter
13 applies ~~[does not apply]~~ to the death of an unborn child even if the
14 conduct charged is:

15 (1) conduct committed by the mother of the unborn
16 child;

17 (2) a ~~[lawful medical]~~ procedure performed by a
18 physician or other licensed health care provider ~~[with the~~
19 ~~requisite consent]~~, if the death of the unborn child was the
20 intended result of the procedure;

21 (3) a ~~[lawful medical]~~ procedure performed by a
22 physician or other licensed health care provider ~~[with the~~
23 ~~requisite consent]~~ as part of an assisted reproduction as defined
24 by Section 160.102, Family Code, if the death of the unborn child
25 was the intended result of the procedure; or

26 (4) the dispensation of a drug ~~[in accordance with~~
27 ~~law]~~ or administration of a drug, if the death of the unborn child

1 is an intended result of using the drug [~~prescribed in accordance~~
2 ~~with law~~].

3 SECTION 6. Section 22.12, Penal Code, is amended to read as
4 follows:

5 Sec. 22.12. APPLICABILITY TO CERTAIN CONDUCT.

6 Notwithstanding any other provision of law, this [~~This~~] chapter
7 applies [~~does not apply~~] to conduct charged as having been
8 committed against an individual who is an unborn child even if the
9 conduct is:

10 (1) committed by the mother of the unborn child;

11 (2) a [~~lawful medical~~] procedure performed by a
12 physician or other health care provider, if the death of the unborn
13 child was the intended result of the procedure [~~with the requisite~~
14 ~~consent~~];

15 (3) a [~~lawful medical~~] procedure performed by a
16 physician or other licensed health care provider [~~with the~~
17 ~~requisite consent~~] as part of an assisted reproduction as defined
18 by Section 160.102, Family Code, if the death of the unborn child
19 was the intended result of the procedure; or

20 (4) the dispensation of a drug [~~in accordance with~~
21 ~~law~~] or administration of a drug, if the death of the unborn child
22 is an intended result of using the drug [~~prescribed in accordance~~
23 ~~with law~~].

24 SECTION 7. The heading to Chapter 370, Local Government
25 Code, is amended to read as follows:

1 CHAPTER 370. MISCELLANEOUS PROVISIONS RELATING TO [~~MUNICIPAL AND~~
2 ~~COUNTY~~] HEALTH AND PUBLIC SAFETY FOR MORE THAN ONE TYPE OF LOCAL
3 GOVERNMENT

4 SECTION 8. The following provisions are repealed:

- 5 (1) Section 71.003(c), Civil Practice and Remedies
6 Code;
7 (2) Section 151.002(b), Family Code;
8 (3) Section 103.002(b), Occupations Code;
9 (4) Section 20.01(5), Penal Code; and
10 (5) Section 49.12, Penal Code.

11 SECTION 9. NOT RETROACTIVE. (a) The changes in law made by
12 this Act apply only to conduct that occurs on or after the effective
13 date of this Act. Conduct that occurs before the effective date of
14 this Act is governed by the law in effect immediately before the
15 effective date of this Act, and that law is continued in effect for
16 that purpose.

17 (b) The changes in law made by this Act apply only to an
18 offense committed on or after the effective date of this Act. An
19 offense committed before the effective date of this Act is governed
20 by the law in effect when the offense was committed, and the former
21 law is continued in effect for that purpose. For purposes of this
22 subsection, an offense is committed before the effective date of
23 this Act if any element of the offense occurs before the effective
24 date.

25 SECTION 10. Any federal statute, regulation, executive
26 order, or court decision which purports to supersede, stay, or
27 overrule this Act is in violation of the Texas Constitution and the

1 Constitution of the United States of America and is therefore void.
2 The State of Texas and its political subdivisions, and agents
3 thereof, may not enter an appearance, special or otherwise, in any
4 federal suit challenging this Act.

5 SECTION 11. This Act takes effect immediately if it
6 receives a vote of two-thirds of all the members elected to each
7 house, as provided by Section 39, Article III, Texas Constitution.
8 If this Act does not receive the vote necessary for immediate
9 effect, this Act takes effect on the 91st day after the last day of
10 the legislative session.