

By: Swanson

H.B. No. 4527

A BILL TO BE ENTITLED

AN ACT

1
2 relating to civil liability and criminal penalties for performing
3 certain abortions; providing civil penalties; creating criminal
4 offenses.

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

6 SECTION 1. Section 71.002, Civil Practice and Remedies
7 Code, is amended by adding Subsection (f) to read as follows:

8 (f) A person is liable for damages arising from a violation
9 of Section 170.002(a), 171.043, 171.044, 171.102, or 171.152,
10 Health and Safety Code.

11 SECTION 2. Section 71.004(b), Civil Practice and Remedies
12 Code, is amended to read as follows:

13 (b) The surviving spouse, children, and parents of the
14 deceased may bring the action or one or more of those individuals
15 may bring the action for the benefit of all. A next friend may bring
16 an action for damages under Section 71.002(f).

17 SECTION 3. Chapter 170, Health and Safety Code, is amended
18 by adding Sections 170.003 and 170.004 to read as follows:

19 Sec. 170.003. CRIMINAL PENALTY. (a) A person who violates
20 Section 170.002(a) commits an offense.

21 (b) An offense under this section is a felony of the second
22 degree, except that the offense is a felony of the first degree if
23 the person has previously been convicted of an offense under this
24 section or under Section 171.049, 171.103, or 171.153.

1 (c) If conduct constituting an offense under this section
2 also constitutes an offense under another section of this code or
3 the Penal Code, the actor may be prosecuted under this section or
4 under both sections.

5 Sec. 170.004. CIVIL PENALTY. (a) A person who violates
6 Section 170.002(a) is liable to this state for a civil penalty of
7 \$30,000 for each violation.

8 (b) The attorney general may sue to collect the penalty.

9 (c) The attorney general shall file an action under this
10 section in a district court in Travis County or the county in which
11 the violation occurred.

12 (d) The attorney general may recover reasonable expenses
13 incurred in obtaining a civil penalty under this section, including
14 court costs, attorney's fees, investigative costs, witness fees,
15 and deposition expenses.

16 SECTION 4. Subchapter C, Chapter 171, Health and Safety
17 Code, is amended by adding Sections 171.049 and 171.050 to read as
18 follows:

19 Sec. 171.049. CRIMINAL PENALTY. (a) A person who violates
20 Section 171.043 or 171.044 commits an offense.

21 (b) An offense under this section is a felony of the second
22 degree, except that the offense is a felony of the first degree if
23 the person has previously been convicted of an offense under this
24 section or under Section 170.003, 171.103, or 171.153.

25 (c) If conduct constituting an offense under this section
26 also constitutes an offense under another section of this code or
27 the Penal Code, the actor may be prosecuted under this section or

1 under both sections.

2 Sec. 171.050. CIVIL PENALTY. (a) A person who violates
3 Section 171.043 or 171.044 is liable to this state for a civil
4 penalty of \$30,000 for each violation.

5 (b) The attorney general may sue to collect the penalty.

6 (c) The attorney general shall file an action under this
7 section in a district court in Travis County or the county in which
8 the violation occurred.

9 (d) The attorney general may recover reasonable expenses
10 incurred in obtaining a civil penalty under this section, including
11 court costs, attorney's fees, investigative costs, witness fees,
12 and deposition expenses.

13 SECTION 5. Section 171.103, Health and Safety Code, is
14 amended to read as follows:

15 Sec. 171.103. CRIMINAL PENALTY. (a) A person who violates
16 Section 171.102 commits an offense.

17 (b) An offense under this section is a felony of the second
18 degree, except that the offense is a felony of the first degree if
19 the person has previously been convicted of an offense under this
20 section or under Section 170.003, 171.049, or 171.153 [~~state jail~~
21 felony].

22 (c) If conduct constituting an offense under this section
23 also constitutes an offense under another section of this code or
24 the Penal Code, the actor may be prosecuted under this section or
25 under both sections.

26 SECTION 6. Subchapter F, Chapter 171, Health and Safety
27 Code, is amended by adding Section 171.1045 to read as follows:

1 Sec. 171.1045. CIVIL PENALTY. (a) A person who violates
2 Section 171.102 is liable to this state for a civil penalty of
3 \$30,000 for each violation.

4 (b) The attorney general may sue to collect the penalty.

5 (c) The attorney general shall file an action under this
6 section in a district court in Travis County or the county in which
7 the violation occurred.

8 (d) The attorney general may recover reasonable expenses
9 incurred in obtaining a civil penalty under this section, including
10 court costs, attorney's fees, investigative costs, witness fees,
11 and deposition expenses.

12 SECTION 7. Section 171.153, Health and Safety Code, is
13 amended by amending Subsection (b) and adding Subsection (c) to
14 read as follows:

15 (b) An offense under this section is a felony of the second
16 degree, except that the offense is a felony of the first degree if
17 the person has previously been convicted of an offense under this
18 section or under Section 170.003, 171.049, or 171.103 [~~state jail~~
19 felony].

20 (c) If conduct constituting an offense under this section
21 also constitutes an offense under another section of this code or
22 the Penal Code, the actor may be prosecuted under this section or
23 under both sections.

24 SECTION 8. Subchapter G, Chapter 171, Health and Safety
25 Code, is amended by adding Section 171.1535 to read as follows:

26 Sec. 171.1535. CIVIL PENALTY. (a) A person who violates
27 Section 171.152 is liable to this state for a civil penalty of

1 \$30,000 for each violation.

2 (b) The attorney general may sue to collect the penalty.

3 (c) The attorney general shall file an action under this
4 section in a district court in Travis County or the county in which
5 the violation occurred.

6 (d) The attorney general may recover reasonable expenses
7 incurred in obtaining a civil penalty under this section, including
8 court costs, attorney's fees, investigative costs, witness fees,
9 and deposition expenses.

10 SECTION 9. The change in law made by this Act applies only
11 to a cause of action that accrues on or after the effective date of
12 this Act. A cause of action that accrues before the effective date
13 of this Act is governed by the law applicable to the cause of action
14 immediately before that date, and that law is continued in effect
15 for that purpose.

16 SECTION 10. The change in law made by this Act applies only
17 to an abortion performed on or after the effective date of this Act.
18 An abortion performed before the effective date of this Act is
19 governed by the law in effect immediately before the effective date
20 of this Act, and the former law is continued in effect for that
21 purpose.

22 SECTION 11. This Act takes effect September 1, 2019.