

1-1 By: Kolkhorst, et al. S.B. No. 23  
 1-2 (In the Senate - Filed March 8, 2019; March 11, 2019, read  
 1-3 first time and referred to Committee on Health & Human Services;  
 1-4 March 27, 2019, reported favorably by the following vote: Yeas 6,  
 1-5 Nays 2; March 27, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Kolkhorst	X			
1-8 Perry	X			
1-9 Buckingham	X			
1-10 Campbell	X			
1-11 Flores	X			
1-12 Johnson		X		
1-13 Miles		X		
1-14 Powell			X	
1-15 Seliger	X			

1-17 A BILL TO BE ENTITLED  
 1-18 AN ACT

1-19 relating to enforcement of the rights of a living child born after  
 1-20 an abortion; creating a civil cause of action; creating a criminal  
 1-21 offense.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. The heading to Section 151.002, Family Code, is  
 1-24 amended to read as follows:

1-25 Sec. 151.002. RIGHTS OF A LIVING CHILD AFTER AN ABORTION OR  
 1-26 PREMATURE BIRTH; CIVIL ACTION; CRIMINAL OFFENSE.

1-27 SECTION 2. Section 151.002, Family Code, is amended by  
 1-28 adding Subsections (c), (d), (e), (f), (g), and (h) to read as  
 1-29 follows:

1-30 (c) For purposes of this section, a physician-patient  
 1-31 relationship is established between a child born alive after an  
 1-32 abortion or attempted abortion and the physician who performed or  
 1-33 attempted the abortion. A physician who performed or attempted the  
 1-34 abortion must exercise the same degree of professional skill, care,  
 1-35 and diligence to preserve the life and health of the child as a  
 1-36 reasonably diligent and conscientious physician would render to any  
 1-37 other child born alive at the same gestational age.

1-38 (d) A woman on whom an abortion, as defined by Section  
 1-39 245.002, Health and Safety Code, is performed or attempted to be  
 1-40 performed may not be held liable under this section.

1-41 (e) A physician who violates Subsection (c) by failing to  
 1-42 provide the appropriate medical treatment to a child born alive  
 1-43 after an abortion or an attempted abortion is liable to the state  
 1-44 for a civil penalty of not less than \$100,000. The attorney general  
 1-45 may bring a suit to collect the penalty. In addition to the civil  
 1-46 penalty, the attorney general may recover reasonable attorney's  
 1-47 fees. The civil penalty described in this subsection is in addition  
 1-48 to any other recovery authorized under other law.

1-49 (f) A person who has knowledge of a failure to comply with  
 1-50 this section shall report to the attorney general. The identity and  
 1-51 any personally identifiable information of the person reporting the  
 1-52 failure to comply with this section is confidential under Chapter  
 1-53 552, Government Code.

1-54 (g) A physician or health care practitioner who violates  
 1-55 Subsection (c) by failing to provide the appropriate medical  
 1-56 treatment to a child born alive after an abortion or an attempted  
 1-57 abortion commits an offense. An offense under this subsection is a  
 1-58 felony of the third degree.

1-59 SECTION 3. Section 151.002, Family Code, as amended by this  
 1-60 Act, applies only to a child born alive on or after the effective  
 1-61 date of this Act.

2-1 SECTION 4. The change in law made by this Act applies only  
2-2 to the prosecution of an offense committed on or after the effective  
2-3 date of this Act. The prosecution of an offense committed before  
2-4 the effective date of this Act is governed by the law in effect on  
2-5 the date the offense was committed, and the former law is continued  
2-6 in effect for that purpose. For purposes of this section, an  
2-7 offense is committed before the effective date of this Act if any  
2-8 element of the offense occurs before the effective date.

2-9 SECTION 5. This Act takes effect September 1, 2019.

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