

By: Swanson

H.B. No. 92

A BILL TO BE ENTITLED

1 AN ACT
2 relating to civil liability for performing certain abortions;
3 providing civil penalties.

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

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

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

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

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

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

18 Sec. 170.003. CIVIL PENALTY. (a) A person who violates
19 Section 170.002(a) is liable to this state for a civil penalty of
20 \$30,000 for each violation.

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

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

1 (d) The attorney general may recover reasonable expenses
2 incurred in obtaining a civil penalty under this section, including
3 court costs, attorney's fees, investigative costs, witness fees,
4 and deposition expenses.

5 SECTION 4. Subchapter C, Chapter 171, Health and Safety
6 Code, is amended by adding Section 171.049 to read as follows:

7 Sec. 171.049. CIVIL PENALTY. (a) A person who violates
8 Section 171.043 or 171.044 is liable to this state for a civil
9 penalty of \$30,000 for each violation.

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

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

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

18 SECTION 5. Subchapter F, Chapter 171, Health and Safety
19 Code, is amended by adding Section 171.1045 to read as follows:

20 Sec. 171.1045. CIVIL PENALTY. (a) A person who violates
21 Section 171.102 is liable to this state for a civil penalty of
22 \$30,000 for each violation.

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

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

27 (d) The attorney general may recover reasonable expenses

1 incurred in obtaining a civil penalty under this section, including
2 court costs, attorney's fees, investigative costs, witness fees,
3 and deposition expenses.

4 SECTION 6. Subchapter G, Chapter 171, Health and Safety
5 Code, is amended by adding Section 171.1535 to read as follows:

6 Sec. 171.1535. CIVIL PENALTY. (a) A person who violates
7 Section 171.152 is liable to this state for a civil penalty of
8 \$30,000 for each violation.

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

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

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

17 SECTION 7. The changes in law made by this Act apply only to
18 a cause of action that accrues on or after the effective date of
19 this Act. A cause of action that accrues before the effective date
20 of this Act is governed by the law applicable to the cause of action
21 immediately before that date, and that law is continued in effect
22 for that purpose.

23 SECTION 8. The changes in law made by this Act apply only to
24 an abortion performed, induced, or attempted on or after the
25 effective date of this Act. An abortion performed, induced, or
26 attempted before the effective date of this Act is governed by the
27 law in effect immediately before the effective date of this Act, and

1 the former law is continued in effect for that purpose.

2 SECTION 9. This Act takes effect September 1, 2021.