

1-1 By: Capriglione, et al. H.B. No. 1280
 1-2 (Senate Sponsor - Paxton, Hall)
 1-3 (In the Senate - Received from the House May 10, 2021;
 1-4 May 11, 2021, read first time and referred to Committee on State
 1-5 Affairs; May 21, 2021, reported favorably by the following vote:
 1-6 Yeas 7, Nays 2; May 21, 2021, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15		X		
1-16	X			
1-17		X		

1-18 A BILL TO BE ENTITLED
 1-19 AN ACT

1-20 relating to prohibition of abortion; providing a civil penalty;
 1-21 creating a criminal offense.

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

1-23 SECTION 1. This Act may be cited as the Human Life
 1-24 Protection Act of 2021.

1-25 SECTION 2. Subtitle H, Title 2, Health and Safety Code, is
 1-26 amended by adding Chapter 170A to read as follows:

1-27 CHAPTER 170A. PERFORMANCE OF ABORTION

1-28 Sec. 170A.001. DEFINITIONS. In this chapter:

1-29 (1) "Abortion" has the meaning assigned by Section
 1-30 245.002.

1-31 (2) "Fertilization" means the point in time when a
 1-32 male human sperm penetrates the zona pellucida of a female human
 1-33 ovum.

1-34 (3) "Pregnant" means the female human reproductive
 1-35 condition of having a living unborn child within the female's body
 1-36 during the entire embryonic and fetal stages of the unborn child's
 1-37 development from fertilization until birth.

1-38 (4) "Reasonable medical judgment" means a medical
 1-39 judgment made by a reasonably prudent physician, knowledgeable
 1-40 about a case and the treatment possibilities for the medical
 1-41 conditions involved.

1-42 (5) "Unborn child" means an individual living member
 1-43 of the homo sapiens species from fertilization until birth,
 1-44 including the entire embryonic and fetal stages of development.

1-45 Sec. 170A.002. PROHIBITED ABORTION; EXCEPTIONS. (a) A
 1-46 person may not knowingly perform, induce, or attempt an abortion.

1-47 (b) The prohibition under Subsection (a) does not apply if:

1-48 (1) the person performing, inducing, or attempting the
 1-49 abortion is a licensed physician;

1-50 (2) in the exercise of reasonable medical judgment,
 1-51 the pregnant female on whom the abortion is performed, induced, or
 1-52 attempted has a life-threatening physical condition aggravated by,
 1-53 caused by, or arising from a pregnancy that places the female at
 1-54 risk of death or poses a serious risk of substantial impairment of a
 1-55 major bodily function unless the abortion is performed or induced;
 1-56 and

1-57 (3) the person performs, induces, or attempts the
 1-58 abortion in a manner that, in the exercise of reasonable medical
 1-59 judgment, provides the best opportunity for the unborn child to
 1-60 survive unless, in the reasonable medical judgment, that manner
 1-61 would create:

2-1 (A) a greater risk of the pregnant female's
2-2 death; or

2-3 (B) a serious risk of substantial impairment of a
2-4 major bodily function of the pregnant female.

2-5 (c) A physician may not take an action authorized under
2-6 Subsection (b) if, at the time the abortion was performed, induced,
2-7 or attempted, the person knew the risk of death or a substantial
2-8 impairment of a major bodily function described by Subsection
2-9 (b)(2) arose from a claim or diagnosis that the female would engage
2-10 in conduct that might result in the female's death or in substantial
2-11 impairment of a major bodily function.

2-12 (d) Medical treatment provided to the pregnant female by a
2-13 licensed physician that results in the accidental or unintentional
2-14 injury or death of the unborn child does not constitute a violation
2-15 of this section.

2-16 Sec. 170A.003. CONSTRUCTION OF CHAPTER. This chapter may
2-17 not be construed to authorize the imposition of criminal, civil, or
2-18 administrative liability or penalties on a pregnant female on whom
2-19 an abortion is performed, induced, or attempted.

2-20 Sec. 170A.004. CRIMINAL OFFENSE. (a) A person who
2-21 violates Section 170A.002 commits an offense.

2-22 (b) An offense under this section is a felony of the second
2-23 degree, except that the offense is a felony of the first degree if
2-24 an unborn child dies as a result of the offense.

2-25 Sec. 170A.005. CIVIL PENALTY. A person who violates
2-26 Section 170A.002 is subject to a civil penalty of not less than
2-27 \$100,000 for each violation. The attorney general shall file an
2-28 action to recover a civil penalty assessed under this section and
2-29 may recover attorney's fees and costs incurred in bringing the
2-30 action.

2-31 Sec. 170A.006. CIVIL REMEDIES UNAFFECTED. The fact that
2-32 conduct is subject to a civil or criminal penalty under this chapter
2-33 does not abolish or impair any remedy for the conduct that is
2-34 available in a civil suit.

2-35 Sec. 170A.007. DISCIPLINARY ACTION. In addition to any
2-36 other penalty that may be imposed under this chapter, the
2-37 appropriate licensing authority shall revoke the license, permit,
2-38 registration, certificate, or other authority of a physician or
2-39 other health care professional who performs, induces, or attempts
2-40 an abortion in violation of Section 170A.002.

2-41 SECTION 3. Section 2 of this Act takes effect, to the extent
2-42 permitted, on the 30th day after:

2-43 (1) the issuance of a United States Supreme Court
2-44 judgment in a decision overruling, wholly or partly, *Roe v. Wade*,
2-45 410 U.S. 113 (1973), as modified by *Planned Parenthood v. Casey*, 505
2-46 U.S. 833 (1992), thereby allowing the states of the United States to
2-47 prohibit abortion;

2-48 (2) the issuance of any other United States Supreme
2-49 Court judgment in a decision that recognizes, wholly or partly, the
2-50 authority of the states to prohibit abortion; or

2-51 (3) adoption of an amendment to the United States
2-52 Constitution that, wholly or partly, restores to the states the
2-53 authority to prohibit abortion.

2-54 SECTION 4. The legislature finds that the State of Texas
2-55 never repealed, either expressly or by implication, the state
2-56 statutes enacted before the ruling in *Roe v. Wade*, 410 U.S. 113
2-57 (1973), that prohibit and criminalize abortion unless the mother's
2-58 life is in danger.

2-59 SECTION 5. The provisions of this Act are hereby declared
2-60 severable, and if any provision of this Act or the application of
2-61 such provision to any person or circumstance is declared invalid
2-62 for any reason, such declaration shall not affect the validity of
2-63 the remaining portions of this Act.

2-64 SECTION 6. This Act takes effect September 1, 2021.

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