

By: Paxton, et al.

S.B. No. 391

A BILL TO BE ENTITLED

AN ACT

relating to prohibition of abortion; providing a civil penalty;
creating a criminal offense.

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

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

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

CHAPTER 170A. PERFORMANCE OF ABORTION

Sec. 170A.001. DEFINITIONS. In this chapter:

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

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

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

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

(5) "Unborn child" means an individual living member

1 of the homo sapiens species from fertilization until birth,
2 including the entire embryonic and fetal stages of development.

3 Sec. 170A.002. PROHIBITED ABORTION; EXCEPTIONS. (a) A
4 person may not knowingly perform, induce, or attempt an abortion.

5 (b) The prohibition under Subsection (a) does not apply if:

6 (1) the person performing, inducing, or attempting the
7 abortion is a licensed physician;

8 (2) in the exercise of reasonable medical judgment,
9 the pregnant female on whom the abortion is performed, induced, or
10 attempted has a life-threatening physical condition aggravated by,
11 caused by, or arising from a pregnancy that places the female at
12 risk of death or poses a serious risk of substantial impairment of a
13 major bodily function unless the abortion is performed or induced;
14 and

15 (3) the person performs, induces, or attempts the
16 abortion in a manner that, in the exercise of reasonable medical
17 judgment, provides the best opportunity for the unborn child to
18 survive unless, in the reasonable medical judgment, that manner
19 would create:

20 (A) a greater risk of the pregnant female's
21 death; or

22 (B) a serious risk of substantial impairment of a
23 major bodily function of the pregnant female.

24 (c) A physician may not take an action authorized under
25 Subsection (b) if, at the time the abortion was performed, induced,
26 or attempted, the person knew the risk of death or a substantial
27 impairment of a major bodily function described by Subsection

1 (b)(2) arose from a claim or diagnosis that the female would engage
2 in conduct that might result in the female's death or in substantial
3 impairment of a major bodily function.

4 (d) Medical treatment provided to the pregnant female by a
5 licensed physician that results in the accidental or unintentional
6 injury or death of the unborn child does not constitute a violation
7 of this section.

8 Sec. 170A.003. CONSTRUCTION OF CHAPTER. This chapter may
9 not be construed to authorize the imposition of criminal, civil, or
10 administrative liability or penalties on a pregnant female on whom
11 an abortion is performed, induced, or attempted.

12 Sec. 170A.004. CRIMINAL OFFENSE. (a) A person who violates
13 Section 170A.002 commits an offense.

14 (b) An offense under this section is a felony of the second
15 degree, except that the offense is a felony of the first degree if
16 an unborn child dies as a result of the offense.

17 Sec. 170A.005. CIVIL PENALTY. A person who violates
18 Section 170A.002 is subject to a civil penalty of not less than
19 \$100,000 for each violation. The attorney general shall file an
20 action to recover a civil penalty assessed under this section and
21 may recover attorney's fees and costs incurred in bringing the
22 action.

23 Sec. 170A.006. CIVIL REMEDIES UNAFFECTED. The fact that
24 conduct is subject to a civil or criminal penalty under this chapter
25 does not abolish or impair any remedy for the conduct that is
26 available in a civil suit.

27 Sec. 170A.007. DISCIPLINARY ACTION. In addition to any

1 other penalty that may be imposed under this chapter, the
2 appropriate licensing authority shall revoke the license, permit,
3 registration, certificate, or other authority of a physician or
4 other health care professional who performs, induces, or attempts
5 an abortion in violation of Section 170A.002.

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

8 (1) the issuance of a United States Supreme Court
9 judgment overruling, wholly or partly, *Roe v. Wade*, 410 U.S. 113
10 (1973), as modified by *Planned Parenthood v. Casey*, 505 U.S. 833
11 (1992), thereby allowing the states of the United States to
12 prohibit abortion;

13 (2) the issuance of any other United States Supreme
14 Court decision that recognizes, wholly or partly, the authority of
15 the states to prohibit abortion; or

16 (3) adoption of an amendment to the United States
17 Constitution that, wholly or partly, restores to the states the
18 authority to prohibit abortion.

19 SECTION 4. The provisions of this Act are hereby declared
20 severable, and if any provision of this Act or the application of
21 such provision to any person or circumstance is declared invalid
22 for any reason, such declaration shall not affect the validity of
23 the remaining portions of this Act.

24 SECTION 5. This Act takes effect September 1, 2021.