

By: Perry, et al.

S.B. No. 1647

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to information regarding perinatal palliative care,  
3 regulation of abortion, and the availability of certain defenses to  
4 prosecution for homicide and assault offenses; providing an  
5 administrative penalty; creating a criminal offense.

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

7 ARTICLE 1. LEGISLATIVE FINDINGS

8 SECTION 1.01. The legislature finds that:

9 (1) Texas has a compelling state interest in  
10 protecting all Texans from discrimination based on sex, race, and  
11 disability;

12 (2) Texas enforces prohibitions against  
13 discrimination based on sex, race, and disability in various areas,  
14 including housing, employment, education, insurance, and health  
15 program and service provision; and

16 (3) Texas never repealed, either expressly or by  
17 implication, the state statutes enacted before the ruling in *Roe v.*  
18 *Wade*, 410 U.S. 113 (1973), that prohibit and criminalize abortion  
19 unless the mother's life is in danger.

20 ARTICLE 2. PROVISIONS EFFECTIVE SEPTEMBER 1, 2021

21 SECTION 2.01. Chapter 161, Health and Safety Code, is  
22 amended by adding Subchapter X to read as follows:

23 SUBCHAPTER X. PERINATAL PALLIATIVE CARE

24 Sec. 161.701. PURPOSE OF SUBCHAPTER. The purpose of this

1 subchapter is to ensure that a pregnant woman who receives a  
2 diagnosis of a life-threatening disability of the woman's preborn  
3 child is informed of the availability of perinatal palliative care.

4 Sec. 161.702. DEFINITION. In this subchapter, "perinatal  
5 palliative care" means the provision of comprehensive, supportive  
6 care to reduce the suffering of a pregnant woman, her preborn child,  
7 and her family, from diagnosis of the preborn child's  
8 life-threatening disability through the delivery and possible  
9 death of the child as a result of the life-threatening disability.  
10 The term includes medical, social, and mental health care,  
11 including counseling and health care provided by maternal-fetal  
12 medical specialists, obstetricians, neonatologists, anesthesia  
13 specialists, specialty nurses, clergy, social workers, and other  
14 individuals focused on alleviating fear and pain and ensuring the  
15 pregnant woman, her preborn child, and her family experience a  
16 supportive environment.

17 Sec. 161.703. PERINATAL PALLIATIVE CARE INFORMATIONAL  
18 MATERIALS. (a) The commission shall develop perinatal palliative  
19 care informational materials and post the materials on the  
20 commission's Internet website. The materials must include:

21 (1) a description of the health care and other  
22 services available through perinatal palliative care; and

23 (2) information about medical assistance benefits  
24 that may be available for prenatal care, childbirth, and perinatal  
25 palliative care.

26 (b) The commission shall develop, regularly update, and  
27 publish a geographically indexed list of all perinatal palliative

1 care providers and programs in this state. The commission may  
2 include perinatal palliative care providers and programs in other  
3 states that provide care to residents of this state but may not  
4 include an abortion provider, as defined by Section 171.002, or an  
5 affiliate, as defined by Section 2272.001, Government Code, as  
6 added by Chapter 501 (S.B. 22), Acts of the 86th Legislature,  
7 Regular Session, 2019, of an abortion provider. The commission  
8 shall post the list of perinatal palliative care providers and  
9 programs, including contact information, on the commission's  
10 Internet website and note the providers and programs that provide  
11 services free of charge.

12 Sec. 161.704. PERINATAL PALLIATIVE CARE CERTIFICATION  
13 FORM. The commission shall develop a form on which a pregnant woman  
14 certifies that she has received the perinatal palliative care  
15 informational materials and list of the perinatal palliative care  
16 providers and programs described by Section 161.703.

17 Sec. 161.705. HEALTH CARE PROVIDER DUTIES ON DIAGNOSIS OF  
18 PREBORN CHILD'S LIFE-THREATENING DISABILITY. A health care  
19 provider who diagnoses a pregnant woman's preborn child as having a  
20 life-threatening disability shall, at the time of the diagnosis:

21 (1) provide the pregnant woman with a written copy of:  
22 (A) the perinatal palliative care informational  
23 materials and list of the perinatal palliative care providers and  
24 programs described by Section 161.703; and

25 (B) the perinatal palliative care certification  
26 form described by Section 161.704; and

27 (2) obtain from the pregnant woman the signed

1 perinatal palliative care certification form and place the form in  
2 the pregnant woman's medical records.

3 Sec. 161.706. EXCEPTION. A health care provider is not  
4 required to provide the perinatal palliative care informational  
5 materials or perinatal palliative care certification form under  
6 this subchapter if the health care provider verifies the pregnant  
7 woman's medical record contains a signed perinatal palliative care  
8 certification form for that pregnancy as required under Section  
9 161.705(2).

10 SECTION 2.02. Chapter 170, Health and Safety Code, is  
11 amended by designating Sections 170.001 and 170.002 as Subchapter A  
12 and adding a subchapter heading to read as follows:

13 SUBCHAPTER A. GENERAL PROVISIONS; POST-VIABILITY ABORTION

14 PROHIBITED

15 SECTION 2.03. Section 170.001, Health and Safety Code, is  
16 amended by adding Subdivision (2-a) to read as follows:

17 (2-a) "Preborn child" means an unborn child as defined  
18 by Section 171.061.

19 SECTION 2.04. Section 170.002, Health and Safety Code, is  
20 amended to read as follows:

21 Sec. 170.002. PROHIBITED ACTS; EXEMPTION. (a) Except as  
22 provided by Subsection (b), a person may not intentionally or  
23 knowingly perform or induce an abortion on a woman who is pregnant  
24 with a preborn [~~viable unborn~~] child during the third trimester of  
25 the pregnancy.

26 (b) Subsection (a) does not prohibit a person from  
27 performing or inducing an abortion if at the time of the abortion

1 the person is a physician and concludes in good faith according to  
2 the physician's best medical judgment that[+]

3 ~~[(1) the fetus is not a viable fetus and the pregnancy~~  
4 ~~is not in the third trimester,~~

5 [(2)] the abortion is necessary due to a medical  
6 emergency, as defined by Section 171.002 [~~to prevent the death or a~~  
7 ~~substantial risk of serious impairment to the physical or mental~~  
8 ~~health of the woman, or~~

9 [(3) the fetus has a severe and irreversible  
10 abnormality, identified by reliable diagnostic procedures].

11 (c) A physician who performs or induces an abortion that,  
12 according to the physician's best medical judgment at the time of  
13 the abortion, is to abort a preborn [~~viable unborn~~] child during the  
14 third trimester of the pregnancy shall certify in writing to the  
15 commission, on a form prescribed by the commission, the medical  
16 indications supporting the physician's judgment that the abortion  
17 was authorized by Subsection (b) [~~(b)(2) or (3)~~]. ~~If the physician~~  
18 ~~certifies the abortion was authorized by Subsection (b)(3), the~~  
19 ~~physician shall certify in writing on the form the fetal~~  
20 ~~abnormality identified by the physician].~~ The certification must  
21 be made not later than the 30th day after the date the abortion was  
22 performed or induced.

23 SECTION 2.05. Chapter 170, Health and Safety Code, is  
24 amended by adding Subchapter B to read as follows:

25 SUBCHAPTER B. PREBORN NONDISCRIMINATION ACT

26 Sec. 170.051. DEFINITION. In this subchapter, "disability"  
27 means:

1           (1) a physical or mental impairment that would  
2 substantially limit one or more of an individual's major life  
3 activities;

4           (2) an assessment referencing an individual's  
5 impairment described by Subdivision (1); or

6           (3) a physical disfigurement, scoliosis, dwarfism,  
7 Down syndrome, albinism, amelia, or any other type of physical,  
8 mental, or intellectual abnormality or disease.

9           Sec. 170.052. DISCRIMINATORY ABORTION PROHIBITED. A person  
10 may not:

11           (1) knowingly perform or induce or attempt to perform  
12 or induce on a pregnant woman an abortion based on the race,  
13 ethnicity, sex, or disability of the woman's preborn child,  
14 including a probability of diagnosis that the child has a  
15 disability; or

16           (2) use force or the threat of force to intentionally  
17 injure or intimidate a person to coerce the performance or  
18 inducement or attempted performance or inducement of an abortion  
19 based on the race, ethnicity, sex, or disability of the woman's  
20 preborn child, including a probability of diagnosis that the child  
21 has a disability.

22           Sec. 170.053. CRIMINAL PENALTY. (a) A person who violates  
23 Section 170.052 commits an offense. An offense under this  
24 subsection is a Class A misdemeanor.

25           (b) A woman on whom an abortion is performed or induced or  
26 attempted to be performed or induced in violation of Section  
27 170.052 may not be prosecuted for a violation of that section or for

1 conspiracy to commit a violation of that section.

2 Sec. 170.054. LICENSE SUSPENSION OR REVOCATION. A  
3 physician who violates Section 170.052 engages in unprofessional  
4 conduct for which the physician's license may be suspended or  
5 revoked under Chapter 164, Occupations Code.

6 Sec. 170.055. CIVIL REMEDIES. (a) A civil action may be  
7 brought against a person who violates Section 170.052 by:

8 (1) the woman on whom an abortion was performed or  
9 induced or attempted to be performed or induced in violation of  
10 Section 170.052;

11 (2) the father of the preborn child for an abortion  
12 performed or induced or attempted to be performed or induced on a  
13 pregnant woman in violation of Section 170.052, unless the woman's  
14 pregnancy resulted from the father's criminal conduct; or

15 (3) a maternal grandparent of the preborn child for an  
16 abortion performed or induced or attempted to be performed or  
17 induced in violation of Section 170.052 on a pregnant woman who was  
18 less than 18 years of age at the time of the violation, unless the  
19 woman's pregnancy resulted from the maternal grandparent's criminal  
20 conduct.

21 (b) A person who brings an action under this section may  
22 obtain:

23 (1) injunctive relief;

24 (2) damages incurred by the person, including:

25 (A) actual damages for all psychological,  
26 emotional, and physical injuries resulting from the violation of  
27 Section 170.052;

1                   (B) court costs; and

2                   (C) reasonable attorney's fees; or

3                   (3) both injunctive relief and damages.

4           (c) An action for damages or injunctive relief under this  
5 section must be filed:

6                   (1) in a district court in the county in which the  
7 woman on whom an abortion was performed or induced or attempted to  
8 be performed or induced in violation of Section 170.052 resides;  
9 and

10                   (2) not later than the sixth anniversary of the date  
11 the abortion was performed or induced or attempted to be performed  
12 or induced in violation of Section 170.052.

13                   (d) The damages and injunctive relief authorized by this  
14 section are in addition to any other remedy available by law.

15                   (e) A civil action under this section may not be brought  
16 against a woman on whom an abortion is performed or induced or  
17 attempted to be performed or induced in violation of Section  
18 170.052.

19           SECTION 2.06. Section [171.002](#), Health and Safety Code, is  
20 amended by adding Subdivision (3-a) to read as follows:

21                   (3-a) "Preborn child" means an unborn child as defined  
22 by Section [171.061](#).

23           SECTION 2.07. Subchapter [A](#), Chapter [171](#), Health and Safety  
24 Code, is amended by adding Section 171.008 to read as follows:

25           Sec. 171.008. REQUIRED DOCUMENTATION. (a) If an abortion  
26 is performed or induced on a pregnant woman because of a medical  
27 emergency, the physician who performs or induces the abortion shall



1 execute a written document that certifies the abortion is necessary  
2 due to a medical emergency and specifies the woman's medical  
3 condition requiring the abortion.

4 (b) A physician shall:

5 (1) place the document described by Subsection (a) in  
6 the pregnant woman's medical record; and

7 (2) maintain a copy of the document described by  
8 Subsection (a) in the physician's practice records.

9 (c) A physician who performs or induces an abortion on a  
10 pregnant woman shall:

11 (1) if the abortion is performed or induced to  
12 preserve the health of the pregnant woman, execute a written  
13 document that:

14 (A) specifies the medical condition the abortion  
15 is asserted to address; and

16 (B) provides the medical rationale for the  
17 physician's conclusion that the abortion is necessary to address  
18 the medical condition; or

19 (2) for an abortion other than an abortion described  
20 by Subdivision (1), specify in a written document that maternal  
21 health is not a purpose of the abortion.

22 (d) The physician shall maintain a copy of a document  
23 described by Subsection (c) in the physician's practice records.

24 SECTION 2.08. Section [171.012](#), Health and Safety Code, is  
25 amended by amending Subsection (a) and adding Subsections (g) and  
26 (h) to read as follows:

27 (a) Consent to an abortion is voluntary and informed only

1 if:

2 (1) the physician who is to perform or induce the  
3 abortion informs the pregnant woman on whom the abortion is to be  
4 performed or induced of:

5 (A) the physician's name;

6 (B) the particular medical risks associated with  
7 the particular abortion procedure to be employed, including, when  
8 medically accurate:

9 (i) the risks of infection and hemorrhage;

10 (ii) the potential danger to a subsequent  
11 pregnancy and of infertility; and

12 (iii) the possibility of increased risk of  
13 breast cancer following an induced abortion and the natural  
14 protective effect of a completed pregnancy in avoiding breast  
15 cancer;

16 (C) the probable gestational age of the preborn  
17 [~~unborn~~] child at the time the abortion is to be performed or  
18 induced; [~~and~~]

19 (D) the medical risks associated with carrying  
20 the preborn child to term; and

21 (E) the state law prohibiting abortion of a  
22 preborn child solely based on the preborn child's race, ethnicity,  
23 sex, or disability, as defined by Section 170.051, including a  
24 probability of diagnosis that the child has a disability;

25 (2) the physician who is to perform or induce the  
26 abortion or the physician's agent informs the pregnant woman that:

27 (A) medical assistance benefits may be available

1 for prenatal care, childbirth, and neonatal care;

2 (B) the father is liable for assistance in the  
3 support of the child without regard to whether the father has  
4 offered to pay for the abortion; and

5 (C) public and private agencies provide  
6 pregnancy prevention counseling and medical referrals for  
7 obtaining pregnancy prevention medications or devices, including  
8 emergency contraception for victims of rape or incest;

9 (3) the physician who is to perform or induce the  
10 abortion or the physician's agent:

11 (A) provides the pregnant woman with the printed  
12 materials described by Section 171.014; and

13 (B) informs the pregnant woman that those  
14 materials:

15 (i) have been provided by the commission  
16 [~~Department of State Health Services~~];

17 (ii) are accessible on an Internet website  
18 sponsored by the commission [~~department~~];

19 (iii) describe the preborn [~~unborn~~] child  
20 and list agencies that offer alternatives to abortion; and

21 (iv) include a list of agencies that offer  
22 sonogram services at no cost to the pregnant woman;

23 (4) before any sedative or anesthesia is administered  
24 to the pregnant woman and at least 24 hours before the abortion or  
25 at least two hours before the abortion if the pregnant woman waives  
26 this requirement by certifying that she currently lives 100 miles  
27 or more from the nearest abortion provider that is a facility

1 licensed under Chapter 245 or a facility that performs or induces  
2 more than 50 abortions in any 12-month period:

3 (A) the physician who is to perform or induce the  
4 abortion or an agent of the physician who is also a sonographer  
5 certified by a national registry of medical sonographers performs a  
6 sonogram on the pregnant woman on whom the abortion is to be  
7 performed or induced;

8 (B) the physician who is to perform or induce the  
9 abortion displays the sonogram images in a quality consistent with  
10 current medical practice in a manner that the pregnant woman may  
11 view them;

12 (C) the physician who is to perform or induce the  
13 abortion provides, in a manner understandable to a layperson, a  
14 verbal explanation of the results of the sonogram images, including  
15 a medical description of the dimensions of the embryo or fetus, the  
16 presence of cardiac activity, and the presence of external members  
17 and internal organs; and

18 (D) the physician who is to perform or induce the  
19 abortion or an agent of the physician who is also a sonographer  
20 certified by a national registry of medical sonographers makes  
21 audible the heart auscultation for the pregnant woman to hear, if  
22 present, in a quality consistent with current medical practice and  
23 provides, in a manner understandable to a layperson, a simultaneous  
24 verbal explanation of the heart auscultation;

25 (5) before receiving a sonogram under Subdivision  
26 (4)(A) and before the abortion is performed or induced and before  
27 any sedative or anesthesia is administered, the pregnant woman

1 completes and certifies with her signature an election form that  
2 states as follows:

3 "ABORTION AND SONOGRAM ELECTION

4 (1) THE INFORMATION AND PRINTED MATERIALS  
5 DESCRIBED BY SECTIONS 171.012(a)(1)-(3), TEXAS HEALTH  
6 AND SAFETY CODE, HAVE BEEN PROVIDED AND EXPLAINED TO  
7 ME.

8 (2) I UNDERSTAND THE NATURE AND CONSEQUENCES OF  
9 AN ABORTION.

10 (3) TEXAS LAW REQUIRES THAT I RECEIVE A SONOGRAM  
11 PRIOR TO RECEIVING AN ABORTION.

12 (4) I UNDERSTAND THAT I HAVE THE OPTION TO VIEW  
13 THE SONOGRAM IMAGES.

14 (5) I UNDERSTAND THAT I HAVE THE OPTION TO HEAR  
15 THE HEARTBEAT.

16 (6) I UNDERSTAND THAT I AM REQUIRED BY LAW TO  
17 HEAR AN EXPLANATION OF THE SONOGRAM IMAGES UNLESS I  
18 CERTIFY IN WRITING TO ONE OF THE FOLLOWING:

19 \_\_\_ I AM PREGNANT AS A RESULT OF A SEXUAL  
20 ASSAULT, INCEST, OR OTHER VIOLATION OF THE TEXAS PENAL  
21 CODE THAT HAS BEEN REPORTED TO LAW ENFORCEMENT  
22 AUTHORITIES OR THAT HAS NOT BEEN REPORTED BECAUSE I  
23 REASONABLY BELIEVE THAT DOING SO WOULD PUT ME AT RISK  
24 OF RETALIATION RESULTING IN SERIOUS BODILY INJURY.

25 \_\_\_ I AM A MINOR AND OBTAINING AN ABORTION IN  
26 ACCORDANCE WITH JUDICIAL BYPASS PROCEDURES UNDER  
27 CHAPTER 33, TEXAS FAMILY CODE.



1 subsection.

2 (g) If the pregnant woman's preborn child has been diagnosed  
3 with a life-threatening disability, the physician who is to perform  
4 the abortion shall, at least 24 hours before the abortion or at  
5 least two hours before the abortion if the pregnant woman waives  
6 this requirement by certifying that she currently lives 100 miles  
7 or more from the nearest abortion provider that is a facility  
8 licensed under Chapter 245 or a facility in which more than 50  
9 abortions are performed in any 12-month period:

10 (1) orally and in person, inform the pregnant woman of  
11 the availability of perinatal palliative care, as that term is  
12 defined by Section 161.702; and

13 (2) provide the pregnant woman with a written copy of:

14 (A) the perinatal palliative care informational  
15 materials and list of the perinatal palliative care providers and  
16 programs described by Section 161.703; and

17 (B) the perinatal palliative care certification  
18 form described by Section 161.704.

19 (h) If a pregnant woman described by Subsection (g), after  
20 receiving from the physician who is to perform or induce the  
21 abortion the perinatal palliative care informational materials and  
22 certification form described by that subsection in the manner  
23 required by that subsection, chooses to have an abortion instead of  
24 continuing the pregnancy in perinatal palliative care, the  
25 physician may perform or induce the abortion only after:

26 (1) the pregnant woman signs the certification form;  
27 and

1           (2) the physician places the signed certification form  
2 in the pregnant woman's medical records.

3           SECTION 2.09. Section 171.0121, Health and Safety Code, is  
4 amended to read as follows:

5           Sec. 171.0121. MEDICAL RECORD. (a) Before the abortion  
6 begins, a copy of the signed, written certification received by the  
7 physician under Section 171.012(a)(6) and, if applicable, under  
8 Section 161.704 must be placed in the pregnant woman's medical  
9 records.

10           (b) A copy of the signed, written certification required  
11 under Sections 171.012(a)(5) and (6) and of any signed, written  
12 certification required under Section 161.704 shall be retained by  
13 the facility where the abortion is performed or induced until:

14           (1) the seventh anniversary of the date the  
15 certification [~~it~~] is signed; or

16           (2) if the pregnant woman is a minor, the later of:

17           (A) the seventh anniversary of the date the  
18 certification [~~it~~] is signed; or

19           (B) the woman's 21st birthday.

20           SECTION 2.10. Section 171.014(a), Health and Safety Code,  
21 is amended to read as follows:

22           (a) The department shall publish informational materials  
23 that include:

24           (1) the information required to be provided under  
25 Sections 171.012(a)(1)(B), [and] (D), and (E) and (a)(2)(A), (B),  
26 and (C); and

27           (2) the materials required by Sections 161.703,



1 171.015, and 171.016.

2 SECTION 2.11. The heading to Subchapter C, Chapter 171,  
3 Health and Safety Code, is amended to read as follows:

4 SUBCHAPTER C. ABORTION PROHIBITED AT OR AFTER 20 WEEKS PROBABLE  
5 GESTATIONAL AGE [~~POST-FERTILIZATION~~]

6 SECTION 2.12. Section 171.042, Health and Safety Code, is  
7 amended by adding Subdivision (1-a) to read as follows:

8 (1-a) "Probable gestational age" means the duration of  
9 a pregnancy measured by the number of weeks and days that have  
10 elapsed from the first day of the pregnant woman's last menstrual  
11 period out of an expected 40-week gestation.

12 SECTION 2.13. Sections 171.043, 171.044, and 171.045,  
13 Health and Safety Code, are amended to read as follows:

14 Sec. 171.043. DETERMINATION OF PROBABLE GESTATIONAL  
15 [~~POST-FERTILIZATION~~] AGE REQUIRED. Except as otherwise provided by  
16 Section 171.046, a physician may not perform or induce or attempt to  
17 perform or induce an abortion without, prior to the procedure:

18 (1) making a determination of the probable gestational  
19 [~~post-fertilization~~] age of the preborn [~~unborn~~] child; or

20 (2) possessing and relying on a determination of the  
21 probable gestational [~~post-fertilization~~] age of the preborn  
22 [~~unborn~~] child made by another physician.

23 Sec. 171.044. ABORTION OF PREBORN [~~UNBORN~~] CHILD OF 20 OR  
24 MORE WEEKS PROBABLE GESTATIONAL [~~POST-FERTILIZATION~~] AGE  
25 PROHIBITED. Except as otherwise provided by Section 171.046, a  
26 person may not perform or induce or attempt to perform or induce an  
27 abortion on a woman if it has been determined, by the physician

1 performing, inducing, or attempting to perform or induce the  
2 abortion or by another physician on whose determination that  
3 physician relies, that the probable gestational  
4 [~~post-fertilization~~] age of the preborn [~~unborn~~] child is 20 or  
5 more weeks.

6 Sec. 171.045. METHOD OF ABORTION. (a) This section applies  
7 only to an abortion authorized under Section [171.046](#)(a)(1) or (2)  
8 in which:

9 (1) the probable gestational [~~post-fertilization~~] age  
10 of the preborn [~~unborn~~] child is 20 or more weeks; or

11 (2) the probable gestational [~~post-fertilization~~] age  
12 of the preborn [~~unborn~~] child has not been determined but could  
13 reasonably be 20 or more weeks.

14 (b) Except as otherwise provided by Section [171.046](#)(a)(3),  
15 a physician performing or inducing an abortion under Subsection (a)  
16 shall terminate the pregnancy in the manner that, in the  
17 physician's reasonable medical judgment, provides the best  
18 opportunity for the preborn [~~unborn~~] child to survive.

19 SECTION 2.14. Section [171.046](#)(a), Health and Safety Code,  
20 is amended to read as follows:

21 (a) The prohibitions and requirements under Sections  
22 [171.043](#), [171.044](#), and [171.045](#)(b) do not apply to an abortion  
23 performed or induced if there exists a condition that, in the  
24 physician's reasonable medical judgment, so complicates the  
25 medical condition of the woman that, to avert the woman's death or a  
26 serious risk of substantial and irreversible physical impairment of  
27 a major bodily function, other than a psychological condition, it

1 necessitates, as applicable:

2 (1) the immediate abortion of her pregnancy without  
3 the delay necessary to determine the probable gestational  
4 [~~post-fertilization~~] age of the preborn [~~unborn~~] child;

5 (2) the abortion of her pregnancy even though the  
6 probable gestational [~~post-fertilization~~] age of the preborn  
7 [~~unborn~~] child is 20 or more weeks; or

8 (3) the use of a method of abortion other than a method  
9 described by Section 171.045(b).

10 SECTION 2.15. Section 285.202(a), Health and Safety Code,  
11 is amended to read as follows:

12 (a) In this section, "medical emergency" means[+  
13 [~~(1)~~] a condition exists that, in a physician's good  
14 faith clinical judgment, complicates the medical condition of the  
15 pregnant woman and necessitates the immediate abortion of her  
16 pregnancy to avert her death or to avoid a serious risk of  
17 substantial impairment of a major bodily function[~~, or~~  
18 [~~(2) the fetus has a severe fetal abnormality~~].

19 SECTION 2.16. Section 164.052(a), Occupations Code, is  
20 amended to read as follows:

21 (a) A physician or an applicant for a license to practice  
22 medicine commits a prohibited practice if that person:

23 (1) submits to the board a false or misleading  
24 statement, document, or certificate in an application for a  
25 license;

26 (2) presents to the board a license, certificate, or  
27 diploma that was illegally or fraudulently obtained;

1           (3) commits fraud or deception in taking or passing an  
2 examination;

3           (4) uses alcohol or drugs in an intemperate manner  
4 that, in the board's opinion, could endanger a patient's life;

5           (5) commits unprofessional or dishonorable conduct  
6 that is likely to deceive or defraud the public, as provided by  
7 Section 164.053, or injure the public;

8           (6) uses an advertising statement that is false,  
9 misleading, or deceptive;

10          (7) advertises professional superiority or the  
11 performance of professional service in a superior manner if that  
12 advertising is not readily subject to verification;

13          (8) purchases, sells, barter, or uses, or offers to  
14 purchase, sell, barter, or use, a medical degree, license,  
15 certificate, or diploma, or a transcript of a license, certificate,  
16 or diploma in or incident to an application to the board for a  
17 license to practice medicine;

18          (9) alters, with fraudulent intent, a medical license,  
19 certificate, or diploma, or a transcript of a medical license,  
20 certificate, or diploma;

21          (10) uses a medical license, certificate, or diploma,  
22 or a transcript of a medical license, certificate, or diploma that  
23 has been:

24                   (A) fraudulently purchased or issued;

25                   (B) counterfeited; or

26                   (C) materially altered;

27          (11) impersonates or acts as proxy for another person

1 in an examination required by this subtitle for a medical license;

2 (12) engages in conduct that subverts or attempts to  
3 subvert an examination process required by this subtitle for a  
4 medical license;

5 (13) impersonates a physician or permits another to  
6 use the person's license or certificate to practice medicine in  
7 this state;

8 (14) directly or indirectly employs a person whose  
9 license to practice medicine has been suspended, canceled, or  
10 revoked;

11 (15) associates in the practice of medicine with a  
12 person:

13 (A) whose license to practice medicine has been  
14 suspended, canceled, or revoked; or

15 (B) who has been convicted of the unlawful  
16 practice of medicine in this state or elsewhere;

17 (16) performs or procures a criminal abortion, aids or  
18 abets in the procuring of a criminal abortion, attempts to perform  
19 or procure a criminal abortion, or attempts to aid or abet the  
20 performance or procurement of a criminal abortion;

21 (17) directly or indirectly aids or abets the practice  
22 of medicine by a person, partnership, association, or corporation  
23 that is not licensed to practice medicine by the board;

24 (18) performs or induces or attempts to perform or  
25 induce an abortion on a woman who is pregnant with a preborn [~~viable~~  
26 ~~unborn~~] child during the third trimester of the pregnancy unless[+  
27

[~~(A)~~] the abortion is necessary due to a medical

1 emergency, as defined by Section 171.002, Health and Safety Code

2 [~~to prevent the death of the woman,~~

3 ~~[(B) the viable unborn child has a severe,~~

4 ~~irreversible brain impairment, or~~

5 ~~[(C) the woman is diagnosed with a significant~~

6 ~~likelihood of suffering imminent severe, irreversible brain damage~~

7 ~~or imminent severe, irreversible paralysis];~~

8           (19) performs or induces or attempts to perform or

9 induce an abortion on an unemancipated minor without the written

10 consent of the child's parent, managing conservator, or legal

11 guardian or without a court order, as provided by Section 33.003 or

12 33.004, Family Code, unless the abortion is necessary due to a

13 medical emergency, as defined by Section 171.002, Health and Safety

14 Code;

15           (20) otherwise performs or induces or attempts to

16 perform or induce an abortion on an unemancipated minor in

17 violation of Chapter 33, Family Code;

18           (21) performs or induces or attempts to perform or

19 induce an abortion in violation of Subchapter C, F, or G, Chapter

20 171, Health and Safety Code; [~~or~~]

21           (22) in complying with the procedures outlined in

22 Sections 166.045 and 166.046, Health and Safety Code, wilfully

23 fails to make a reasonable effort to transfer a patient to a

24 physician who is willing to comply with a directive; or

25           (23) performs or induces or attempts to perform or

26 induce an abortion or engages in other conduct in violation of

27 Section 170.052, Health and Safety Code.

1 SECTION 2.17. Section 164.055(b), Occupations Code, is  
2 amended to read as follows:

3 (b) The sanctions provided by Subsection (a) are in addition  
4 to any other grounds for refusal to admit persons to examination  
5 under this subtitle or to issue a license or renew a license to  
6 practice medicine under this subtitle. The criminal penalties  
7 provided by Section 165.152 do not apply to a violation of Section  
8 170.002 or 170.052, Health and Safety Code, or Subchapter C, F, or  
9 G, Chapter 171, Health and Safety Code.

10 SECTION 2.18. The following provisions of the Health and  
11 Safety Code are repealed:

- 12 (1) Section 170.001(3);
- 13 (2) Sections 171.042(1) and (2);
- 14 (3) Section 171.046(c); and
- 15 (4) Sections 285.202(a-1) and (a-2).

16 ARTICLE 3. PROVISIONS EFFECTIVE SEPTEMBER 1, 2023, OR EARLIER

17 SECTION 3.01. Chapter 171, Health and Safety Code, is  
18 amended by adding Subchapter H to read as follows:

19 SUBCHAPTER H. DETECTION OF FETAL HEARTBEAT

20 Sec. 171.201. DEFINITIONS. In this subchapter:

21 (1) "Fetal heartbeat" means cardiac activity or the  
22 steady and repetitive rhythmic contraction of the fetal heart  
23 within the gestational sac.

24 (2) "Gestational age" means the amount of time that  
25 has elapsed from the first day of a woman's last menstrual period.

26 (3) "Gestational sac" means the structure comprising  
27 the extraembryonic membranes that envelop the unborn child and that

1 is typically visible by ultrasound after the fourth week of  
2 pregnancy.

3 (4) "Physician" means an individual licensed to  
4 practice medicine in this state, including a medical doctor and a  
5 doctor of osteopathic medicine.

6 (5) "Pregnancy" means the human female reproductive  
7 condition that:

8 (A) begins with fertilization;

9 (B) occurs when the woman is carrying the  
10 developing human offspring; and

11 (C) is calculated from the first day of the  
12 woman's last menstrual period.

13 (6) "Standard medical practice" means the degree of  
14 skill, care, and diligence that an obstetrician of ordinary  
15 judgment, learning, and skill would employ in like circumstances.

16 (7) "Unborn child" means a human fetus or embryo in any  
17 stage of gestation from fertilization until birth.

18 Sec. 171.202. LEGISLATIVE FINDINGS. The legislature finds,  
19 according to contemporary medical research, that:

20 (1) fetal heartbeat has become a key medical predictor  
21 that an unborn child will reach live birth;

22 (2) cardiac activity begins at a biologically  
23 identifiable moment in time, normally when the fetal heart is  
24 formed in the gestational sac;

25 (3) Texas has compelling interests from the outset of  
26 a woman's pregnancy in protecting the health of the woman and the  
27 life of the unborn child; and



1           (4) to make an informed choice about whether to  
2 continue her pregnancy, the pregnant woman has a compelling  
3 interest in knowing the likelihood of her unborn child surviving to  
4 full-term birth based on the presence of cardiac activity.

5           Sec. 171.203. DETERMINATION OF PRESENCE OF FETAL HEARTBEAT  
6 REQUIRED; RECORD. (a) For the purposes of determining the presence  
7 of a fetal heartbeat under this section, "standard medical  
8 practice" includes employing the appropriate means of detecting the  
9 heartbeat based on the estimated gestational age of the unborn  
10 child and the condition of the woman and her pregnancy.

11           (b) Except as provided by Section 171.205, a physician may  
12 not knowingly perform or induce an abortion on a pregnant woman  
13 unless the physician has determined, in accordance with this  
14 section, whether the woman's unborn child has a detectable fetal  
15 heartbeat.

16           (c) In making a determination under Subsection (b), the  
17 physician must use a test that is:

18                   (1) consistent with the physician's good faith and  
19 reasonable understanding of standard medical practice; and

20                   (2) appropriate for the estimated gestational age of  
21 the unborn child and the condition of the pregnant woman and her  
22 pregnancy.

23           (d) A physician making a determination under Subsection (b)  
24 shall record in the pregnant woman's medical record:

25                   (1) the estimated gestational age of the unborn child;  
26                   (2) the method used to estimate the gestational age;

27 and

1           (3) the test used for detecting a fetal heartbeat,  
2 including the date, time, and results of the test.

3           Sec. 171.204. PROHIBITED ABORTION OF UNBORN CHILD WITH  
4 DETECTABLE FETAL HEARTBEAT; EFFECT. (a) Except as provided by  
5 Section 171.205, a physician may not knowingly perform or induce an  
6 abortion on a pregnant woman if the physician detected a fetal  
7 heartbeat for the unborn child as required by Section 171.203 or  
8 failed to perform a test to detect a fetal heartbeat.

9           (b) A physician does not violate this section if the  
10 physician performed a test for a fetal heartbeat as required by  
11 Section 171.203 and did not detect a fetal heartbeat.

12           (c) This section does not affect:

13           (1) the provisions of this chapter that restrict or  
14 regulate an abortion by a particular method or during a particular  
15 stage of pregnancy; or

16           (2) any other provision of state law that regulates or  
17 prohibits abortion.

18           Sec. 171.205. EXCEPTION FOR MEDICAL EMERGENCY; RECORDS.

19           (a) Sections 171.203 and 171.204 do not apply if a physician  
20 believes a medical emergency exists that prevents compliance with  
21 this subchapter.

22           (b) A physician who performs or induces an abortion under  
23 circumstances described by Subsection (a) shall make written  
24 notations in the pregnant woman's medical record of:

25           (1) the physician's belief that a medical emergency  
26 necessitated the abortion; and

27           (2) the medical condition of the pregnant woman that

1 prevented compliance with this subchapter.

2 (c) A physician performing or inducing an abortion under  
3 this section shall maintain in the physician's practice records a  
4 copy of the notations made under Subsection (b).

5 Sec. 171.206. CONSTRUCTION OF SUBCHAPTER. (a) This  
6 subchapter does not create or recognize a right to abortion before a  
7 fetal heartbeat is detected.

8 (b) This subchapter may not be construed to:

9 (1) authorize the initiation of a cause of action  
10 against or the prosecution of a woman on whom an abortion is  
11 performed or induced or attempted to be performed or induced in  
12 violation of this subchapter;

13 (2) wholly or partly repeal, either expressly or by  
14 implication, any other statute that regulates or prohibits  
15 abortion, including Chapter 6-1/2, Title 71, Revised Statutes; or

16 (3) restrict a political subdivision from regulating  
17 or prohibiting abortion in a manner that is at least as stringent as  
18 the laws of this state.

19 Sec. 171.207. LIMITATIONS ON PUBLIC ENFORCEMENT. (a)  
20 Notwithstanding Section 171.005 or any other law, the requirements  
21 of this subchapter shall be enforced exclusively through the  
22 private civil actions described in Section 171.208. No enforcement  
23 of this subchapter, and no enforcement of Chapters 19 and 22, Penal  
24 Code, in response to violations of this subchapter, may be taken or  
25 threatened by this state, a political subdivision, a district or  
26 county attorney, or an executive or administrative officer or  
27 employee of this state or a political subdivision against any

1 person, except as provided in Section 171.208.

2 (b) Subsection (a) may not be construed to:

3 (1) legalize the conduct prohibited by this subchapter  
4 or by Chapter 6-1/2, Title 71, Revised Statutes;

5 (2) limit in any way or affect the availability of a  
6 remedy established by Section 171.208; or

7 (3) limit the enforceability of any other laws that  
8 regulate or prohibit abortion.

9 Sec. 171.208. CIVIL LIABILITY FOR VIOLATION OR AIDING OR  
10 ABETTING VIOLATION. (a) Any person, other than an officer or  
11 employee of a state or local governmental entity in this state, may  
12 bring a civil action against any person who:

13 (1) performs or induces an abortion in violation of  
14 this chapter;

15 (2) knowingly engages in conduct that aids or abets  
16 the performance or inducement of an abortion, including paying for  
17 or reimbursing the costs of an abortion through insurance or  
18 otherwise, if the abortion is performed or induced in violation of  
19 this chapter, regardless of whether the person knew or should have  
20 known that the abortion would be performed or induced in violation  
21 of this chapter; or

22 (3) intends to engage in the conduct described by  
23 Subdivision (1) or (2).

24 (b) If a claimant prevails in an action brought under this  
25 section, the court shall award:

26 (1) injunctive relief sufficient to prevent the  
27 defendant from violating this chapter or engaging in acts that aid

1 or abet violations of this chapter;

2 (2) statutory damages in an amount of not less than  
3 \$10,000 for each abortion that the defendant performed or induced  
4 in violation of this chapter, and for each abortion performed or  
5 induced in violation of this chapter that the defendant aided or  
6 abetted; and

7 (3) costs and attorney's fees.

8 (c) Notwithstanding Subsection (b), a court may not award  
9 relief under this section in response to a violation of Subsection  
10 (a)(1) or (2) if the defendant demonstrates that the defendant  
11 previously paid the full amount of statutory damages under  
12 Subsections (b)(2) and (3) in a previous action for that particular  
13 abortion performed or induced in violation of this chapter, or for  
14 the particular conduct that aided or abetted an abortion performed  
15 or induced in violation of this chapter.

16 (d) Notwithstanding Chapter 16, Civil Practice and Remedies  
17 Code, or any other law, a person may bring an action under this  
18 section not later than the sixth anniversary of the date the cause  
19 of action accrues.

20 (e) Notwithstanding any other law, the following are not a  
21 defense to an action brought under this section:

22 (1) ignorance or mistake of law;

23 (2) a defendant's belief that the requirements of this  
24 chapter are unconstitutional or were unconstitutional;

25 (3) a defendant's reliance on any court decision that  
26 has been overruled on appeal or by a subsequent court, even if that  
27 court decision had not been overruled when the defendant engaged in

1 conduct that violates this chapter;

2 (4) a defendant's reliance on any state or federal  
3 court decision that is not binding on the court in which the action  
4 has been brought;

5 (5) non-mutual issue preclusion or non-mutual claim  
6 preclusion;

7 (6) the consent of the unborn child's mother to the  
8 abortion; or

9 (7) any claim that the enforcement of this chapter or  
10 the imposition of civil liability against the defendant will  
11 violate the constitutional rights of third parties, except as  
12 provided by Section 171.209.

13 (f) It is an affirmative defense if:

14 (1) a person sued under Subsection (a)(2) reasonably  
15 believed, after conducting a reasonable investigation, that the  
16 physician performing or inducing the abortion had complied or would  
17 comply with this chapter; or

18 (2) a person sued under Subsection (a)(3) reasonably  
19 believed, after conducting a reasonable investigation, that the  
20 physician performing or inducing the abortion will comply with this  
21 chapter.

22 (f-1) The defendant has the burden of proving an affirmative  
23 defense under Subsection (f)(1) or (2) by a preponderance of the  
24 evidence.

25 (g) This section may not be construed to impose liability on  
26 any speech or conduct protected by the First Amendment of the United  
27 States Constitution, as made applicable to the states through the

1 United States Supreme Court's interpretation of the Fourteenth  
2 Amendment of the United States Constitution, or by Section 8,  
3 Article I, Texas Constitution.

4 (h) Notwithstanding any other law, this state, a state  
5 official, or a district or county attorney may not intervene in an  
6 action brought under this section. This subsection does not  
7 prohibit a person described by this subsection from filing an  
8 amicus curiae brief in the action.

9 (i) Notwithstanding any other law, a court may not award  
10 costs or attorney's fees under the Texas Rules of Civil Procedure or  
11 any other rule adopted by the supreme court under Section 22.004,  
12 Government Code, to a defendant in an action brought under this  
13 section.

14 Sec. 171.209. CIVIL LIABILITY: UNDUE BURDEN DEFENSE  
15 LIMITATIONS. (a) A defendant against whom an action is brought  
16 under Section 171.208 does not have standing to assert the rights  
17 of women seeking an abortion as a defense to liability under that  
18 section unless:

19 (1) the United States Supreme Court holds that the  
20 courts of this state must confer standing on that defendant to  
21 assert the third-party rights of women seeking an abortion in state  
22 court as a matter of federal constitutional law; or

23 (2) the defendant has standing to assert the rights of  
24 women seeking an abortion under the tests for third-party standing  
25 established by the United States Supreme Court.

26 (b) A defendant in an action brought under Section 171.208  
27 may assert an affirmative defense to liability under this section

1 if:

2 (1) the defendant has standing to assert the  
3 third-party rights of a woman or a group of women seeking an  
4 abortion in accordance with Subsection (a); and

5 (2) the defendant demonstrates that the relief sought  
6 by the claimant will impose an undue burden on that woman or a group  
7 of women seeking an abortion.

8 (c) A court may not find an undue burden under Subsection  
9 (b) unless the defendant introduces evidence proving that:

10 (1) an award of relief will prevent a woman or a group  
11 of women from obtaining an abortion; or

12 (2) an award of relief will place a substantial  
13 obstacle in the path of a woman or a group of women who are seeking  
14 an abortion.

15 (d) A defendant may not establish an undue burden under this  
16 section by:

17 (1) merely demonstrating that an award of relief will  
18 prevent women from obtaining support or assistance, financial or  
19 otherwise, from others in their effort to obtain an abortion; or

20 (2) arguing or attempting to demonstrate that an award  
21 of relief against other defendants or other potential defendants  
22 will impose an undue burden on women seeking an abortion.

23 (e) The affirmative defense under Subsection (b) is not  
24 available if the United States Supreme Court overrules *Roe v. Wade*,  
25 410 U.S. 113 (1973) or *Planned Parenthood v. Casey*, 505 U.S. 833  
26 (1992), regardless of whether the conduct on which the cause of  
27 action is based under Section 171.208 occurred before the Supreme



1 Court overruled either of those decisions.

2 (f) Nothing in this section shall in any way limit or  
3 preclude a defendant from asserting the defendant's personal  
4 constitutional rights as a defense to liability under Section  
5 171.208, and a court may not award relief under Section 171.208 if  
6 the conduct for which the defendant has been sued was an exercise of  
7 state or federal constitutional rights that personally belong to  
8 the defendant.

9 Sec. 171.210. CIVIL LIABILITY: VENUE. (a) Notwithstanding  
10 any other law, including Section 15.002, Civil Practice and  
11 Remedies Code, a civil action brought under Section 171.208 shall  
12 be brought in:

13 (1) the county in which all or a substantial part of  
14 the events or omissions giving rise to the claim occurred;

15 (2) the county of residence for any one of the natural  
16 person defendants at the time the cause of action accrued;

17 (3) the county of the principal office in this state of  
18 any one of the defendants that is not a natural person; or

19 (4) the county of residence for the claimant if the  
20 claimant is a natural person residing in this state.

21 (b) If a civil action is brought under Section 171.208 in  
22 any one of the venues described by Subsection (a), the action may  
23 not be transferred to a different venue without the written consent  
24 of all parties.

25 Sec. 171.211. SOVEREIGN, GOVERNMENTAL, AND OFFICIAL  
26 IMMUNITY PRESERVED. (a) This section prevails over any  
27 conflicting law, including:

1           (1) the Uniform Declaratory Judgments Act; and

2           (2) Chapter 37, Civil Practice and Remedies Code.

3           (b) This state has sovereign immunity, a political  
4 subdivision has governmental immunity, and each officer and  
5 employee of this state or a political subdivision has official  
6 immunity in any action, claim, or counterclaim or any type of legal  
7 or equitable action that challenges the validity of any provision  
8 or application of this chapter, on constitutional grounds or  
9 otherwise.

10          (c) A provision of state law may not be construed to waive or  
11 abrogate an immunity described by Subsection (b) unless it  
12 expressly waives immunity under this section.

13          Sec. 171.212. SEVERABILITY. (a) Mindful of *Leavitt v. Jane*  
14 *L.*, 518 U.S. 137 (1996), in which in the context of determining the  
15 severability of a state statute regulating abortion the United  
16 States Supreme Court held that an explicit statement of legislative  
17 intent is controlling, it is the intent of the legislature that  
18 every provision, section, subsection, sentence, clause, phrase, or  
19 word in this chapter, and every application of the provisions in  
20 this chapter, are severable from each other.

21          (b) If any application of any provision in this chapter to  
22 any person, group of persons, or circumstances is found by a court  
23 to be invalid or unconstitutional, the remaining applications of  
24 that provision to all other persons and circumstances shall be  
25 severed and may not be affected. All constitutionally valid  
26 applications of this chapter shall be severed from any applications  
27 that a court finds to be invalid, leaving the valid applications in

1 force, because it is the legislature's intent and priority that the  
2 valid applications be allowed to stand alone. Even if a reviewing  
3 court finds a provision of this chapter to impose an undue burden in  
4 a large or substantial fraction of relevant cases, the applications  
5 that do not present an undue burden shall be severed from the  
6 remaining applications and shall remain in force, and shall be  
7 treated as if the legislature had enacted a statute limited to the  
8 persons, group of persons, or circumstances for which the statute's  
9 application does not present an undue burden.

10 (b-1) If any court declares or finds a provision of this  
11 chapter facially unconstitutional, when discrete applications of  
12 that provision can be enforced against a person, group of persons,  
13 or circumstances without violating the United States Constitution  
14 and Texas Constitution, those applications shall be severed from  
15 all remaining applications of the provision, and the provision  
16 shall be interpreted as if the legislature had enacted a provision  
17 limited to the persons, group of persons, or circumstances for  
18 which the provision's application will not violate the United  
19 States Constitution and Texas Constitution.

20 (c) The legislature further declares that it would have  
21 enacted this chapter, and each provision, section, subsection,  
22 sentence, clause, phrase, or word, and all constitutional  
23 applications of this chapter, irrespective of the fact that any  
24 provision, section, subsection, sentence, clause, phrase, or word,  
25 or applications of this chapter, were to be declared  
26 unconstitutional or to represent an undue burden.

27 (d) If any provision of this chapter is found by any court to

1 be unconstitutionally vague, then the applications of that  
2 provision that do not present constitutional vagueness problems  
3 shall be severed and remain in force.

4 (e) No court may decline to enforce the severability  
5 requirements of Subsections (a), (b), (b-1), (c), and (d) on the  
6 ground that severance would rewrite the statute or involve the  
7 court in legislative or lawmaking activity. A court that declines  
8 to enforce or enjoins a state official from enforcing a statutory  
9 provision does not rewrite a statute, as the statute continues to  
10 contain the same words as before the court's decision. A judicial  
11 injunction or declaration of unconstitutionality:

12 (1) is nothing more than an edict prohibiting  
13 enforcement that may subsequently be vacated by a later court if  
14 that court has a different understanding of the requirements of the  
15 Texas Constitution or United States Constitution;

16 (2) is not a formal amendment of the language in a  
17 statute; and

18 (3) no more rewrites a statute than a decision by the  
19 executive not to enforce a duly enacted statute in a limited and  
20 defined set of circumstances.

21 SECTION 3.02. Chapter 30, Civil Practice and Remedies Code,  
22 is amended by adding Section 30.022 to read as follows:

23 Sec. 30.022. AWARD OF ATTORNEY'S FEES IN ACTIONS  
24 CHALLENGING ABORTION LAWS. (a) Notwithstanding any other law, any  
25 person, including an entity, attorney, or law firm, who seeks  
26 declaratory or injunctive relief to prevent this state, a political  
27 subdivision, any governmental entity or public official in this

1 state, or any person in this state, from enforcing any statute,  
2 ordinance, rule, regulation, or any other type of law that  
3 regulates or restricts abortion or that limits taxpayer funding for  
4 individuals or entities that perform or promote abortions, in any  
5 state or federal court, or that represents any litigant seeking  
6 such relief in any state or federal court, is jointly and severally  
7 liable to pay the costs and attorney's fees of the prevailing party.

8 (b) For purposes of this section, a party is considered a  
9 prevailing party if a state or federal court:

10 (1) dismisses any claim or cause of action brought  
11 against the party that seeks the declaratory or injunctive relief  
12 described by Subsection (a), regardless of the reason for the  
13 dismissal; or

14 (2) enters judgment in the party's favor on any such  
15 claim or cause of action.

16 (c) Regardless of whether a prevailing party sought to  
17 recover costs or attorney's fees in the underlying action, a  
18 prevailing party under this section may bring a civil action to  
19 recover costs and attorney's fees against a person, including an  
20 entity, attorney, or law firm, that sought declaratory or  
21 injunctive relief described by Subsection (a) not later than the  
22 third anniversary of the date on which, as applicable:

23 (1) the dismissal or judgment described by Subsection  
24 (b) becomes final on the conclusion of appellate review; or

25 (2) the time for seeking appellate review expires.

26 (d) It is not a defense to an action brought under  
27 Subsection (c) that:

1           (1) a prevailing party under this section failed to  
2 seek recovery of costs or attorney's fees in the underlying action;

3           (2) the court in the underlying action declined to  
4 recognize or enforce the requirements of this section; or

5           (3) the court in the underlying action held that any  
6 provisions of this section are invalid, unconstitutional, or  
7 preempted by federal law, notwithstanding the doctrines of issue or  
8 claim preclusion.

9           SECTION 3.03. Subchapter C, Chapter 311, Government Code,  
10 is amended by adding Section 311.036 to read as follows:

11           Sec. 311.036. CONSTRUCTION OF ABORTION STATUTES. (a) A  
12 statute that regulates or prohibits abortion may not be construed  
13 to repeal any other statute that regulates or prohibits abortion,  
14 either wholly or partly, unless the repealing statute explicitly  
15 states that it is repealing the other statute.

16           (b) A statute may not be construed to restrict a political  
17 subdivision from regulating or prohibiting abortion in a manner  
18 that is at least as stringent as the laws of this state unless the  
19 statute explicitly states that political subdivisions are  
20 prohibited from regulating or prohibiting abortion in the manner  
21 described by the statute.

22           (c) Every statute that regulates or prohibits abortion is  
23 severable in each of its applications to every person and  
24 circumstance. If any statute that regulates or prohibits abortion  
25 is found by any court to be unconstitutional, either on its face or  
26 as applied, then all applications of that statute that do not  
27 violate the United States Constitution and Texas Constitution shall

1 be severed from the unconstitutional applications and shall remain  
2 enforceable, notwithstanding any other law, and the statute shall  
3 be interpreted as if containing language limiting the statute's  
4 application to the persons, group of persons, or circumstances for  
5 which the statute's application will not violate the United States  
6 Constitution and Texas Constitution.

7 SECTION 3.04. Section 171.005, Health and Safety Code, is  
8 amended to read as follows:

9 Sec. 171.005. COMMISSION [DEPARTMENT] TO ENFORCE;  
10 EXCEPTION. The commission [~~department~~] shall enforce this chapter  
11 except for Subchapter H, which shall be enforced exclusively  
12 through the private civil enforcement actions described by Section  
13 171.208 and may not be enforced by the commission.

14 SECTION 3.05. Subchapter A, Chapter 171, Health and Safety  
15 Code, is amended by adding Section 171.008 to read as follows:

16 Sec. 171.008. REQUIRED DOCUMENTATION. (a) If an abortion  
17 is performed or induced on a pregnant woman because of a medical  
18 emergency, the physician who performs or induces the abortion shall  
19 execute a written document that certifies the abortion is necessary  
20 due to a medical emergency and specifies the woman's medical  
21 condition requiring the abortion.

22 (b) A physician shall:

23 (1) place the document described by Subsection (a) in  
24 the pregnant woman's medical record; and

25 (2) maintain a copy of the document described by  
26 Subsection (a) in the physician's practice records.

27 (c) A physician who performs or induces an abortion on a

1 pregnant woman shall:

2 (1) if the abortion is performed or induced to  
3 preserve the health of the pregnant woman, execute a written  
4 document that:

5 (A) specifies the medical condition the abortion  
6 is asserted to address; and

7 (B) provides the medical rationale for the  
8 physician's conclusion that the abortion is necessary to address  
9 the medical condition; or

10 (2) for an abortion other than an abortion described  
11 by Subdivision (1), specify in a written document that maternal  
12 health is not a purpose of the abortion.

13 (d) The physician shall maintain a copy of a document  
14 described by Subsection (c) in the physician's practice records.

15 SECTION 3.06. Section 171.012(a), Health and Safety Code,  
16 is amended to read as follows:

17 (a) Consent to an abortion is voluntary and informed only  
18 if:

19 (1) the physician who is to perform or induce the  
20 abortion informs the pregnant woman on whom the abortion is to be  
21 performed or induced of:

22 (A) the physician's name;

23 (B) the particular medical risks associated with  
24 the particular abortion procedure to be employed, including, when  
25 medically accurate:

26 (i) the risks of infection and hemorrhage;

27 (ii) the potential danger to a subsequent



1 pregnancy and of infertility; and

2 (iii) the possibility of increased risk of  
3 breast cancer following an induced abortion and the natural  
4 protective effect of a completed pregnancy in avoiding breast  
5 cancer;

6 (C) the probable gestational age of the unborn  
7 child at the time the abortion is to be performed or induced; and

8 (D) the medical risks associated with carrying  
9 the child to term;

10 (2) the physician who is to perform or induce the  
11 abortion or the physician's agent informs the pregnant woman that:

12 (A) medical assistance benefits may be available  
13 for prenatal care, childbirth, and neonatal care;

14 (B) the father is liable for assistance in the  
15 support of the child without regard to whether the father has  
16 offered to pay for the abortion; and

17 (C) public and private agencies provide  
18 pregnancy prevention counseling and medical referrals for  
19 obtaining pregnancy prevention medications or devices, including  
20 emergency contraception for victims of rape or incest;

21 (3) the physician who is to perform or induce the  
22 abortion or the physician's agent:

23 (A) provides the pregnant woman with the printed  
24 materials described by Section [171.014](#); and

25 (B) informs the pregnant woman that those  
26 materials:

27 (i) have been provided by the commission

1 [~~Department of State Health Services~~];

2 (ii) are accessible on an Internet website  
3 sponsored by the commission [~~department~~];

4 (iii) describe the unborn child and list  
5 agencies that offer alternatives to abortion; and

6 (iv) include a list of agencies that offer  
7 sonogram services at no cost to the pregnant woman;

8 (4) before any sedative or anesthesia is administered  
9 to the pregnant woman and at least 24 hours before the abortion or  
10 at least two hours before the abortion if the pregnant woman waives  
11 this requirement by certifying that she currently lives 100 miles  
12 or more from the nearest abortion provider that is a facility  
13 licensed under Chapter 245 or a facility that performs more than 50  
14 abortions in any 12-month period:

15 (A) the physician who is to perform or induce the  
16 abortion or an agent of the physician who is also a sonographer  
17 certified by a national registry of medical sonographers performs a  
18 sonogram on the pregnant woman on whom the abortion is to be  
19 performed or induced;

20 (B) the physician who is to perform or induce the  
21 abortion displays the sonogram images in a quality consistent with  
22 current medical practice in a manner that the pregnant woman may  
23 view them;

24 (C) the physician who is to perform or induce the  
25 abortion provides, in a manner understandable to a layperson, a  
26 verbal explanation of the results of the sonogram images, including  
27 a medical description of the dimensions of the embryo or fetus, the

1 presence of cardiac activity, and the presence of external members  
2 and internal organs; and

3 (D) the physician who is to perform or induce the  
4 abortion or an agent of the physician who is also a sonographer  
5 certified by a national registry of medical sonographers makes  
6 audible the heart auscultation for the pregnant woman to hear, if  
7 present, in a quality consistent with current medical practice and  
8 provides, in a manner understandable to a layperson, a simultaneous  
9 verbal explanation of the heart auscultation;

10 (5) before receiving a sonogram under Subdivision  
11 (4)(A) and before the abortion is performed or induced and before  
12 any sedative or anesthesia is administered, the pregnant woman  
13 completes and certifies with her signature an election form that  
14 states as follows:

15 "ABORTION AND SONOGRAM ELECTION

16 (1) THE INFORMATION AND PRINTED MATERIALS  
17 DESCRIBED BY SECTIONS [171.012\(a\)\(1\)-\(3\)](#), TEXAS HEALTH  
18 AND SAFETY CODE, HAVE BEEN PROVIDED AND EXPLAINED TO  
19 ME.

20 (2) I UNDERSTAND THE NATURE AND CONSEQUENCES OF  
21 AN ABORTION.

22 (3) TEXAS LAW REQUIRES THAT I RECEIVE A SONOGRAM  
23 PRIOR TO RECEIVING AN ABORTION.

24 (4) I UNDERSTAND THAT I HAVE THE OPTION TO VIEW  
25 THE SONOGRAM IMAGES.

26 (5) I UNDERSTAND THAT I HAVE THE OPTION TO HEAR  
27 THE HEARTBEAT.

1           (6) I UNDERSTAND THAT I AM REQUIRED BY LAW TO  
2 HEAR AN EXPLANATION OF THE SONOGRAM IMAGES UNLESS I  
3 CERTIFY IN WRITING TO ONE OF THE FOLLOWING:

4           \_\_\_ I AM PREGNANT AS A RESULT OF A SEXUAL  
5 ASSAULT, INCEST, OR OTHER VIOLATION OF THE TEXAS PENAL  
6 CODE THAT HAS BEEN REPORTED TO LAW ENFORCEMENT  
7 AUTHORITIES OR THAT HAS NOT BEEN REPORTED BECAUSE I  
8 REASONABLY BELIEVE THAT DOING SO WOULD PUT ME AT RISK  
9 OF RETALIATION RESULTING IN SERIOUS BODILY INJURY.

10          \_\_\_ I AM A MINOR AND OBTAINING AN ABORTION  
11 IN ACCORDANCE WITH JUDICIAL BYPASS PROCEDURES UNDER  
12 CHAPTER 33, TEXAS FAMILY CODE.

13          \_\_\_ MY UNBORN CHILD [~~FETUS~~] HAS AN  
14 IRREVERSIBLE MEDICAL CONDITION OR ABNORMALITY, AS  
15 IDENTIFIED BY RELIABLE DIAGNOSTIC PROCEDURES AND  
16 DOCUMENTED IN MY MEDICAL FILE.

17           (7) I AM MAKING THIS ELECTION OF MY OWN FREE WILL  
18 AND WITHOUT COERCION.

19           (8) FOR A WOMAN WHO LIVES 100 MILES OR MORE FROM  
20 THE NEAREST ABORTION PROVIDER THAT IS A FACILITY  
21 LICENSED UNDER CHAPTER 245, TEXAS HEALTH AND SAFETY  
22 CODE, OR A FACILITY THAT PERFORMS OR INDUCES MORE THAN  
23 50 ABORTIONS IN ANY 12-MONTH PERIOD ONLY:

24           I CERTIFY THAT, BECAUSE I CURRENTLY LIVE 100  
25 MILES OR MORE FROM THE NEAREST ABORTION PROVIDER THAT  
26 IS A FACILITY LICENSED UNDER CHAPTER 245, TEXAS HEALTH  
27 AND SAFETY CODE, OR A FACILITY THAT PERFORMS OR INDUCES

1 MORE THAN 50 ABORTIONS IN ANY 12-MONTH PERIOD, I WAIVE  
2 THE REQUIREMENT TO WAIT 24 HOURS AFTER THE SONOGRAM IS  
3 PERFORMED BEFORE RECEIVING THE ABORTION PROCEDURE. MY  
4 PLACE OF RESIDENCE IS:\_\_\_\_\_.

5 \_\_\_\_\_  
6 SIGNATURE DATE";

7 (6) before the abortion is performed or induced, the  
8 physician who is to perform or induce the abortion receives a copy  
9 of the signed, written certification required by Subdivision (5);  
10 and

11 (7) the pregnant woman is provided the name of each  
12 person who provides or explains the information required under this  
13 subsection.

14 SECTION 3.07. Section 245.011(c), Health and Safety Code,  
15 is amended to read as follows:

- 16 (c) The report must include:
  - 17 (1) whether the abortion facility at which the
  - 18 abortion is performed is licensed under this chapter;
  - 19 (2) the patient's year of birth, race, marital status,
  - 20 and state and county of residence;
  - 21 (3) the type of abortion procedure;
  - 22 (4) the date the abortion was performed;
  - 23 (5) whether the patient survived the abortion, and if
  - 24 the patient did not survive, the cause of death;
  - 25 (6) the probable post-fertilization age of the unborn
  - 26 child based on the best medical judgment of the attending physician
  - 27 at the time of the procedure;

1 (7) the date, if known, of the patient's last menstrual  
2 cycle;

3 (8) the number of previous live births of the patient;  
4 [~~and~~]

5 (9) the number of previous induced abortions of the  
6 patient;

7 (10) whether the abortion was performed or induced  
8 because of a medical emergency and any medical condition of the  
9 pregnant woman that required the abortion; and

10 (11) the information required under Sections  
11 171.008(a) and (c).

12 ARTICLE 4. PROVISIONS EFFECTIVE SEPTEMBER 1, 2025, OR EARLIER

13 SECTION 4.01. Chapter 170, Health and Safety Code, is  
14 amended by adding Subchapter C to read as follows:

15 SUBCHAPTER C. PROHIBITION OF ABORTION

16 Sec. 170.101. ABORTION PROHIBITED. Notwithstanding any  
17 other law, a person may not perform, induce, or attempt to perform  
18 or induce an abortion unless the abortion is performed, induced, or  
19 attempted to be performed or induced by a physician because of a  
20 medical emergency as defined by Section 171.002.

21 Sec. 170.102. CIVIL REMEDY. (a) A civil action may be  
22 brought against a person who violated Section 170.101 by:

23 (1) the woman on whom an abortion was performed,  
24 induced, or attempted in violation of Section 170.101;

25 (2) the father of the preborn child for an abortion  
26 performed, induced, or attempted on a pregnant woman in violation  
27 of Section 170.101, unless the woman's pregnancy resulted from the

1 father's criminal conduct; or

2 (3) a maternal grandparent of the preborn child for an  
3 abortion performed, induced, or attempted in violation of Section  
4 170.101 on a pregnant woman who was less than 18 years of age at the  
5 time of the violation, unless the woman's pregnancy resulted from  
6 the maternal grandparent's criminal conduct.

7 (b) A person who brings an action under this section may  
8 obtain:

9 (1) injunctive relief;

10 (2) damages incurred by the person, including:

11 (A) actual damages for all psychological,  
12 emotional, and physical injuries resulting from the violation of  
13 Section 170.101;

14 (B) court costs; and

15 (C) reasonable attorney's fees; or

16 (3) both injunctive relief and damages.

17 (c) An action for damages or injunctive relief under this  
18 section must be filed:

19 (1) in a district court in the county in which the  
20 woman on whom an abortion was performed, induced, or attempted in  
21 violation of Section 170.101 resides; and

22 (2) not later than the sixth anniversary of the date  
23 the abortion was performed, induced, or attempted in violation of  
24 Section 170.101.

25 (d) The damages and injunctive relief authorized by this  
26 section are in addition to any other remedy available by law.

27 (e) A civil action under this section may not be brought

1 against a woman on whom an abortion is performed, induced, or  
2 attempted in violation of Section 170.101.

3 Sec. 170.103. REVOCATION OR SUSPENSION OF LICENSE. A  
4 physician who violates Section 170.101 engages in unprofessional  
5 conduct for which the physician's license may be suspended or  
6 revoked under Chapter 164, Occupations Code.

7 SECTION 4.02. Section 19.06, Penal Code, is amended to read  
8 as follows:

9 Sec. 19.06. APPLICABILITY TO CERTAIN CONDUCT.  
10 Notwithstanding any other law, this [~~This~~] chapter applies [~~does~~  
11 ~~not apply~~] to the death of a preborn [~~an unborn~~] child unless [~~if~~]  
12 the conduct charged is:

13 (1) conduct committed by the mother of the preborn  
14 [~~unborn~~] child; or

15 (2) an abortion performed, induced, or attempted to be  
16 performed or induced by a physician because of a medical emergency  
17 as defined by Section 171.002, Health and Safety Code [~~a lawful~~  
18 ~~medical procedure performed by a physician or other licensed health~~  
19 ~~care provider with the requisite consent, if the death of the unborn~~  
20 ~~child was the intended result of the procedure,~~

21 [~~(3) a lawful medical procedure performed by a~~  
22 ~~physician or other licensed health care provider with the requisite~~  
23 ~~consent as part of an assisted reproduction as defined by Section~~  
24 ~~160.102, Family Code, or~~

25 [~~(4) the dispensation of a drug in accordance with law~~  
26 ~~or administration of a drug prescribed in accordance with law].~~

27 SECTION 4.03. Section 22.12, Penal Code, is amended to read



1 as follows:

2           Sec. 22.12. APPLICABILITY TO CERTAIN CONDUCT.  
3 Notwithstanding any other law, this [~~This~~] chapter applies [~~does~~  
4 ~~not apply~~] to conduct charged as having been committed against an  
5 individual who is a preborn [~~an unborn~~] child unless [~~if~~] the  
6 conduct is:

7           (1) committed by the mother of the preborn [~~unborn~~]  
8 child; or

9           (2) an abortion performed, induced, or attempted to be  
10 performed or induced by a physician because of a medical emergency  
11 as defined by Section 171.002, Health and Safety Code [~~a lawful~~  
12 ~~medical procedure performed by a physician or other health care~~  
13 ~~provider with the requisite consent;~~

14           [~~(3) a lawful medical procedure performed by a~~  
15 ~~physician or other licensed health care provider with the requisite~~  
16 ~~consent as part of an assisted reproduction as defined by Section~~  
17 ~~160.102, Family Code; or~~

18           [~~(4) the dispensation of a drug in accordance with law~~  
19 ~~or administration of a drug prescribed in accordance with law].~~

20           SECTION 4.04. The following provisions are repealed:

21           (1) Section 33.002(b), Family Code; and

22           (2) Section 171.063(b), Health and Safety Code.

23           SECTION 4.05. (a) Subchapter C, Chapter 170, Health and  
24 Safety Code, as added by this article, and Sections 19.06 and 22.12,  
25 Penal Code, as amended by this article, shall be construed, as a  
26 matter of state law, to be enforceable to the maximum possible  
27 extent consistent with but not further than federal constitutional

1 requirements, even if that construction is not readily apparent, as  
2 such constructions are authorized only to the extent necessary to  
3 save the subchapter from judicial invalidation. Judicial  
4 reformation of statutory language is explicitly authorized only to  
5 the extent necessary to save the statutory provision from  
6 invalidity.

7 (b) If any court determines that a provision described by  
8 Subsection (a) of this section is unconstitutionally vague, the  
9 court shall interpret the provision, as a matter of state law, to  
10 avoid the vagueness problem and shall enforce the provision to the  
11 maximum possible extent. If a federal court finds any provision  
12 described by Subsection (a) of this section or its application to  
13 any person, group of persons, or circumstances to be  
14 unconstitutionally vague and declines to impose the saving  
15 construction described by this section, the Texas Supreme Court  
16 shall provide an authoritative construction of the objectionable  
17 statutory provisions that avoids the constitutional problems while  
18 enforcing the statute's restrictions to the maximum possible extent  
19 and shall agree to answer any question certified from a federal  
20 appellate court regarding the statute.

21 (c) An executive or administrative state official may not  
22 decline to enforce a provision described by Subsection (a) of this  
23 section, or adopt a construction of that provision or this section  
24 in a way that narrows its applicability, based on the official's own  
25 beliefs concerning the requirements of the state or federal  
26 constitution, unless the official is enjoined by a state or federal  
27 court from enforcing that provision.

1 (d) Sections 19.06 and 22.12, Penal Code, as amended by this  
2 article, may not be construed to authorize the prosecution of or a  
3 cause of action to be brought against a woman on whom an abortion is  
4 performed, induced, or attempted to be performed or induced in  
5 violation of Section 170.101, Health and Safety Code, as added by  
6 this article.

7 ARTICLE 5. TRANSITIONS, SEVERABILITY, PREEMPTION,  
8 CONSTITUTIONALITY, AND EFFECTIVE DATE

9 SECTION 5.01. Not later than December 1, 2021:

10 (1) the Health and Human Services Commission shall:

11 (A) develop the perinatal palliative care  
12 informational materials, list of perinatal palliative care  
13 providers and programs, and perinatal palliative care  
14 certification form required by Subchapter X, Chapter 161, Health  
15 and Safety Code, as added by this Act; and

16 (B) update any forms and informational materials  
17 under Subchapter B, Chapter 171, Health and Safety Code, as amended  
18 by this Act; and

19 (2) the executive commissioner of the Health and Human  
20 Services Commission shall adopt any rules necessary to implement  
21 Subchapter X, Chapter 161, Health and Safety Code, as added by this  
22 Act, and Subchapter B, Chapter 171, Health and Safety Code, as  
23 amended by this Act.

24 SECTION 5.02. (a) Subchapter X, Chapter 161, Health and  
25 Safety Code, as added by this Act, applies only to a diagnosis of a  
26 life-threatening disability of a pregnant woman's preborn child  
27 made on or after January 1, 2022.

1           (b) Subchapter B, Chapter 170, Health and Safety Code, as  
2 added by this Act, Subchapters B and C, Chapter 171, Health and  
3 Safety Code, as amended by this Act, and Chapter 164, Occupations  
4 Code, as amended by this Act, apply only to an abortion performed,  
5 induced, or attempted to be performed or induced or other conduct  
6 that occurred on or after January 1, 2022. An abortion performed,  
7 induced, or attempted to be performed or induced or other conduct  
8 that occurred before that date is governed by the law in effect  
9 immediately before the effective date of this Act, and that law is  
10 continued in effect for that purpose.

11           (c) Subchapter C, Chapter 170, Health and Safety Code, as  
12 added by this Act, applies only to an abortion that is performed,  
13 induced, or attempted to be performed or induced on or after the  
14 effective date of Article 4 of this Act.

15           (d) Subchapter H, Chapter 171, Health and Safety Code, as  
16 added by this Act, applies only to an abortion performed, induced,  
17 or attempted to be performed or induced on or after the effective  
18 date of Article 3 of this Act.

19           (e) Sections 19.06 and 22.12, Penal Code, as amended by this  
20 Act, apply only to conduct that occurs on or after the effective  
21 date of Article 4 of this Act. Conduct that occurs before that date  
22 is governed by the law in effect on the date the conduct occurred,  
23 and that law is continued in effect for that purpose.

24           (f) Sections 19.06 and 22.12, Penal Code, as amended by this  
25 Act, apply only to an offense committed on or after the effective  
26 date of Article 4 of this Act. An offense committed before that  
27 date is governed by the law in effect when the offense was

1 committed, and the former law is continued in effect for that  
2 purpose. For purposes of this subsection, an offense is committed  
3 before the effective date of Article 4 of this Act if any element of  
4 the offense occurs before that date.

5 SECTION 5.03. (a) It is the intent of the legislature that  
6 if a court suspends enforcement of any provision of this Act, the  
7 suspension is not to be regarded as repealing that provision.

8 (b) If any provision of this Act is held invalid or if the  
9 application of any provision to any person or circumstance is held  
10 invalid, the invalidity of that provision or application does not  
11 affect any other provision or application of this Act that can be  
12 given effect without the invalid provision or application, and to  
13 this end, the provisions of this Act are severable. It is the  
14 intent of the legislature that any invalidity or potential  
15 invalidity of a provision of this Act does not impair the immediate  
16 and continuing enforceability of the remaining provisions. It is  
17 furthermore the intent of the legislature that the provisions of  
18 this Act do not have the effect of repealing or limiting any other  
19 laws of this state.

20 (c) The legislature intends that each provision of this Act  
21 as applicable to each individual woman is severable from each other  
22 provision of this Act. In the unexpected event that a court finds  
23 the application of any provision of this Act to impose an  
24 impermissible undue burden on any pregnant woman or group of  
25 pregnant women, the application of the provision to those women is  
26 severed from the application of the remaining provisions of this  
27 Act that do not impose an undue burden, and those remaining

1 applications remain in force and unaffected, consistent with  
2 Section 5.02 of this article.

3 SECTION 5.04. (a) After the issuance of a decision by the  
4 United States Supreme Court overruling any prior ruling that  
5 prohibits states from wholly or partly prohibiting abortion, the  
6 issuance of any court order or judgment restoring, expanding, or  
7 clarifying the authority of states to wholly or partly prohibit or  
8 regulate abortion, or the effective date of an amendment to the  
9 United States Constitution restoring, expanding, or clarifying the  
10 authority of states to wholly or partly prohibit or regulate  
11 abortion, the attorney general may apply to the appropriate state  
12 or federal court for:

13 (1) a declaration that any one or more provisions of  
14 this Act are constitutional; or

15 (2) a judgment or order lifting an injunction against  
16 the enforcement of any one or more provisions of this Act.

17 (b) If the attorney general fails to apply for the relief  
18 described by Subsection (a) of this section not later than the 30th  
19 day after the date an event described by that subsection occurs, any  
20 district attorney may apply to the appropriate state or federal  
21 court for the relief described by that subsection.

22 SECTION 5.05. The Health and Human Services Commission is  
23 required to implement a provision of this Act only if the  
24 legislature appropriates money to the commission specifically for  
25 that purpose. If the legislature does not appropriate money  
26 specifically for that purpose, the commission may, but is not  
27 required to, implement a provision of this Act using other

1 appropriations that are available for that purpose.

2 SECTION 5.06. (a) Except as otherwise provided by this  
3 section, this Act takes effect September 1, 2021.

4 (b) Article 3 of this Act takes effect the earlier of:

5 (1) the 91st day after the date the attorney general  
6 submits a report required by Section 402.003, Government Code, that  
7 states a court of competent jurisdiction has held the provisions in  
8 Article 3 of this Act to be constitutional; or

9 (2) September 1, 2023.

10 (c) Article 4 of this Act takes effect the earlier of:

11 (1) to the extent permitted, on the 30th day after:

12 (A) the issuance of a United States Supreme Court  
13 judgment in a decision overruling, wholly or partly, *Roe v. Wade*,  
14 410 U.S. 113 (1973), as modified by *Planned Parenthood v. Casey*, 505  
15 U.S. 833 (1992), thereby allowing the states of the United States to  
16 prohibit abortion;

17 (B) the issuance of any other United States  
18 Supreme Court judgment in a decision that recognizes, wholly or  
19 partly, the authority of the states to prohibit abortion; or

20 (C) adoption of an amendment to the United States  
21 Constitution that, wholly or partly, restores to the states the  
22 authority to prohibit abortion;

23 (2) the 91st day after the date the attorney general  
24 submits a report required by Section 402.003, Government Code, that  
25 states a court of competent jurisdiction has held the provisions in  
26 Article 4 of this Act to be constitutional; or

27 (3) September 1, 2025.