

1-1 By: Perry, Campbell, Hall S.B. No. 1647  
 1-2 (In the Senate - Filed March 11, 2021; March 11, 2021, read  
 1-3 first time and referred to Committee on State Affairs;  
 1-4 March 22, 2021, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 7, Nays 2; March 22, 2021,  
 1-6 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 COMMITTEE SUBSTITUTE FOR S.B. No. 1647 By: Campbell

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to information regarding perinatal palliative care,  
 1-22 regulation of abortion, and the availability of certain defenses to  
 1-23 prosecution for homicide and assault offenses; providing an  
 1-24 administrative penalty; creating a criminal offense.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 ARTICLE 1. LEGISLATIVE FINDINGS

1-27 SECTION 1.01. The legislature finds that:

1-28 (1) Texas has a compelling state interest in  
 1-29 protecting all Texans from discrimination based on sex, race, and  
 1-30 disability; and

1-31 (2) Texas enforces prohibitions against  
 1-32 discrimination based on sex, race, and disability in various areas,  
 1-33 including housing, employment, education, insurance, and health  
 1-34 program and service provision.

1-35 ARTICLE 2. PROVISIONS EFFECTIVE SEPTEMBER 1, 2021

1-36 SECTION 2.01. Chapter 161, Health and Safety Code, is  
 1-37 amended by adding Subchapter X to read as follows:

1-38 SUBCHAPTER X. PERINATAL PALLIATIVE CARE

1-39 Sec. 161.701. PURPOSE OF SUBCHAPTER. The purpose of this  
 1-40 subchapter is to ensure that a pregnant woman who receives a  
 1-41 diagnosis of a life-threatening disability of the woman's preborn  
 1-42 child is informed of the availability of perinatal palliative care.

1-43 Sec. 161.702. DEFINITION. In this subchapter, "perinatal  
 1-44 palliative care" means the provision of comprehensive, supportive  
 1-45 care to reduce the suffering of a pregnant woman, her preborn child,  
 1-46 and her family, from diagnosis of the preborn child's  
 1-47 life-threatening disability through the delivery and possible  
 1-48 death of the child as a result of the life-threatening disability.  
 1-49 The term includes medical, social, and mental health care,  
 1-50 including counseling and health care provided by maternal-fetal  
 1-51 medical specialists, obstetricians, neonatologists, anesthesia  
 1-52 specialists, specialty nurses, clergy, social workers, and other  
 1-53 individuals focused on alleviating fear and pain and ensuring the  
 1-54 pregnant woman, her preborn child, and her family experience a  
 1-55 supportive environment.

1-56 Sec. 161.703. PERINATAL PALLIATIVE CARE INFORMATIONAL  
 1-57 MATERIALS. (a) The commission shall develop perinatal palliative  
 1-58 care informational materials and post the materials on the  
 1-59 commission's Internet website. The materials must include:

1-60 (1) a description of the health care and other

2-1 services available through perinatal palliative care; and  
2-2 (2) information about medical assistance benefits  
2-3 that may be available for prenatal care, childbirth, and perinatal  
2-4 palliative care.

2-5 (b) The commission shall develop, regularly update, and  
2-6 publish a geographically indexed list of all perinatal palliative  
2-7 care providers and programs in this state. The commission may  
2-8 include perinatal palliative care providers and programs in other  
2-9 states that provide care to residents of this state but may not  
2-10 include an abortion provider, as defined by Section 171.002, or an  
2-11 affiliate, as defined by Section 2272.001, Government Code, as  
2-12 added by Chapter 501 (S.B. 22), Acts of the 86th Legislature,  
2-13 Regular Session, 2019, of an abortion provider. The commission  
2-14 shall post the list of perinatal palliative care providers and  
2-15 programs, including contact information, on the commission's  
2-16 Internet website and note the providers and programs that provide  
2-17 services free of charge.

2-18 Sec. 161.704. PERINATAL PALLIATIVE CARE CERTIFICATION  
2-19 FORM. The commission shall develop a form on which a pregnant woman  
2-20 certifies that she has received the perinatal palliative care  
2-21 informational materials and list of the perinatal palliative care  
2-22 providers and programs described by Section 161.703.

2-23 Sec. 161.705. HEALTH CARE PROVIDER DUTIES ON DIAGNOSIS OF  
2-24 PREBORN CHILD'S LIFE-THREATENING DISABILITY. A health care  
2-25 provider who diagnoses a pregnant woman's preborn child as having a  
2-26 life-threatening disability shall, at the time of the diagnosis:

2-27 (1) provide the pregnant woman with a written copy of:  
2-28 (A) the perinatal palliative care informational  
2-29 materials and list of the perinatal palliative care providers and  
2-30 programs described by Section 161.703; and

2-31 (B) the perinatal palliative care certification  
2-32 form described by Section 161.704; and

2-33 (2) obtain from the pregnant woman the signed  
2-34 perinatal palliative care certification form and place the form in  
2-35 the pregnant woman's medical records.

2-36 Sec. 161.706. EXCEPTION. A health care provider is not  
2-37 required to provide the perinatal palliative care informational  
2-38 materials or perinatal palliative care certification form under  
2-39 this subchapter if the health care provider verifies the pregnant  
2-40 woman's medical record contains a signed perinatal palliative care  
2-41 certification form for that pregnancy as required under Section  
2-42 161.705(2).

2-43 SECTION 2.02. Chapter 170, Health and Safety Code, is  
2-44 amended by designating Sections 170.001 and 170.002 as Subchapter A  
2-45 and adding a subchapter heading to read as follows:

2-46 SUBCHAPTER A. GENERAL PROVISIONS; POST-VIABILITY ABORTION  
2-47 PROHIBITED

2-48 SECTION 2.03. Section 170.001, Health and Safety Code, is  
2-49 amended by adding Subdivision (2-a) to read as follows:

2-50 (2-a) "Preborn child" means an unborn child as defined  
2-51 by Section 171.061.

2-52 SECTION 2.04. Section 170.002, Health and Safety Code, is  
2-53 amended to read as follows:

2-54 Sec. 170.002. PROHIBITED ACTS; EXEMPTION. (a) Except as  
2-55 provided by Subsection (b), a person may not intentionally or  
2-56 knowingly perform or induce an abortion on a woman who is pregnant  
2-57 with a preborn [~~viable unborn~~] child during the third trimester of  
2-58 the pregnancy.

2-59 (b) Subsection (a) does not prohibit a person from  
2-60 performing or inducing an abortion if at the time of the abortion  
2-61 the person is a physician and concludes in good faith according to  
2-62 the physician's best medical judgment that [+

2-63 [~~(1) the fetus is not a viable fetus and the pregnancy~~  
2-64 ~~is not in the third trimester,~~

2-65 [~~(2)~~] the abortion is necessary due to a medical  
2-66 emergency, as defined by Section 171.002 [~~to prevent the death or a~~  
2-67 ~~substantial risk of serious impairment to the physical or mental~~  
2-68 ~~health of the woman, or~~

2-69 [~~(3) the fetus has a severe and irreversible~~

3-1 ~~abnormality, identified by reliable diagnostic procedures].~~  
 3-2 (c) A physician who performs or induces an abortion that,  
 3-3 according to the physician's best medical judgment at the time of  
 3-4 the abortion, is to abort a preborn ~~[viable unborn]~~ child during the  
 3-5 third trimester of the pregnancy shall certify in writing to the  
 3-6 commission, on a form prescribed by the commission, the medical  
 3-7 indications supporting the physician's judgment that the abortion  
 3-8 was authorized by Subsection (b) ~~[(b)(2) or (3)]. If the physician~~  
 3-9 ~~certifies the abortion was authorized by Subsection (b)(3), the~~  
 3-10 ~~physician shall certify in writing on the form the fetal~~  
 3-11 ~~abnormality identified by the physician]. The certification must~~  
 3-12 be made not later than the 30th day after the date the abortion was  
 3-13 performed or induced.

3-14 SECTION 2.05. Chapter 170, Health and Safety Code, is  
 3-15 amended by adding Subchapter B to read as follows:

3-16 SUBCHAPTER B. PREBORN NONDISCRIMINATION ACT

3-17 Sec. 170.051. DEFINITION. In this subchapter, "disability"  
 3-18 means:

3-19 (1) a physical or mental impairment that would  
 3-20 substantially limit one or more of an individual's major life  
 3-21 activities;

3-22 (2) an assessment referencing an individual's  
 3-23 impairment described by Subdivision (1); or

3-24 (3) a physical disfigurement, scoliosis, dwarfism,  
 3-25 Down syndrome, albinism, amelia, or any other type of physical,  
 3-26 mental, or intellectual abnormality or disease.

3-27 Sec. 170.052. DISCRIMINATORY ABORTION PROHIBITED. A person  
 3-28 may not:

3-29 (1) knowingly perform or induce or attempt to perform  
 3-30 or induce on a pregnant woman an abortion based on the race,  
 3-31 ethnicity, sex, or disability of the woman's preborn child,  
 3-32 including a probability of diagnosis that the child has a  
 3-33 disability; or

3-34 (2) use force or the threat of force to intentionally  
 3-35 injure or intimidate a person to coerce the performance or  
 3-36 inducement or attempted performance or inducement of an abortion  
 3-37 based on the race, ethnicity, sex, or disability of the woman's  
 3-38 preborn child, including a probability of diagnosis that the child  
 3-39 has a disability.

3-40 Sec. 170.053. CRIMINAL PENALTY. (a) A person who violates  
 3-41 Section 170.052 commits an offense. An offense under this  
 3-42 subsection is a Class A misdemeanor.

3-43 (b) A woman on whom an abortion is performed or induced or  
 3-44 attempted to be performed or induced in violation of Section  
 3-45 170.052 may not be prosecuted for a violation of that section or for  
 3-46 conspiracy to commit a violation of that section.

3-47 Sec. 170.054. LICENSE SUSPENSION OR REVOCATION. A  
 3-48 physician who violates Section 170.052 engages in unprofessional  
 3-49 conduct for which the physician's license may be suspended or  
 3-50 revoked under Chapter 164, Occupations Code.

3-51 Sec. 170.055. CIVIL REMEDIES. (a) A civil action may be  
 3-52 brought against a person who violates Section 170.052 by:

3-53 (1) the woman on whom an abortion was performed or  
 3-54 induced or attempted to be performed or induced in violation of  
 3-55 Section 170.052;

3-56 (2) the father of the preborn child for an abortion  
 3-57 performed or induced or attempted to be performed or induced on a  
 3-58 pregnant woman in violation of Section 170.052, unless the woman's  
 3-59 pregnancy resulted from the father's criminal conduct; or

3-60 (3) a maternal grandparent of the preborn child for an  
 3-61 abortion performed or induced or attempted to be performed or  
 3-62 induced in violation of Section 170.052 on a pregnant woman who was  
 3-63 less than 18 years of age at the time of the violation, unless the  
 3-64 woman's pregnancy resulted from the maternal grandparent's criminal  
 3-65 conduct.

3-66 (b) A person who brings an action under this section may  
 3-67 obtain:

3-68 (1) injunctive relief;  
 3-69 (2) damages incurred by the person, including:

4-1 (A) actual damages for all psychological,  
4-2 emotional, and physical injuries resulting from the violation of  
4-3 Section 170.052;

4-4 (B) court costs; and

4-5 (C) reasonable attorney's fees; or

4-6 (3) both injunctive relief and damages.

4-7 (c) An action for damages or injunctive relief under this  
4-8 section must be filed:

4-9 (1) in a district court in the county in which the  
4-10 woman on whom an abortion was performed or induced or attempted to  
4-11 be performed or induced in violation of Section 170.052 resides;  
4-12 and

4-13 (2) not later than the sixth anniversary of the date  
4-14 the abortion was performed or induced or attempted to be performed  
4-15 or induced in violation of Section 170.052.

4-16 (d) The damages and injunctive relief authorized by this  
4-17 section are in addition to any other remedy available by law.

4-18 (e) A civil action under this section may not be brought  
4-19 against a woman on whom an abortion is performed or induced or  
4-20 attempted to be performed or induced in violation of Section  
4-21 170.052.

4-22 SECTION 2.06. Section 171.002, Health and Safety Code, is  
4-23 amended by adding Subdivision (3-a) to read as follows:

4-24 (3-a) "Preborn child" means an unborn child as defined  
4-25 by Section 171.061.

4-26 SECTION 2.07. Subchapter A, Chapter 171, Health and Safety  
4-27 Code, is amended by adding Section 171.008 to read as follows:

4-28 Sec. 171.008. REQUIRED DOCUMENTATION. (a) If an abortion  
4-29 is performed or induced on a pregnant woman because of a medical  
4-30 emergency, the physician who performs or induces the abortion shall  
4-31 execute a written document that certifies the abortion is necessary  
4-32 due to a medical emergency and specifies the woman's medical  
4-33 condition requiring the abortion.

4-34 (b) A physician shall:

4-35 (1) place the document described by Subsection (a) in  
4-36 the pregnant woman's medical record; and

4-37 (2) maintain a copy of the document described by  
4-38 Subsection (a) in the physician's practice records.

4-39 (c) A physician who performs or induces an abortion on a  
4-40 pregnant woman shall:

4-41 (1) if the abortion is performed or induced to  
4-42 preserve the health of the pregnant woman, execute a written  
4-43 document that:

4-44 (A) specifies the medical condition the abortion  
4-45 is asserted to address; and

4-46 (B) provides the medical rationale for the  
4-47 physician's conclusion that the abortion is necessary to address  
4-48 the medical condition; or

4-49 (2) for an abortion other than an abortion described  
4-50 by Subdivision (1), specify in a written document that maternal  
4-51 health is not a purpose of the abortion.

4-52 (d) The physician shall maintain a copy of a document  
4-53 described by Subsection (c) in the physician's practice records.

4-54 SECTION 2.08. Section 171.012, Health and Safety Code, is  
4-55 amended by amending Subsection (a) and adding Subsections (g) and  
4-56 (h) to read as follows:

4-57 (a) Consent to an abortion is voluntary and informed only  
4-58 if:

4-59 (1) the physician who is to perform or induce the  
4-60 abortion informs the pregnant woman on whom the abortion is to be  
4-61 performed or induced of:

4-62 (A) the physician's name;

4-63 (B) the particular medical risks associated with  
4-64 the particular abortion procedure to be employed, including, when  
4-65 medically accurate:

4-66 (i) the risks of infection and hemorrhage;

4-67 (ii) the potential danger to a subsequent  
4-68 pregnancy and of infertility; and

4-69 (iii) the possibility of increased risk of

5-1 breast cancer following an induced abortion and the natural  
5-2 protective effect of a completed pregnancy in avoiding breast  
5-3 cancer;

5-4 (C) the probable gestational age of the preborn  
5-5 [~~unborn~~] child at the time the abortion is to be performed or  
5-6 induced; [~~and~~]

5-7 (D) the medical risks associated with carrying  
5-8 the preborn child to term; and

5-9 (E) the state law prohibiting abortion of a  
5-10 preborn child solely based on the preborn child's race, ethnicity,  
5-11 sex, or disability, as defined by Section 170.051, including a  
5-12 probability of diagnosis that the child has a disability;

5-13 (2) the physician who is to perform or induce the  
5-14 abortion or the physician's agent informs the pregnant woman that:

5-15 (A) medical assistance benefits may be available  
5-16 for prenatal care, childbirth, and neonatal care;

5-17 (B) the father is liable for assistance in the  
5-18 support of the child without regard to whether the father has  
5-19 offered to pay for the abortion; and

5-20 (C) public and private agencies provide  
5-21 pregnancy prevention counseling and medical referrals for  
5-22 obtaining pregnancy prevention medications or devices, including  
5-23 emergency contraception for victims of rape or incest;

5-24 (3) the physician who is to perform or induce the  
5-25 abortion or the physician's agent:

5-26 (A) provides the pregnant woman with the printed  
5-27 materials described by Section 171.014; and

5-28 (B) informs the pregnant woman that those  
5-29 materials:

5-30 (i) have been provided by the commission  
5-31 [~~Department of State Health Services~~];

5-32 (ii) are accessible on an Internet website  
5-33 sponsored by the commission [~~department~~];

5-34 (iii) describe the preborn [~~unborn~~] child  
5-35 and list agencies that offer alternatives to abortion; and

5-36 (iv) include a list of agencies that offer  
5-37 sonogram services at no cost to the pregnant woman;

5-38 (4) before any sedative or anesthesia is administered  
5-39 to the pregnant woman and at least 24 hours before the abortion or  
5-40 at least two hours before the abortion if the pregnant woman waives  
5-41 this requirement by certifying that she currently lives 100 miles  
5-42 or more from the nearest abortion provider that is a facility  
5-43 licensed under Chapter 245 or a facility that performs or induces  
5-44 more than 50 abortions in any 12-month period:

5-45 (A) the physician who is to perform or induce the  
5-46 abortion or an agent of the physician who is also a sonographer  
5-47 certified by a national registry of medical sonographers performs a  
5-48 sonogram on the pregnant woman on whom the abortion is to be  
5-49 performed or induced;

5-50 (B) the physician who is to perform or induce the  
5-51 abortion displays the sonogram images in a quality consistent with  
5-52 current medical practice in a manner that the pregnant woman may  
5-53 view them;

5-54 (C) the physician who is to perform or induce the  
5-55 abortion provides, in a manner understandable to a layperson, a  
5-56 verbal explanation of the results of the sonogram images, including  
5-57 a medical description of the dimensions of the embryo or fetus, the  
5-58 presence of cardiac activity, and the presence of external members  
5-59 and internal organs; and

5-60 (D) the physician who is to perform or induce the  
5-61 abortion or an agent of the physician who is also a sonographer  
5-62 certified by a national registry of medical sonographers makes  
5-63 audible the heart auscultation for the pregnant woman to hear, if  
5-64 present, in a quality consistent with current medical practice and  
5-65 provides, in a manner understandable to a layperson, a simultaneous  
5-66 verbal explanation of the heart auscultation;

5-67 (5) before receiving a sonogram under Subdivision  
5-68 (4)(A) and before the abortion is performed or induced and before  
5-69 any sedative or anesthesia is administered, the pregnant woman

6-1 completes and certifies with her signature an election form that  
6-2 states as follows:

6-3 "ABORTION AND SONOGRAM ELECTION

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

6-8 (2) I UNDERSTAND THE NATURE AND CONSEQUENCES OF  
6-9 AN ABORTION.

6-10 (3) TEXAS LAW REQUIRES THAT I RECEIVE A SONOGRAM  
6-11 PRIOR TO RECEIVING AN ABORTION.

6-12 (4) I UNDERSTAND THAT I HAVE THE OPTION TO VIEW  
6-13 THE SONOGRAM IMAGES.

6-14 (5) I UNDERSTAND THAT I HAVE THE OPTION TO HEAR  
6-15 THE HEARTBEAT.

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

6-19 I AM PREGNANT AS A RESULT OF A SEXUAL  
6-20 ASSAULT, INCEST, OR OTHER VIOLATION OF THE TEXAS PENAL  
6-21 CODE THAT HAS BEEN REPORTED TO LAW ENFORCEMENT  
6-22 AUTHORITIES OR THAT HAS NOT BEEN REPORTED BECAUSE I  
6-23 REASONABLY BELIEVE THAT DOING SO WOULD PUT ME AT RISK  
6-24 OF RETALIATION RESULTING IN SERIOUS BODILY INJURY.

6-25 I AM A MINOR AND OBTAINING AN ABORTION IN  
6-26 ACCORDANCE WITH JUDICIAL BYPASS PROCEDURES UNDER  
6-27 CHAPTER 33, TEXAS FAMILY CODE.

6-28 MY PREBORN CHILD [~~FETUS~~] HAS AN IRREVERSIBLE  
6-29 MEDICAL CONDITION OR ABNORMALITY, AS IDENTIFIED BY  
6-30 RELIABLE DIAGNOSTIC PROCEDURES AND DOCUMENTED IN MY  
6-31 MEDICAL FILE.

6-32 (7) I AM MAKING THIS ELECTION OF MY OWN FREE WILL  
6-33 AND WITHOUT COERCION.

6-34 (8) FOR A WOMAN WHO LIVES 100 MILES OR MORE FROM  
6-35 THE NEAREST ABORTION PROVIDER THAT IS A FACILITY  
6-36 LICENSED UNDER CHAPTER 245, TEXAS HEALTH AND SAFETY  
6-37 CODE, OR A FACILITY THAT PERFORMS OR INDUCES MORE THAN  
6-38 50 ABORTIONS IN ANY 12-MONTH PERIOD ONLY:

6-39 I CERTIFY THAT, BECAUSE I CURRENTLY LIVE 100  
6-40 MILES OR MORE FROM THE NEAREST ABORTION PROVIDER THAT  
6-41 IS A FACILITY LICENSED UNDER CHAPTER 245, TEXAS HEALTH  
6-42 AND SAFETY CODE, OR A FACILITY THAT PERFORMS OR INDUCES  
6-43 MORE THAN 50 ABORTIONS IN ANY 12-MONTH PERIOD, I WAIVE  
6-44 THE REQUIREMENT TO WAIT 24 HOURS AFTER THE SONOGRAM IS  
6-45 PERFORMED BEFORE RECEIVING THE ABORTION PROCEDURE. MY  
6-46 PLACE OF RESIDENCE IS: \_\_\_\_\_.

6-47 \_\_\_\_\_  
6-48 SIGNATURE

\_\_\_\_\_  
DATE";

6-49 (6) before the abortion is performed or induced, the  
6-50 physician who is to perform or induce the abortion receives a copy  
6-51 of the signed, written certification required by Subdivision (5);  
6-52 and

6-53 (7) the pregnant woman is provided the name of each  
6-54 person who provides or explains the information required under this  
6-55 subsection.

6-56 (g) If the pregnant woman's preborn child has been diagnosed  
6-57 with a life-threatening disability, the physician who is to perform  
6-58 or induce the abortion shall, at least 24 hours before the abortion:

6-59 (1) orally and in person, inform the pregnant woman of  
6-60 the availability of perinatal palliative care, as that term is  
6-61 defined by Section 161.702; and

6-62 (2) provide the pregnant woman with a written copy of:

6-63 (A) the perinatal palliative care informational  
6-64 materials and list of the perinatal palliative care providers and  
6-65 programs described by Section 161.703; and

6-66 (B) the perinatal palliative care certification  
6-67 form described by Section 161.704.

6-68 (h) If a pregnant woman described by Subsection (g), after  
6-69 receiving from the physician who is to perform or induce the

7-1 abortion the perinatal palliative care informational materials and  
7-2 certification form described by that subsection in the manner  
7-3 required by that subsection, chooses to have an abortion instead of  
7-4 continuing the pregnancy in perinatal palliative care, the  
7-5 physician may perform or induce the abortion only after:

- 7-6 (1) the pregnant woman signs the certification form;
- 7-7 and
- 7-8 (2) the physician places the signed certification form
- 7-9 in the pregnant woman's medical records.

7-10 SECTION 2.09. Section 171.0121, Health and Safety Code, is  
7-11 amended to read as follows:

7-12 Sec. 171.0121. MEDICAL RECORD. (a) Before the abortion  
7-13 begins, a copy of the signed, written certification received by the  
7-14 physician under Section 171.012(a)(6) and, if applicable, under  
7-15 Section 161.704 must be placed in the pregnant woman's medical  
7-16 records.

7-17 (b) A copy of the signed, written certification required  
7-18 under Sections 171.012(a)(5) and (6) and of any signed, written  
7-19 certification required under Section 161.704 shall be retained by  
7-20 the facility where the abortion is performed or induced until:

7-21 (1) the seventh anniversary of the date the  
7-22 certification [~~it~~] is signed; or

7-23 (2) if the pregnant woman is a minor, the later of:

7-24 (A) the seventh anniversary of the date the  
7-25 certification [~~it~~] is signed; or

7-26 (B) the woman's 21st birthday.

7-27 SECTION 2.10. Section 171.014(a), Health and Safety Code,  
7-28 is amended to read as follows:

7-29 (a) The department shall publish informational materials  
7-30 that include:

7-31 (1) the information required to be provided under  
7-32 Sections 171.012(a)(1)(B), [~~and~~] (D), and (E) and (a)(2)(A), (B),  
7-33 and (C); and

7-34 (2) the materials required by Sections 161.703,  
7-35 171.015, and 171.016.

7-36 SECTION 2.11. The heading to Subchapter C, Chapter 171,  
7-37 Health and Safety Code, is amended to read as follows:

7-38 SUBCHAPTER C. ABORTION PROHIBITED AT OR AFTER 20 WEEKS PROBABLE  
7-39 GESTATIONAL AGE [~~POST-FERTILIZATION~~]

7-40 SECTION 2.12. Section 171.042, Health and Safety Code, is  
7-41 amended by adding Subdivision (1-a) to read as follows:

7-42 (1-a) "Probable gestational age" means the duration of  
7-43 a pregnancy measured by the number of weeks and days that have  
7-44 elapsed from the first day of the pregnant woman's last menstrual  
7-45 period out of an expected 40-week gestation.

7-46 SECTION 2.13. Sections 171.043, 171.044, and 171.045,  
7-47 Health and Safety Code, are amended to read as follows:

7-48 Sec. 171.043. DETERMINATION OF PROBABLE GESTATIONAL  
7-49 [~~POST-FERTILIZATION~~] AGE REQUIRED. Except as otherwise provided by  
7-50 Section 171.046, a physician may not perform or induce or attempt to  
7-51 perform or induce an abortion without, prior to the procedure:

7-52 (1) making a determination of the probable gestational  
7-53 [~~post-fertilization~~] age of the preborn [~~unborn~~] child; or

7-54 (2) possessing and relying on a determination of the  
7-55 probable gestational [~~post-fertilization~~] age of the preborn  
7-56 [~~unborn~~] child made by another physician.

7-57 Sec. 171.044. ABORTION OF PREBORN [~~UNBORN~~] CHILD OF 20 OR  
7-58 MORE WEEKS PROBABLE GESTATIONAL [~~POST-FERTILIZATION~~] AGE  
7-59 PROHIBITED. Except as otherwise provided by Section 171.046, a  
7-60 person may not perform or induce or attempt to perform or induce an  
7-61 abortion on a woman if it has been determined, by the physician  
7-62 performing, inducing, or attempting to perform or induce the  
7-63 abortion or by another physician on whose determination that  
7-64 physician relies, that the probable gestational  
7-65 [~~post-fertilization~~] age of the preborn [~~unborn~~] child is 20 or  
7-66 more weeks.

7-67 Sec. 171.045. METHOD OF ABORTION. (a) This section applies  
7-68 only to an abortion authorized under Section 171.046(a)(1) or (2)  
7-69 in which:

8-1 (1) the probable gestational [~~post-fertilization~~] age  
8-2 of the preborn [~~unborn~~] child is 20 or more weeks; or

8-3 (2) the probable gestational [~~post-fertilization~~] age  
8-4 of the preborn [~~unborn~~] child has not been determined but could  
8-5 reasonably be 20 or more weeks.

8-6 (b) Except as otherwise provided by Section 171.046(a)(3),  
8-7 a physician performing or inducing an abortion under Subsection (a)  
8-8 shall terminate the pregnancy in the manner that, in the  
8-9 physician's reasonable medical judgment, provides the best  
8-10 opportunity for the preborn [~~unborn~~] child to survive.

8-11 SECTION 2.14. Section 171.046(a), Health and Safety Code,  
8-12 is amended to read as follows:

8-13 (a) The prohibitions and requirements under Sections  
8-14 171.043, 171.044, and 171.045(b) do not apply to an abortion  
8-15 performed or induced if there exists a condition that, in the  
8-16 physician's reasonable medical judgment, so complicates the  
8-17 medical condition of the woman that, to avert the woman's death or a  
8-18 serious risk of substantial and irreversible physical impairment of  
8-19 a major bodily function, other than a psychological condition, it  
8-20 necessitates, as applicable:

8-21 (1) the immediate abortion of her pregnancy without  
8-22 the delay necessary to determine the probable gestational  
8-23 [~~post-fertilization~~] age of the preborn [~~unborn~~] child;

8-24 (2) the abortion of her pregnancy even though the  
8-25 probable gestational [~~post-fertilization~~] age of the preborn  
8-26 [~~unborn~~] child is 20 or more weeks; or

8-27 (3) the use of a method of abortion other than a method  
8-28 described by Section 171.045(b).

8-29 SECTION 2.15. Section 285.202(a), Health and Safety Code,  
8-30 is amended to read as follows:

8-31 (a) In this section, "medical emergency" means[+  
8-32 [~~(1)~~] a condition exists that, in a physician's good  
8-33 faith clinical judgment, complicates the medical condition of the  
8-34 pregnant woman and necessitates the immediate abortion of her  
8-35 pregnancy to avert her death or to avoid a serious risk of  
8-36 substantial impairment of a major bodily function[+~~or~~  
8-37 [~~(2) the fetus has a severe fetal abnormality~~].

8-38 SECTION 2.16. Section 164.052(a), Occupations Code, is  
8-39 amended to read as follows:

8-40 (a) A physician or an applicant for a license to practice  
8-41 medicine commits a prohibited practice if that person:

8-42 (1) submits to the board a false or misleading  
8-43 statement, document, or certificate in an application for a  
8-44 license;

8-45 (2) presents to the board a license, certificate, or  
8-46 diploma that was illegally or fraudulently obtained;

8-47 (3) commits fraud or deception in taking or passing an  
8-48 examination;

8-49 (4) uses alcohol or drugs in an intemperate manner  
8-50 that, in the board's opinion, could endanger a patient's life;

8-51 (5) commits unprofessional or dishonorable conduct  
8-52 that is likely to deceive or defraud the public, as provided by  
8-53 Section 164.053, or injure the public;

8-54 (6) uses an advertising statement that is false,  
8-55 misleading, or deceptive;

8-56 (7) advertises professional superiority or the  
8-57 performance of professional service in a superior manner if that  
8-58 advertising is not readily subject to verification;

8-59 (8) purchases, sells, barter, or uses, or offers to  
8-60 purchase, sell, barter, or use, a medical degree, license,  
8-61 certificate, or diploma, or a transcript of a license, certificate,  
8-62 or diploma in or incident to an application to the board for a  
8-63 license to practice medicine;

8-64 (9) alters, with fraudulent intent, a medical license,  
8-65 certificate, or diploma, or a transcript of a medical license,  
8-66 certificate, or diploma;

8-67 (10) uses a medical license, certificate, or diploma,  
8-68 or a transcript of a medical license, certificate, or diploma that  
8-69 has been:



- 9-1 (A) fraudulently purchased or issued;  
 9-2 (B) counterfeited; or  
 9-3 (C) materially altered;  
 9-4 (11) impersonates or acts as proxy for another person  
 9-5 in an examination required by this subtitle for a medical license;  
 9-6 (12) engages in conduct that subverts or attempts to  
 9-7 subvert an examination process required by this subtitle for a  
 9-8 medical license;  
 9-9 (13) impersonates a physician or permits another to  
 9-10 use the person's license or certificate to practice medicine in  
 9-11 this state;  
 9-12 (14) directly or indirectly employs a person whose  
 9-13 license to practice medicine has been suspended, canceled, or  
 9-14 revoked;  
 9-15 (15) associates in the practice of medicine with a  
 9-16 person:  
 9-17 (A) whose license to practice medicine has been  
 9-18 suspended, canceled, or revoked; or  
 9-19 (B) who has been convicted of the unlawful  
 9-20 practice of medicine in this state or elsewhere;  
 9-21 (16) performs or procures a criminal abortion, aids or  
 9-22 abets in the procuring of a criminal abortion, attempts to perform  
 9-23 or procure a criminal abortion, or attempts to aid or abet the  
 9-24 performance or procurement of a criminal abortion;  
 9-25 (17) directly or indirectly aids or abets the practice  
 9-26 of medicine by a person, partnership, association, or corporation  
 9-27 that is not licensed to practice medicine by the board;  
 9-28 (18) performs or induces or attempts to perform or  
 9-29 induce an abortion on a woman who is pregnant with a preborn [viable  
 9-30 unborn] child during the third trimester of the pregnancy unless[+  
 9-31 [~~(A)~~] the abortion is necessary due to a medical  
 9-32 emergency, as defined by Section 171.002, Health and Safety Code  
 9-33 [to prevent the death of the woman;  
 9-34 [~~(B) the viable unborn child has a severe,~~  
 9-35 ~~irreversible brain impairment; or~~  
 9-36 [~~(C) the woman is diagnosed with a significant~~  
 9-37 ~~likelihood of suffering imminent severe, irreversible brain damage~~  
 9-38 ~~or imminent severe, irreversible paralysis];~~  
 9-39 (19) performs or induces or attempts to perform or  
 9-40 induce an abortion on an unemancipated minor without the written  
 9-41 consent of the child's parent, managing conservator, or legal  
 9-42 guardian or without a court order, as provided by Section 33.003 or  
 9-43 33.004, Family Code, unless the abortion is necessary due to a  
 9-44 medical emergency, as defined by Section 171.002, Health and Safety  
 9-45 Code;  
 9-46 (20) otherwise performs or induces or attempts to  
 9-47 perform or induce an abortion on an unemancipated minor in  
 9-48 violation of Chapter 33, Family Code;  
 9-49 (21) performs or induces or attempts to perform or  
 9-50 induce an abortion in violation of Subchapter C, F, or G, Chapter  
 9-51 171, Health and Safety Code; ~~or~~  
 9-52 (22) in complying with the procedures outlined in  
 9-53 Sections 166.045 and 166.046, Health and Safety Code, wilfully  
 9-54 fails to make a reasonable effort to transfer a patient to a  
 9-55 physician who is willing to comply with a directive; or  
 9-56 (23) performs or induces or attempts to perform or  
 9-57 induce an abortion or engages in other conduct in violation of  
 9-58 Section 170.052, Health and Safety Code.  
 9-59 SECTION 2.17. Section 164.055(b), Occupations Code, is  
 9-60 amended to read as follows:  
 9-61 (b) The sanctions provided by Subsection (a) are in addition  
 9-62 to any other grounds for refusal to admit persons to examination  
 9-63 under this subtitle or to issue a license or renew a license to  
 9-64 practice medicine under this subtitle. The criminal penalties  
 9-65 provided by Section 165.152 do not apply to a violation of Section  
 9-66 170.002 or 170.052, Health and Safety Code, or Subchapter C, F, or  
 9-67 G, Chapter 171, Health and Safety Code.  
 9-68 SECTION 2.18. The following provisions of the Health and  
 9-69 Safety Code are repealed:

- 10-1 (1) Section 170.001(3);
- 10-2 (2) Sections 171.042(1) and (2);
- 10-3 (3) Section 171.046(c); and
- 10-4 (4) Sections 285.202(a-1) and (a-2).

10-5 ARTICLE 3. PROVISIONS EFFECTIVE SEPTEMBER 1, 2023, OR EARLIER  
 10-6 SECTION 3.01. Chapter 171, Health and Safety Code, is  
 10-7 amended by adding Subchapter H to read as follows:

10-8 SUBCHAPTER H. DETECTION OF FETAL HEARTBEAT

10-9 Sec. 171.201. DEFINITIONS. In this subchapter:

10-10 (1) "Fetal heartbeat" means cardiac activity or the  
 10-11 steady and repetitive rhythmic contraction of the fetal heart  
 10-12 within the gestational sac.

10-13 (2) "Gestational age" means the amount of time that  
 10-14 has elapsed from the first day of a woman's last menstrual period.

10-15 (3) "Gestational sac" means the structure comprising  
 10-16 the extraembryonic membranes that envelop the preborn child and  
 10-17 that is typically visible by ultrasound after the fourth week of  
 10-18 pregnancy.

10-19 (4) "Physician" means an individual licensed to  
 10-20 practice medicine in this state, including a medical doctor and a  
 10-21 doctor of osteopathic medicine.

10-22 (5) "Preborn child" means a human fetus or embryo in  
 10-23 any stage of gestation from fertilization until birth.

10-24 (6) "Pregnancy" means the human female reproductive  
 10-25 condition that:

10-26 (A) begins with fertilization;  
 10-27 (B) occurs when the woman is carrying the  
 10-28 developing human offspring; and

10-29 (C) is calculated from the first day of the  
 10-30 woman's last menstrual period.

10-31 (7) "Standard medical practice" means the degree of  
 10-32 skill, care, and diligence that an obstetrician of ordinary  
 10-33 judgment, learning, and skill would employ in like circumstances.

10-34 Sec. 171.202. LEGISLATIVE FINDINGS. The legislature finds,  
 10-35 according to contemporary medical research, that:

10-36 (1) fetal heartbeat has become a key medical predictor  
 10-37 that a preborn child will reach live birth;

10-38 (2) cardiac activity begins at a biologically  
 10-39 identifiable moment in time, normally when the fetal heart is  
 10-40 formed in the gestational sac;

10-41 (3) Texas has compelling interests from the outset of  
 10-42 a woman's pregnancy in protecting the health of the woman and the  
 10-43 life of the preborn child; and

10-44 (4) to make an informed choice about whether to  
 10-45 continue her pregnancy, the pregnant woman has a compelling  
 10-46 interest in knowing the likelihood of her preborn child surviving  
 10-47 to full-term birth based on the presence of cardiac activity.

10-48 Sec. 171.203. DETERMINATION OF PRESENCE OF FETAL HEARTBEAT  
 10-49 REQUIRED; RECORD. (a) For the purposes of determining the presence  
 10-50 of a fetal heartbeat under this section, "standard medical  
 10-51 practice" includes employing the appropriate means of detecting the  
 10-52 heartbeat based on the estimated gestational age of the preborn  
 10-53 child and the condition of the woman and her pregnancy.

10-54 (b) Except as provided by Section 171.205, a physician may  
 10-55 not knowingly perform or induce an abortion on a pregnant woman  
 10-56 unless the physician has determined, in accordance with this  
 10-57 section, whether the woman's preborn child has a detectable fetal  
 10-58 heartbeat.

10-59 (c) In making a determination under Subsection (b), the  
 10-60 physician must use a test that is:

10-61 (1) consistent with the physician's good faith and  
 10-62 reasonable understanding of standard medical practice;

10-63 (2) consistent with rules adopted under this  
 10-64 subchapter; and

10-65 (3) appropriate for the estimated gestational age of  
 10-66 the preborn child and the condition of the pregnant woman and her  
 10-67 pregnancy.

10-68 (d) A physician making a determination under Subsection (b)  
 10-69 shall record in the pregnant woman's medical record:

11-1                   (1) the estimated gestational age of the preborn  
 11-2 child;  
 11-3                   (2) the method used to estimate the gestational age;  
 11-4 and  
 11-5                   (3) the test used for detecting a fetal heartbeat,  
 11-6 including the date, time, and results of the test.

11-7                   (e) The executive commissioner may adopt rules specifying  
 11-8 the appropriate tests to be used in determining the presence of a  
 11-9 fetal heartbeat based on standard medical practice.

11-10                  Sec. 171.204. PROHIBITED ABORTION OF PREBORN CHILD WITH  
 11-11 DETECTABLE FETAL HEARTBEAT; EFFECT. (a) Except as provided by  
 11-12 Section 171.205, a physician may not knowingly perform or induce an  
 11-13 abortion on a pregnant woman if the physician detected a fetal  
 11-14 heartbeat for the preborn child as required by Section 171.203 or  
 11-15 failed to perform a test to detect a fetal heartbeat.

11-16                  (b) A physician does not violate this section if the  
 11-17 physician performed a test for a fetal heartbeat as required by  
 11-18 Section 171.203 and did not detect a fetal heartbeat.

11-19                  (c) This section does not affect:

11-20                   (1) the provisions of this chapter that restrict or  
 11-21 regulate an abortion by a particular method or during a particular  
 11-22 stage of pregnancy; or

11-23                   (2) any other provision of state law that regulates or  
 11-24 prohibits abortion.

11-25                  Sec. 171.205. EXCEPTION FOR MEDICAL EMERGENCY; RECORDS.

11-26                  (a) This subchapter does not apply if a physician believes a  
 11-27 medical emergency exists that prevents compliance with this  
 11-28 subchapter.

11-29                  (b) A physician who performs or induces an abortion under  
 11-30 circumstances described by Subsection (a) shall make written  
 11-31 notations in the pregnant woman's medical record of:

11-32                   (1) the physician's belief that a medical emergency  
 11-33 necessitated the abortion; and

11-34                   (2) the medical condition of the pregnant woman that  
 11-35 prevented compliance with this subchapter.

11-36                  (c) A physician performing or inducing an abortion under  
 11-37 this section shall maintain in the physician's practice records a  
 11-38 copy of the notations made under Subsection (b).

11-39                  Sec. 171.206. CONSTRUCTION OF SUBCHAPTER; LIMITATION ON  
 11-40 PUBLIC ENFORCEMENT. (a) This subchapter does not create or  
 11-41 recognize a right to abortion before a fetal heartbeat is detected.

11-42                  (b) This subchapter may not be construed to:

11-43                   (1) authorize the initiation of a cause of action  
 11-44 against or the prosecution of a woman on whom an abortion is  
 11-45 performed or induced or attempted to be performed or induced in  
 11-46 violation of this subchapter;

11-47                   (2) wholly or partly repeal, either expressly or by  
 11-48 implication, any other statute that regulates or prohibits  
 11-49 abortion, including Chapter 6-1/2, Title 71, Revised Statutes;

11-50                   (3) legalize the conduct prohibited by this subchapter  
 11-51 or by Chapter 6-1/2, Title 71, Revised Statutes;

11-52                   (4) restrict a political subdivision from regulating  
 11-53 or prohibiting abortion in a manner that is at least as stringent as  
 11-54 the laws of this state;

11-55                   (5) limit in any way or affect the availability of a  
 11-56 remedy established by Section 171.208; or

11-57                   (6) limit the enforceability of any other laws that  
 11-58 regulate or prohibit abortion.

11-59                  Sec. 171.207. ADMINISTRATIVE PENALTY. The Texas Medical  
 11-60 Board shall take disciplinary action under Chapter 164, Occupations  
 11-61 Code, and shall assess an administrative penalty under Subchapter  
 11-62 A, Chapter 165, Occupations Code, against any physician who  
 11-63 violates this subchapter.

11-64                  Sec. 171.208. CIVIL LIABILITY FOR VIOLATION OR AIDING OR  
 11-65 ABETTING VIOLATION. (a) Any person, other than an officer or  
 11-66 employee of a state or local governmental entity in this state, may  
 11-67 bring a civil action against a person who violates this subchapter.

11-68                  (b) If a claimant prevails in an action brought under this  
 11-69 section, the court shall award:

12-1                   (1) injunctive relief;  
 12-2                   (2) statutory damages in an amount of not less than  
 12-3 \$10,000 for each violation or offense; and  
 12-4                   (3) costs and attorney's fees.  
 12-5                   (c) Notwithstanding Subsection (b), a court may not award  
 12-6 relief under this section in response to a violation of this  
 12-7 subchapter if the defendant demonstrates that the defendant  
 12-8 previously paid statutory damages in a previous action for that  
 12-9 particular violation or offense.  
 12-10                   (d) Notwithstanding Chapter 16, Civil Practice and Remedies  
 12-11 Code, a person may bring an action under this section not later than  
 12-12 the sixth anniversary of the date the cause of action accrues.  
 12-13                   (e) The following are not a defense to an action brought  
 12-14 under this section:  
 12-15                   (1) ignorance or mistake of law;  
 12-16                   (2) a defendant's belief that the requirements of this  
 12-17 subchapter are unconstitutional or were unconstitutional;  
 12-18                   (3) a defendant's reliance on any court decision that  
 12-19 has been overruled by the applicable final appellate court, even if  
 12-20 that court decision had not been overruled when the defendant  
 12-21 engaged in conduct that violates this subchapter; or  
 12-22                   (4) the consent of the preborn child's mother to the  
 12-23 abortion.  
 12-24                   (f) Notwithstanding any other law, this state, a state  
 12-25 official, or a district or county attorney may not intervene in an  
 12-26 action brought under this section. This subsection does not  
 12-27 prohibit a person described by this subsection from filing an  
 12-28 amicus curiae brief in the action.  
 12-29                   (g) Notwithstanding any other law, a court may not award  
 12-30 costs or attorney's fees under the Texas Rules of Civil Procedure or  
 12-31 any other rule adopted by the supreme court under Section 22.004,  
 12-32 Government Code, to a defendant in an action brought under this  
 12-33 section.  
 12-34                   Sec. 171.209. CIVIL LIABILITY: UNDUE BURDEN DEFENSE  
 12-35 LIMITATIONS. (a) A defendant against whom an action is brought  
 12-36 under Section 171.208 does not have standing to assert the rights of  
 12-37 women seeking an abortion as a defense to liability under that  
 12-38 section unless the United States Supreme Court holds that the  
 12-39 courts of this state must confer standing on that defendant to  
 12-40 assert the third-party rights of women seeking an abortion in state  
 12-41 court as a matter of federal constitutional law.  
 12-42                   (b) A defendant in an action brought under Section 171.208  
 12-43 may assert an affirmative defense to liability only if:  
 12-44                   (1) the defendant has standing to assert the  
 12-45 third-party rights of women seeking an abortion in accordance with  
 12-46 Subsection (a); and  
 12-47                   (2) the defendant demonstrates that the relief sought  
 12-48 by the claimant will impose an undue burden on women seeking an  
 12-49 abortion.  
 12-50                   (c) A court may not find an undue burden under Subsection  
 12-51 (b) unless the defendant introduces evidence proving that:  
 12-52                   (1) an award of relief will prevent an identifiable  
 12-53 woman or an identifiable group of women from obtaining an abortion;  
 12-54 or  
 12-55                   (2) an award of relief will place a substantial  
 12-56 obstacle in the path of an identifiable woman or an identifiable  
 12-57 group of women who are seeking an abortion.  
 12-58                   (d) A defendant may not establish an undue burden under this  
 12-59 section by:  
 12-60                   (1) merely demonstrating that an award of relief will  
 12-61 prevent women from obtaining support or assistance, financial or  
 12-62 otherwise, from others in their effort to obtain an abortion; or  
 12-63                   (2) arguing or attempting to demonstrate that an award  
 12-64 of relief against other defendants or other potential defendants  
 12-65 will impose an undue burden on women seeking an abortion.  
 12-66                   (e) The affirmative defense under Subsection (b) is not  
 12-67 available if the United States Supreme Court overrules *Roe v. Wade*,  
 12-68 410 U.S. 113 (1973) or *Planned Parenthood v. Casey*, 505 U.S. 833  
 12-69 (1992), regardless of whether the conduct on which the cause of

13-1 action is based under Section 171.208 occurred before the Supreme  
 13-2 Court overruled either of those decisions.

13-3 Sec. 171.210. CIVIL LIABILITY: VENUE. Notwithstanding any  
 13-4 other law, including Section 15.002, Civil Practice and Remedies  
 13-5 Code, a civil action brought under Section 171.208 shall be brought  
 13-6 in:

13-7 (1) the county in which all or a substantial part of  
 13-8 the events or omissions giving rise to the claim occurred;

13-9 (2) the county of residence for any one of the natural  
 13-10 person defendants at the time the cause of action accrued;

13-11 (3) the county of the principal office in this state of  
 13-12 any one of the defendants that is not a natural person; or

13-13 (4) the county of residence for the claimant if the  
 13-14 claimant is a natural person residing in this state.

13-15 Sec. 171.211. SOVEREIGN, GOVERNMENTAL, AND OFFICIAL  
 13-16 IMMUNITY PRESERVED. (a) This section prevails over any  
 13-17 conflicting law, including:

13-18 (1) the Uniform Declaratory Judgments Act; and

13-19 (2) Chapter 37, Civil Practice and Remedies Code.

13-20 (b) This state has sovereign immunity, a political  
 13-21 subdivision has governmental immunity, and each officer and  
 13-22 employee of this state or a political subdivision has official  
 13-23 immunity in any action, claim, or counterclaim or any type of legal  
 13-24 or equitable action that challenges the validity of any provision  
 13-25 or application of this subchapter, on constitutional grounds or  
 13-26 otherwise.

13-27 (c) A provision of state law may not be construed to waive or  
 13-28 abrogate an immunity described by Subsection (b) unless it  
 13-29 expressly waives immunity under this section.

13-30 Sec. 171.212. SEVERABILITY. (a) Mindful of *Leavitt v. Jane*  
 13-31 *L.*, 518 U.S. 137 (1996), in which in the context of determining the  
 13-32 severability of a state statute regulating abortion the United  
 13-33 States Supreme Court held that an explicit statement of legislative  
 13-34 intent is controlling, it is the intent of the legislature that  
 13-35 every provision, section, subsection, sentence, clause, phrase, or  
 13-36 word in this subchapter, and every application of the provisions in  
 13-37 this subchapter, are severable from each other.

13-38 (b) If any application of any provision in this subchapter  
 13-39 to any person, group of persons, or circumstances is found by a  
 13-40 court to be invalid or unconstitutional, the remaining applications  
 13-41 of that provision to all other persons and circumstances shall be  
 13-42 severed and may not be affected. All constitutionally valid  
 13-43 applications of this subchapter shall be severed from any  
 13-44 applications that a court finds to be invalid, leaving the valid  
 13-45 applications in force, because it is the legislature's intent and  
 13-46 priority that the valid applications be allowed to stand alone.  
 13-47 Even if a reviewing court finds a provision of this subchapter to  
 13-48 impose an undue burden in a large or substantial fraction of  
 13-49 relevant cases, the applications that do not present an undue  
 13-50 burden shall be severed from the remaining provisions and shall  
 13-51 remain in force, and shall be treated as if the legislature had  
 13-52 enacted a statute limited to the persons, group of persons, or  
 13-53 circumstances for which the statute's application does not present  
 13-54 an undue burden.

13-55 (c) The legislature further declares that it would have  
 13-56 enacted this subchapter, and each provision, section, subsection,  
 13-57 sentence, clause, phrase, or word, and all constitutional  
 13-58 applications of this subchapter, irrespective of the fact that any  
 13-59 provision, section, subsection, sentence, clause, phrase, or word,  
 13-60 or applications of this subchapter, were to be declared  
 13-61 unconstitutional or to represent an undue burden.

13-62 (d) If any provision of this subchapter is found by any  
 13-63 court to be unconstitutionally vague, then the applications of that  
 13-64 provision that do not present constitutional vagueness problems  
 13-65 shall be severed and remain in force.

13-66 (e) No court may decline to enforce the severability  
 13-67 requirements of Subsections (a), (b), (c), and (d) on the ground  
 13-68 that severance would rewrite the statute or involve the court in  
 13-69 legislative or lawmaking activity. A court that declines to

14-1 enforce or enjoins a state official from enforcing a statutory  
14-2 provision does not rewrite a statute, as the statute continues to  
14-3 contain the same words as before the court's decision. A judicial  
14-4 injunction or declaration of unconstitutionality:

14-5 (1) is nothing more than an edict prohibiting  
14-6 enforcement that may subsequently be vacated by a later court if  
14-7 that court has a different understanding of the requirements of the  
14-8 Texas Constitution or United States Constitution;

14-9 (2) is not a formal amendment of the language in a  
14-10 statute; and

14-11 (3) no more rewrites a statute than a decision by the  
14-12 executive not to enforce a duly enacted statute in a limited and  
14-13 defined set of circumstances.

14-14 (f) If any federal or state court declares unconstitutional  
14-15 or enjoins the enforcement of a provision in this subchapter and  
14-16 fails to enforce the severability requirements of Subsections (a),  
14-17 (b), (c), (d), and (e), the executive commissioner shall:

14-18 (1) adopt rules that enforce the requirements  
14-19 described by this subchapter to the maximum possible extent while  
14-20 avoiding the constitutional problems or other problems identified  
14-21 by the federal or state court; and

14-22 (2) issue notice of those rules, not later than the  
14-23 30th day after the date of the court ruling.

14-24 (g) If the executive commissioner fails to adopt the rules  
14-25 and issue notice under Subsection (f), a person may petition for a  
14-26 writ of mandamus requiring the executive commissioner to adopt the  
14-27 rules and issue notice.

14-28 SECTION 3.02. Chapter 30, Civil Practice and Remedies Code,  
14-29 is amended by adding Section 30.022 to read as follows:

14-30 Sec. 30.022. AWARD OF ATTORNEY'S FEES IN ACTIONS  
14-31 CHALLENGING ABORTION LAWS. (a) Notwithstanding any other law, any  
14-32 person, including an entity, attorney, or law firm, who seeks  
14-33 declaratory or injunctive relief to prevent this state, a political  
14-34 subdivision, or any governmental entity or public official in this  
14-35 state from enforcing any statute, ordinance, rule, regulation, or  
14-36 any other type of law that regulates or restricts abortion or that  
14-37 limits taxpayer funding for individuals or entities that perform or  
14-38 promote abortions, in any state or federal court, or that  
14-39 represents any litigant seeking such relief in any state or federal  
14-40 court, is jointly and severally liable to pay the costs and  
14-41 attorney's fees of the prevailing party.

14-42 (b) For purposes of this section, a party is considered a  
14-43 prevailing party if a state or federal court:

14-44 (1) dismisses any claim or cause of action brought  
14-45 against the party that seeks the declaratory or injunctive relief  
14-46 described by Subsection (a), regardless of the reason for the  
14-47 dismissal; or

14-48 (2) enters judgment in the party's favor on any such  
14-49 claim or cause of action.

14-50 (c) Regardless of whether a prevailing party sought to  
14-51 recover costs or attorney's fees in the underlying action, a  
14-52 prevailing party under this section may bring a civil action to  
14-53 recover costs and attorney's fees against a person, including an  
14-54 entity, attorney, or law firm, that sought declaratory or  
14-55 injunctive relief described by Subsection (a) not later than the  
14-56 third anniversary of the date on which, as applicable:

14-57 (1) the dismissal or judgment described by Subsection  
14-58 (b) becomes final on the conclusion of appellate review; or

14-59 (2) the time for seeking appellate review expires.

14-60 (d) It is not a defense to an action brought under  
14-61 Subsection (c) that:

14-62 (1) a prevailing party under this section failed to  
14-63 seek recovery of costs or attorney's fees in the underlying action;  
14-64 and

14-65 (2) the court in the underlying action declined to  
14-66 recognize or enforce the requirements of this section.

14-67 SECTION 3.03. Subchapter C, Chapter 311, Government Code,  
14-68 is amended by adding Section 311.036 to read as follows:

14-69 Sec. 311.036. CONSTRUCTION OF ABORTION STATUTES. (a) A

15-1 statute that regulates or prohibits abortion may not be construed  
 15-2 to repeal any other statute that regulates or prohibits abortion,  
 15-3 either wholly or partly, unless the repealing statute explicitly  
 15-4 states that it is repealing the other statute.

15-5 (b) A statute that regulates or prohibits abortion may not  
 15-6 be construed to restrict a political subdivision from regulating or  
 15-7 prohibiting abortion in a manner that is at least as stringent as  
 15-8 the laws of this state unless the statute explicitly states that  
 15-9 political subdivisions are prohibited from regulating or  
 15-10 prohibiting abortion in the manner described by the statute.

15-11 (c) Every statute that regulates or prohibits abortion is  
 15-12 severable in each of its applications to every person and  
 15-13 circumstance. If any statute that regulates or prohibits abortion  
 15-14 is found by any court to be unconstitutional, either on its face or  
 15-15 as applied, then all applications of that statute that do not  
 15-16 violate the constitutional rights of women seeking abortions shall  
 15-17 be severed from the unconstitutional applications and shall remain  
 15-18 enforceable, notwithstanding any other law.

15-19 SECTION 3.04. Section 171.012, Health and Safety Code, is  
 15-20 amended by amending Subsection (a) and adding Subsection (i) to  
 15-21 read as follows:

15-22 (a) Consent to an abortion is voluntary and informed only  
 15-23 if:

15-24 (1) the physician who is to perform or induce the  
 15-25 abortion informs the pregnant woman on whom the abortion is to be  
 15-26 performed or induced of:

15-27 (A) the physician's name;

15-28 (B) the particular medical risks associated with  
 15-29 the particular abortion procedure to be employed, including, when  
 15-30 medically accurate:

15-31 (i) the risks of infection and hemorrhage;

15-32 (ii) the potential danger to a subsequent  
 15-33 pregnancy and of infertility; and

15-34 (iii) the possibility of increased risk of  
 15-35 breast cancer following an induced abortion and the natural  
 15-36 protective effect of a completed pregnancy in avoiding breast  
 15-37 cancer;

15-38 (C) the probable gestational age of the preborn  
 15-39 [unborn] child at the time the abortion is to be performed or  
 15-40 induced; [and]

15-41 (D) the medical risks associated with carrying  
 15-42 the preborn child to term; and

15-43 (E) the state law prohibiting abortion of a  
 15-44 preborn child solely based on the preborn child's race, ethnicity,  
 15-45 sex, or disability, as defined by Section 170.051, including a  
 15-46 probability of diagnosis that the child has a disability;

15-47 (2) the physician who is to perform or induce the  
 15-48 abortion or the physician's agent informs the pregnant woman that:

15-49 (A) medical assistance benefits may be available  
 15-50 for prenatal care, childbirth, and neonatal care;

15-51 (B) the father is liable for assistance in the  
 15-52 support of the child without regard to whether the father has  
 15-53 offered to pay for the abortion; and

15-54 (C) public and private agencies provide  
 15-55 pregnancy prevention counseling and medical referrals for  
 15-56 obtaining pregnancy prevention medications or devices, including  
 15-57 emergency contraception for victims of rape or incest;

15-58 (3) the physician who is to perform or induce the  
 15-59 abortion or the physician's agent:

15-60 (A) provides the pregnant woman with the printed  
 15-61 materials described by Section 171.014; and

15-62 (B) informs the pregnant woman that those  
 15-63 materials:

15-64 (i) have been provided by the commission  
 15-65 [Department of State Health Services];

15-66 (ii) are accessible on an Internet website  
 15-67 sponsored by the commission [department];

15-68 (iii) describe the preborn [unborn] child  
 15-69 and list agencies that offer alternatives to abortion; and

16-1 (iv) include a list of agencies that offer  
16-2 sonogram services at no cost to the pregnant woman;

16-3 (4) before any sedative or anesthesia is administered  
16-4 to the pregnant woman and at least 24 hours before the abortion or  
16-5 at least two hours before the abortion if the pregnant woman waives  
16-6 this requirement by certifying that she currently lives 100 miles  
16-7 or more from the nearest abortion provider that is a facility  
16-8 licensed under Chapter 245 or a facility that performs or induces  
16-9 more than 50 abortions in any 12-month period:

16-10 (A) the physician who is to perform or induce the  
16-11 abortion or an agent of the physician who is also a sonographer  
16-12 certified by a national registry of medical sonographers performs a  
16-13 sonogram on the pregnant woman on whom the abortion is to be  
16-14 performed or induced;

16-15 (B) the physician who is to perform or induce the  
16-16 abortion displays the sonogram images in a quality consistent with  
16-17 current medical practice in a manner that the pregnant woman may  
16-18 view them;

16-19 (C) the physician who is to perform or induce the  
16-20 abortion provides, in a manner understandable to a layperson, a  
16-21 verbal explanation of the results of the sonogram images, including  
16-22 a medical description of the dimensions of the embryo or fetus, the  
16-23 presence of cardiac activity, and the presence of external members  
16-24 and internal organs; ~~and~~

16-25 (D) the physician who is to perform or induce the  
16-26 abortion or an agent of the physician who is also a sonographer  
16-27 certified by a national registry of medical sonographers makes  
16-28 audible the heart auscultation for the pregnant woman to hear, if  
16-29 present, in a quality consistent with current medical practice and  
16-30 provides, in a manner understandable to a layperson, a simultaneous  
16-31 verbal explanation of the heart auscultation; and

16-32 (E) if a fetal heartbeat is detected under  
16-33 Section 171.203, the physician who is to perform or induce the  
16-34 abortion informs the woman in writing of the statistical  
16-35 probability of bringing the preborn child to term:

16-36 (i) to the best of the physician's  
16-37 knowledge, based on the gestational age of the preborn child; or  
16-38 (ii) as provided by commission rule;

16-39 (5) before receiving a sonogram under Subdivision  
16-40 (4)(A) and before the abortion is performed or induced and before  
16-41 any sedative or anesthesia is administered, the pregnant woman  
16-42 completes and certifies with her signature an election form that  
16-43 states as follows:

16-44 "ABORTION AND SONOGRAM ELECTION

16-45 (1) THE INFORMATION AND PRINTED MATERIALS  
16-46 DESCRIBED BY SECTIONS 171.012(a)(1)-(3), TEXAS HEALTH  
16-47 AND SAFETY CODE, HAVE BEEN PROVIDED AND EXPLAINED TO  
16-48 ME.

16-49 (2) I UNDERSTAND THE NATURE AND CONSEQUENCES OF  
16-50 AN ABORTION.

16-51 (3) TEXAS LAW REQUIRES THAT I RECEIVE A SONOGRAM  
16-52 PRIOR TO RECEIVING AN ABORTION.

16-53 (4) I UNDERSTAND THAT I HAVE THE OPTION TO VIEW  
16-54 THE SONOGRAM IMAGES.

16-55 (5) I UNDERSTAND THAT I HAVE THE OPTION TO HEAR  
16-56 THE HEARTBEAT.

16-57 (6) I UNDERSTAND THAT I AM REQUIRED BY LAW TO  
16-58 HEAR AN EXPLANATION OF THE SONOGRAM IMAGES UNLESS I  
16-59 CERTIFY IN WRITING TO ONE OF THE FOLLOWING:

16-60 \_\_\_\_\_ I AM PREGNANT AS A RESULT OF A SEXUAL ASSAULT,  
16-61 INCEST, OR OTHER VIOLATION OF THE TEXAS PENAL CODE THAT  
16-62 HAS BEEN REPORTED TO LAW ENFORCEMENT AUTHORITIES OR  
16-63 THAT HAS NOT BEEN REPORTED BECAUSE I REASONABLY  
16-64 BELIEVE THAT DOING SO WOULD PUT ME AT RISK OF  
16-65 RETALIATION RESULTING IN SERIOUS BODILY INJURY.

16-66 \_\_\_\_\_ I AM A MINOR AND OBTAINING AN ABORTION IN  
16-67 ACCORDANCE WITH JUDICIAL BYPASS PROCEDURES UNDER  
16-68 CHAPTER 33, TEXAS FAMILY CODE.

16-69 \_\_\_\_\_ MY PREBORN CHILD [~~PETUS~~] HAS AN IRREVERSIBLE



17-1 MEDICAL CONDITION OR ABNORMALITY, AS IDENTIFIED BY  
17-2 RELIABLE DIAGNOSTIC PROCEDURES AND DOCUMENTED IN MY  
17-3 MEDICAL FILE.

17-4 (7) I AM MAKING THIS ELECTION OF MY OWN FREE WILL  
17-5 AND WITHOUT COERCION.

17-6 (8) FOR A WOMAN WHO LIVES 100 MILES OR MORE FROM  
17-7 THE NEAREST ABORTION PROVIDER THAT IS A FACILITY  
17-8 LICENSED UNDER CHAPTER 245, TEXAS HEALTH AND SAFETY  
17-9 CODE, OR A FACILITY THAT PERFORMS OR INDUCES MORE THAN  
17-10 50 ABORTIONS IN ANY 12-MONTH PERIOD ONLY:

17-11 I CERTIFY THAT, BECAUSE I CURRENTLY LIVE 100  
17-12 MILES OR MORE FROM THE NEAREST ABORTION PROVIDER THAT  
17-13 IS A FACILITY LICENSED UNDER CHAPTER 245, TEXAS HEALTH  
17-14 AND SAFETY CODE, OR A FACILITY THAT PERFORMS OR INDUCES  
17-15 MORE THAN 50 ABORTIONS IN ANY 12-MONTH PERIOD, I WAIVE  
17-16 THE REQUIREMENT TO WAIT 24 HOURS AFTER THE SONOGRAM IS  
17-17 PERFORMED BEFORE RECEIVING THE ABORTION PROCEDURE. MY  
17-18 PLACE OF RESIDENCE IS:\_\_\_\_\_.

17-19 \_\_\_\_\_  
17-20 SIGNATURE DATE";

17-21 (6) before the abortion is performed or induced, the  
17-22 physician who is to perform or induce the abortion receives a copy  
17-23 of the signed, written certification required by Subdivision (5);  
17-24 and

17-25 (7) the pregnant woman is provided the name of each  
17-26 person who provides or explains the information required under this  
17-27 subsection.

17-28 (i) The executive commissioner may adopt rules that specify  
17-29 the information required under Subsection (a)(4)(E) regarding the  
17-30 statistical probability of bringing a preborn child to term based  
17-31 on the gestational age of the child. The information in the rules  
17-32 must be based on available medical evidence.

17-33 SECTION 3.05. Section 245.011(c), Health and Safety Code,  
17-34 is amended to read as follows:

17-35 (c) The report must include:

17-36 (1) whether the abortion facility at which the  
17-37 abortion is performed or induced is licensed under this chapter;

17-38 (2) the patient's year of birth, race, marital status,  
17-39 and state and county of residence;

17-40 (3) the type of abortion procedure;

17-41 (4) the date the abortion was performed or induced;

17-42 (5) whether the patient survived the abortion, and if  
17-43 the patient did not survive, the cause of death;

17-44 (6) the probable post-fertilization age of the preborn  
17-45 [unborn] child based on the best medical judgment of the attending  
17-46 physician at the time of the procedure;

17-47 (7) the date, if known, of the patient's last menstrual  
17-48 cycle;

17-49 (8) the number of previous live births of the patient;  
17-50 [and]

17-51 (9) the number of previous induced abortions of the  
17-52 patient;

17-53 (10) whether the abortion was performed or induced  
17-54 because of a medical emergency and any medical condition of the  
17-55 pregnant woman that required the abortion;

17-56 (11) whether the physician made a determination of the  
17-57 presence of a fetal heartbeat in accordance with Section 171.203;  
17-58 and

17-59 (12) whether the physician performed or induced the  
17-60 abortion under circumstances described by Section 171.205.

17-61 ARTICLE 4. PROVISIONS EFFECTIVE SEPTEMBER 1, 2025, OR EARLIER

17-62 SECTION 4.01. Chapter 170, Health and Safety Code, is  
17-63 amended by adding Subchapter C to read as follows:

17-64 SUBCHAPTER C. PROHIBITION OF ABORTION

17-65 Sec. 170.101. ABORTION PROHIBITED. Notwithstanding any  
17-66 other law, a person may not perform, induce, or attempt to perform  
17-67 or induce an abortion unless the abortion is performed, induced, or  
17-68 attempted to be performed or induced by a physician because of a  
17-69 medical emergency as defined by Section 171.002.

18-1 Sec. 170.102. CIVIL REMEDY. (a) A civil action may be  
18-2 brought against a person who violated Section 170.101 by:

18-3 (1) the woman on whom an abortion was performed,  
18-4 induced, or attempted in violation of Section 170.101;

18-5 (2) the father of the preborn child for an abortion  
18-6 performed, induced, or attempted on a pregnant woman in violation  
18-7 of Section 170.101, unless the woman's pregnancy resulted from the  
18-8 father's criminal conduct; or

18-9 (3) a maternal grandparent of the preborn child for an  
18-10 abortion performed, induced, or attempted in violation of Section  
18-11 170.101 on a pregnant woman who was less than 18 years of age at the  
18-12 time of the violation, unless the woman's pregnancy resulted from  
18-13 the maternal grandparent's criminal conduct.

18-14 (b) A person who brings an action under this section may  
18-15 obtain:

18-16 (1) injunctive relief;

18-17 (2) damages incurred by the person, including:

18-18 (A) actual damages for all psychological,  
18-19 emotional, and physical injuries resulting from the violation of  
18-20 Section 170.101;

18-21 (B) court costs; and

18-22 (C) reasonable attorney's fees; or

18-23 (3) both injunctive relief and damages.

18-24 (c) An action for damages or injunctive relief under this  
18-25 section must be filed:

18-26 (1) in a district court in the county in which the  
18-27 woman on whom an abortion was performed, induced, or attempted in  
18-28 violation of Section 170.101 resides; and

18-29 (2) not later than the sixth anniversary of the date  
18-30 the abortion was performed, induced, or attempted in violation of  
18-31 Section 170.101.

18-32 (d) The damages and injunctive relief authorized by this  
18-33 section are in addition to any other remedy available by law.

18-34 (e) A civil action under this section may not be brought  
18-35 against a woman on whom an abortion is performed, induced, or  
18-36 attempted in violation of Section 170.101.

18-37 Sec. 170.103. REVOCATION OR SUSPENSION OF LICENSE. A  
18-38 physician who violates Section 170.101 engages in unprofessional  
18-39 conduct for which the physician's license may be suspended or  
18-40 revoked under Chapter 164, Occupations Code.

18-41 SECTION 4.02. Section 19.06, Penal Code, is amended to read  
18-42 as follows:

18-43 Sec. 19.06. APPLICABILITY TO CERTAIN CONDUCT.  
18-44 Notwithstanding any other law, this [This] chapter applies [does  
18-45 not apply] to the death of a preborn [an unborn] child unless [if]  
18-46 the conduct charged is:

18-47 (1) conduct committed by the mother of the preborn  
18-48 [unborn] child; or

18-49 (2) an abortion performed, induced, or attempted to be  
18-50 performed or induced by a physician because of a medical emergency  
18-51 as defined by Section 171.002, Health and Safety Code [a lawful  
18-52 medical procedure performed by a physician or other licensed health  
18-53 care provider with the requisite consent, if the death of the unborn  
18-54 child was the intended result of the procedure;

18-55 [ (3) a lawful medical procedure performed by a  
18-56 physician or other licensed health care provider with the requisite  
18-57 consent as part of an assisted reproduction as defined by Section  
18-58 160.102, Family Code; or

18-59 [ (4) the dispensation of a drug in accordance with law  
18-60 or administration of a drug prescribed in accordance with law].

18-61 SECTION 4.03. Section 22.12, Penal Code, is amended to read  
18-62 as follows:

18-63 Sec. 22.12. APPLICABILITY TO CERTAIN CONDUCT.  
18-64 Notwithstanding any other law, this [This] chapter applies [does  
18-65 not apply] to conduct charged as having been committed against an  
18-66 individual who is a preborn [an unborn] child unless [if] the  
18-67 conduct is:

18-68 (1) committed by the mother of the preborn [unborn]  
18-69 child; or

19-1 (2) an abortion performed, induced, or attempted to be  
19-2 performed or induced by a physician because of a medical emergency  
19-3 as defined by Section 171.002, Health and Safety Code [a lawful  
19-4 medical procedure performed by a physician or other health care  
19-5 provider with the requisite consent,

19-6 [~~(3) a lawful medical procedure performed by a~~  
19-7 ~~physician or other licensed health care provider with the requisite~~  
19-8 ~~consent as part of an assisted reproduction as defined by Section~~  
19-9 ~~160.102, Family Code, or~~

19-10 [~~(4) the dispensation of a drug in accordance with law~~  
19-11 ~~or administration of a drug prescribed in accordance with law].~~

SECTION 4.04. The following provisions are repealed:

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

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

SECTION 4.05. (a) Subchapter C, Chapter 170, Health and  
19-16 Safety Code, as added by this article, and Sections 19.06 and 22.12,  
19-17 Penal Code, as amended by this article, shall be construed, as a  
19-18 matter of state law, to be enforceable to the maximum possible  
19-19 extent consistent with but not further than federal constitutional  
19-20 requirements, even if that construction is not readily apparent, as  
19-21 such constructions are authorized only to the extent necessary to  
19-22 save the subchapter from judicial invalidation. Judicial  
19-23 reformation of statutory language is explicitly authorized only to  
19-24 the extent necessary to save the statutory provision from  
19-25 invalidity.

(b) If any court determines that a provision described by  
19-27 Subsection (a) of this section is unconstitutionally vague, the  
19-28 court shall interpret the provision, as a matter of state law, to  
19-29 avoid the vagueness problem and shall enforce the provision to the  
19-30 maximum possible extent. If a federal court finds any provision  
19-31 described by Subsection (a) of this section or its application to  
19-32 any person, group of persons, or circumstances to be  
19-33 unconstitutionally vague and declines to impose the saving  
19-34 construction described by this section, the Texas Supreme Court  
19-35 shall provide an authoritative construction of the objectionable  
19-36 statutory provisions that avoids the constitutional problems while  
19-37 enforcing the statute's restrictions to the maximum possible extent  
19-38 and shall agree to answer any question certified from a federal  
19-39 appellate court regarding the statute.

(c) An executive or administrative state official may not  
19-41 decline to enforce a provision described by Subsection (a) of this  
19-42 section, or adopt a construction of that provision or this section  
19-43 in a way that narrows its applicability, based on the official's own  
19-44 beliefs concerning the requirements of the state or federal  
19-45 constitution, unless the official is enjoined by a state or federal  
19-46 court from enforcing that provision.

(d) Sections 19.06 and 22.12, Penal Code, as amended by this  
19-48 article, may not be construed to authorize the prosecution of or a  
19-49 cause of action to be brought against a woman on whom an abortion is  
19-50 performed, induced, or attempted to be performed or induced in  
19-51 violation of Section 170.101, Health and Safety Code, as added by  
19-52 this article.

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

SECTION 5.01. Not later than December 1, 2021:

(1) the Health and Human Services Commission shall:

(A) develop the perinatal palliative care  
19-58 informational materials, list of perinatal palliative care  
19-59 providers and programs, and perinatal palliative care  
19-60 certification form required by Subchapter X, Chapter 161, Health  
19-61 and Safety Code, as added by this Act; and

(B) update any forms and informational materials  
19-63 under Subchapter B, Chapter 171, Health and Safety Code, as amended  
19-64 by this Act; and

(2) the executive commissioner of the Health and Human  
19-66 Services Commission shall adopt any rules necessary to implement  
19-67 Subchapter X, Chapter 161, Health and Safety Code, as added by this  
19-68 Act, and Subchapter B, Chapter 171, Health and Safety Code, as  
19-69 amended by this Act.

20-1 SECTION 5.02. (a) Subchapter X, Chapter 161, Health and  
 20-2 Safety Code, as added by this Act, applies only to a diagnosis of a  
 20-3 life-threatening disability of a pregnant woman's preborn child  
 20-4 made on or after January 1, 2022.

20-5 (b) Subchapter B, Chapter 170, Health and Safety Code, as  
 20-6 added by this Act, Subchapters B and C, Chapter 171, Health and  
 20-7 Safety Code, as amended by this Act, and Chapter 164, Occupations  
 20-8 Code, as amended by this Act, apply only to an abortion performed,  
 20-9 induced, or attempted to be performed or induced or other conduct  
 20-10 that occurred on or after January 1, 2022. An abortion performed,  
 20-11 induced, or attempted to be performed or induced or other conduct  
 20-12 that occurred before that date is governed by the law in effect  
 20-13 immediately before the effective date of this Act, and that law is  
 20-14 continued in effect for that purpose.

20-15 (c) Subchapter C, Chapter 170, Health and Safety Code, as  
 20-16 added by this Act, applies only to an abortion that is performed,  
 20-17 induced, or attempted to be performed or induced on or after the  
 20-18 effective date of Article 4 of this Act.

20-19 (d) Subchapter H, Chapter 171, Health and Safety Code, as  
 20-20 added by this Act, applies only to an abortion performed, induced,  
 20-21 or attempted to be performed or induced on or after the effective  
 20-22 date of Article 3 of this Act.

20-23 (e) Sections 19.06 and 22.12, Penal Code, as amended by this  
 20-24 Act, apply only to conduct that occurs on or after the effective  
 20-25 date of Article 4 of this Act. Conduct that occurs before that date  
 20-26 is governed by the law in effect on the date the conduct occurred,  
 20-27 and that law is continued in effect for that purpose.

20-28 (f) Sections 19.06 and 22.12, Penal Code, as amended by this  
 20-29 Act, apply only to an offense committed on or after the effective  
 20-30 date of Article 4 of this Act. An offense committed before that  
 20-31 date is governed by the law in effect when the offense was  
 20-32 committed, and the former law is continued in effect for that  
 20-33 purpose. For purposes of this subsection, an offense is committed  
 20-34 before the effective date of Article 4 of this Act if any element of  
 20-35 the offense occurs before that date.

20-36 SECTION 5.03. (a) It is the intent of the legislature that  
 20-37 if a court suspends enforcement of any provision of this Act, the  
 20-38 suspension is not to be regarded as repealing that provision.

20-39 (b) If any provision of this Act is held invalid or if the  
 20-40 application of any provision to any person or circumstance is held  
 20-41 invalid, the invalidity of that provision or application does not  
 20-42 affect any other provision or application of this Act that can be  
 20-43 given effect without the invalid provision or application, and to  
 20-44 this end, the provisions of this Act are severable. It is the  
 20-45 intent of the legislature that any invalidity or potential  
 20-46 invalidity of a provision of this Act does not impair the immediate  
 20-47 and continuing enforceability of the remaining provisions. It is  
 20-48 furthermore the intent of the legislature that the provisions of  
 20-49 this Act do not have the effect of repealing or limiting any other  
 20-50 laws of this state.

20-51 (c) The legislature intends that each provision of this Act  
 20-52 as applicable to each individual woman is severable from each other  
 20-53 provision of this Act. In the unexpected event that a court finds  
 20-54 the application of any provision of this Act to impose an  
 20-55 impermissible undue burden on any pregnant woman or group of  
 20-56 pregnant women, the application of the provision to those women is  
 20-57 severed from the application of the remaining provisions of this  
 20-58 Act that do not impose an undue burden, and those remaining  
 20-59 applications remain in force and unaffected, consistent with  
 20-60 Section 5.02 of this article.

20-61 SECTION 5.04. (a) After the issuance of a decision by the  
 20-62 United States Supreme Court overruling any prior ruling that  
 20-63 prohibits states from wholly or partly prohibiting abortion, the  
 20-64 issuance of any court order or judgment restoring, expanding, or  
 20-65 clarifying the authority of states to wholly or partly prohibit or  
 20-66 regulate abortion, or the effective date of an amendment to the  
 20-67 United States Constitution restoring, expanding, or clarifying the  
 20-68 authority of states to wholly or partly prohibit or regulate  
 20-69 abortion, the attorney general may apply to the appropriate state

21-1 or federal court for:

21-2 (1) a declaration that any one or more provisions of  
21-3 this Act are constitutional; or

21-4 (2) a judgment or order lifting an injunction against  
21-5 the enforcement of any one or more provisions of this Act.

21-6 (b) If the attorney general fails to apply for the relief  
21-7 described by Subsection (a) of this section not later than the 30th  
21-8 day after the date an event described by that subsection occurs, any  
21-9 district attorney may apply to the appropriate state or federal  
21-10 court for the relief described by that subsection.

21-11 SECTION 5.05. The Health and Human Services Commission is  
21-12 required to implement a provision of this Act only if the  
21-13 legislature appropriates money to the commission specifically for  
21-14 that purpose. If the legislature does not appropriate money  
21-15 specifically for that purpose, the commission may, but is not  
21-16 required to, implement a provision of this Act using other  
21-17 appropriations that are available for that purpose.

21-18 SECTION 5.06. (a) Except as otherwise provided by this  
21-19 section, this Act takes effect September 1, 2021.

21-20 (b) Article 3 of this Act takes effect the earlier of:

21-21 (1) the 91st day after the date the attorney general  
21-22 submits a report required by Section 402.003, Government Code, that  
21-23 states a court of competent jurisdiction has held the provisions in  
21-24 Article 3 of this Act to be constitutional; or

21-25 (2) September 1, 2023.

21-26 (c) Article 4 of this Act takes effect the earlier of:

21-27 (1) the 91st day after the date the attorney general  
21-28 submits a report required by Section 402.003, Government Code, that  
21-29 states a court of competent jurisdiction has held the provisions in  
21-30 Article 4 of this Act to be constitutional; or

21-31 (2) September 1, 2025.

21-32

\* \* \* \* \*