

By: Toth

H.B. No. 111

A BILL TO BE ENTITLED

AN ACT

1
2 relating to abortion, including civil liability for distribution of
3 abortion-inducing drugs and duties of Internet service providers;
4 creating a criminal offense; authorizing a private civil right of
5 action.

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

7 SECTION 1. This Act shall be known as the Women and Child
8 Safety Act.

9 SECTION 2. The legislature finds that:

- 10 (1) human life begins at fertilization;
- 11 (2) abortion is a murderous act of violence that
12 purposefully and knowingly terminates a human life in the womb;
- 13 (3) unborn human beings are entitled to the full and
14 equal protection of the laws that prohibit violence against other
15 human beings;
- 16 (4) the United States Supreme Court's ruling in *Dobbs*
17 *v. Jackson Women's Health Organization*, No. 19-1392 (U.S. June 24,
18 2022), correctly overruled the lawless and unconstitutional
19 pronouncements in *Roe v. Wade*, 410 U.S. 113 (1973) and *Planned*
20 *Parenthood of Southern Pennsylvania v. Casey*, 505 U.S. 833 (1992),
21 which had invented and perpetuated a supposed constitutional right
22 to abortion that cannot be found anywhere in the text of the United
23 States Constitution;
- 24 (5) so-called abortion funds that operate in this

1 state have been funding and otherwise aiding or abetting criminal
2 abortions performed in violation of the laws of this state,
3 exposing themselves and each of their donors to felony criminal
4 prosecution;

5 (6) the abortion funds and their donors are not and
6 never were protected by an injunction in any abortion-related case
7 because they are not parties to those cases, and there has never
8 been an injunction that restrains a state official from prosecuting
9 abortion funds and their donors who aided or abetted abortions
10 performed in violation of the laws of this state;

11 (7) the abortion funds and their donors are not and
12 never were protected from criminal prosecution by *Roe v. Wade*, 410
13 U.S. 113 (1973), because:

14 (A) there is no constitutional right to pay for
15 another person's abortion;

16 (B) abortion funds and their donors lack
17 third-party standing to assert the supposed constitutional rights
18 of women seeking abortions; and

19 (C) any immunity from prosecution that the
20 abortionist might have enjoyed on account of *Roe* does not preclude
21 the imposition of accomplice liability on abortion funds and their
22 donors;

23 (8) it is a federal crime to mail abortion-inducing
24 drugs or to receive them in the mail, punishable by five years
25 imprisonment, under 18 U.S.C. Section 1461;

26 (9) it is also a federal crime to transport
27 abortion-inducing drugs in interstate or foreign commerce under 18

1 U.S.C. Section 1462(c);

2 (10) these federal statutes are fully enforceable now
3 that *Roe* has been overruled, and the statute of limitations for each
4 of these crimes is five years;

5 (11) violations of 18 U.S.C. Sections 1461-1462 are
6 predicate offenses under the federal Racketeer Influenced and
7 Corrupt Organizations Act (18 U.S.C. Section 1961 et seq.), which
8 exposes distribution networks of abortion-inducing drugs and their
9 donors to civil racketeering liability as well as criminal
10 prosecution as a racketeering enterprise under federal law;

11 (12) the legislature calls on the attorney general and
12 each district attorney in this state to investigate and prosecute
13 abortion funds and each of their donors for aiding or abetting
14 criminal abortion in this state in violation of the laws of this
15 state; and

16 (13) the legislature calls on state and federal
17 prosecutors in this state to investigate and prosecute every
18 distribution network for abortion-inducing drugs under federal
19 racketeering laws as well as 18 U.S.C. Sections 1461-1462.

20 SECTION 3. Subtitle H, Title 2, Health and Safety Code, is
21 amended by adding Chapter 171A to read as follows:

22 CHAPTER 171A. ABORTION-INDUCING DRUGS AND FACILITATION OF

23 ABORTION; ENFORCEMENT OF ABORTION LAWS

24 SUBCHAPTER A. GENERAL PROVISIONS

25 Sec. 171A.001. DEFINITIONS. In this chapter:

26 (1) "Abortion" means the act of using, prescribing,
27 administering, procuring, or selling an instrument, medicine,

1 drug, or any other substance, device, or means with the purpose to
2 terminate a pregnancy of a woman, with knowledge that the
3 termination by any of those means will with reasonable likelihood
4 cause the death of a living human being in the womb. The term does
5 not include:

6 (A) in vitro fertilization or fertility
7 treatments of any type;

8 (B) the use, prescription, administration,
9 procuring, or selling of an emergency contraceptive, including Plan
10 B and morning-after pills, intrauterine devices, or any other type
11 of contraceptive; or

12 (C) an act performed with the purpose to:

13 (i) save the life or preserve the health of
14 the unborn child;

15 (ii) remove a dead unborn child caused by
16 spontaneous abortion; or

17 (iii) remove or treat an ectopic pregnancy.

18 (2) "Abortion-inducing drug" means a drug or
19 medication, including mifepristone and misoprostol, that is used to
20 terminate the life of an unborn child. The term does not include:

21 (A) an emergency contraceptive, including Plan B
22 and morning-after pills, intrauterine devices, or any other type of
23 contraceptive; or

24 (B) drugs or medications that are possessed or
25 distributed for a purpose that does not include the termination of a
26 pregnancy, including for the treatment of an unrelated medical
27 condition.

1 (3) "Abortion funds" means a corporation,
2 organization, government, governmental agency, business trust,
3 estate, trust, partnership, association, or any other legal entity
4 that:

5 (A) exists for the purpose of aiding or abetting
6 elective abortions; and

7 (B) pays for, reimburses, or subsidizes in any
8 way the costs associated with obtaining an elective abortion.

9 (4) "Abortion provider" means a person who performs
10 elective abortions.

11 (5) "Elective abortion" means an abortion other than
12 those performed or induced in response to a medical emergency.

13 (6) "Fertilization" means the fusion of a human
14 spermatozoon with a human ovum.

15 (7) "Governmental entity" means this state, a state
16 agency, or a political subdivision of this state.

17 (8) "Human being" means an individual member of the
18 species homo sapiens at any state of development beginning at
19 fertilization.

20 (9) "Information content provider" means a person who
21 is responsible, wholly or partly, for the creation or development
22 of information provided through the Internet or any other
23 interactive computer service.

24 (10) "Interactive computer service" means an
25 information service, system, or access software provider that
26 provides or enables computer access by multiple users to a computer
27 server, including specifically a service or system that provides

1 access to the Internet and such systems operated or services
2 offered by libraries or educational institutions.

3 (11) "Medical emergency" means a condition in which an
4 abortion is necessary to preserve the life of a pregnant woman whose
5 life is endangered by a physical disorder, physical illness, or
6 physical injury, including a life-endangering physical condition
7 caused by or arising from the pregnancy itself.

8 (12) "Unborn child" means an individual organism of
9 the species homo sapiens in any stage of gestation from
10 fertilization until live birth.

11 (13) "Woman" means an individual whose biological sex
12 is female, including an individual with XX chromosomes and an
13 individual with a uterus, regardless of any gender identity that
14 the individual attempts to assert or claim.

15 SUBCHAPTER B. PROTECTION FROM ABORTION-INDUCING DRUGS

16 Sec. 171A.051. PROHIBITIONS RELATED TO ABORTION-INDUCING
17 DRUGS. (a) Except as provided by Subsection (b), a person may not:

18 (1) manufacture, possess, or distribute an
19 abortion-inducing drug in this state;

20 (2) mail, transport, deliver, or provide an
21 abortion-inducing drug in any manner to or from any person or
22 location in this state;

23 (3) provide information on how to obtain an
24 abortion-inducing drug;

25 (4) create, edit, upload, publish, host, maintain, or
26 register a domain name for an Internet website, platform, or other
27 interactive computer service that assists or facilitates a person's

1 effort in obtaining an abortion-inducing drug;

2 (5) create, edit, program, or distribute any
3 application or software for use on a computer or an electronic
4 device that is intended to enable individuals to obtain an
5 abortion-inducing drug or to facilitate an individual's access to
6 an abortion-inducing drug; or

7 (6) engage in conduct that would make a person
8 criminally responsible under Chapter 7, Penal Code, as a party to a
9 criminal act described by Subdivision (1) or (2).

10 (b) Notwithstanding any other law, Subsection (a) does not
11 prohibit:

12 (1) speech or conduct protected by the First Amendment
13 of the United States Constitution, as made applicable to the states
14 through the United States Supreme Court's interpretation of the
15 Fourteenth Amendment of the United States Constitution or protected
16 by Section 8, Article I, Texas Constitution;

17 (2) conduct this state is prohibited from regulating
18 under federal law, including the United States Constitution;

19 (3) conduct engaged in by a pregnant woman who aborts
20 or attempts to abort the woman's unborn child;

21 (4) possessing, distributing, mailing, transporting,
22 delivering, or providing an abortion-inducing drug for a purpose
23 that does not include performing, inducing, or attempting an
24 abortion;

25 (5) possessing an abortion-inducing drug for purposes
26 of entrapping a person that violates this section;

27 (6) conduct engaged in by a person as directed by a

1 federal agency, contractor, or employee to carry out a duty under
2 federal law, if prohibiting that conduct would violate the
3 doctrines of preemption or intergovernmental immunity; or
4 (7) conduct described by Section 171A.201(a)(1), (2),
5 or (3).

6 SUBCHAPTER C. CIVIL LIABILITY FOR DISTRIBUTION OF
7 ABORTION-INDUCING DRUGS

8 Sec. 171A.101. CIVIL ACTION FOR DISTRIBUTION OF
9 ABORTION-INDUCING DRUGS. (a) Notwithstanding any other law and
10 except as provided by this section, a person who manufactures,
11 distributes, mails, transports, delivers, or provides an
12 abortion-inducing drug in violation of Section 171A.051 or who aids
13 or abets the manufacture, distribution, mailing, transportation,
14 delivery, or provision of an abortion-inducing drug in violation of
15 Section 171A.051, or who otherwise engages in any conduct
16 prohibited by Section 171A.051 is strictly and jointly and
17 severally liable for:

18 (1) the wrongful death of an unborn child or pregnant
19 woman from the use of the abortion-inducing drug; and

20 (2) personal injury of an unborn child or pregnant
21 woman from the use of the abortion-inducing drug.

22 (b) A claimant may not bring an action under this section if
23 the action is preempted by 47 U.S.C. Section 230(c).

24 (c) Notwithstanding any other law, a civil action may not be
25 brought under this section:

26 (1) against the woman who used or sought to obtain
27 abortion-inducing drugs to abort or attempt to abort her unborn

1 child;

2 (2) against a person that acted at the behest of a
3 federal agency, contractor, or employee who is carrying out duties
4 under federal law if the imposition of liability would violate the
5 doctrines of preemption or intergovernmental immunity; or

6 (3) by any person who impregnated the woman who used
7 abortion-inducing drugs through conduct constituting an offense
8 under Section 21.02, 21.11, 22.011, 22.021, or 25.02, Penal Code,
9 or by another person who acts in concert or participation with that
10 person.

11 (d) Notwithstanding any other law, including rules of civil
12 procedure adopted under Chapter 26, Civil Practice and Remedies
13 Code, an action brought under this section may not be litigated on
14 behalf of a claimant class or a defendant class, and no court may
15 certify a class in the action.

16 Sec. 171A.102. DEFENSES. (a) It is an affirmative defense
17 to an action brought under Section 171A.101 that the defendant:

18 (1) was unaware that the defendant was engaged in the
19 conduct described by Section 171A.101(a); and

20 (2) took every reasonable precaution to ensure that
21 the defendant would not manufacture, distribute, mail, transport,
22 deliver, provide, or aid or abet the manufacture, distribution,
23 mail, transportation, delivery, or provision of abortion-inducing
24 drugs.

25 (b) A defendant has the burden of proving an affirmative
26 defense under Subsection (a) by a preponderance of the evidence.

27 (c) Notwithstanding any other law, the following are not a

1 defense to an action brought under this section:

2 (1) ignorance or mistake of law;

3 (2) a defendant's belief that the requirements or
4 provisions of this chapter are unconstitutional or were
5 unconstitutional;

6 (3) a defendant's reliance on a court decision that has
7 been vacated, reversed, or overruled on appeal or by a subsequent
8 court, even if that court decision had not been vacated, reversed,
9 or overruled when the cause of action accrued;

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

13 (5) a defendant's reliance on a federal statute,
14 agency rule or action, or treaty that has been repealed,
15 superseded, or declared invalid or unconstitutional, even if that
16 federal statute, agency rule or action, or treaty had not been
17 repealed, superseded, or declared invalid or unconstitutional when
18 the cause of action accrued;

19 (6) non-mutual issue preclusion or non-mutual claim
20 preclusion;

21 (7) the consent of the claimant or the unborn child's
22 mother to the abortion;

23 (8) contributory or comparative negligence;

24 (9) assumption of risk; or

25 (10) a claim that the enforcement of this chapter or
26 the imposition of civil liability against the defendant will
27 violate the constitutional rights of third parties.

1 Sec. 171A.103. APPORTIONED LIABILITY. Notwithstanding any
2 other law, if a claimant who brings an action under Section 171A.101
3 is unable to identify the specific manufacturer of the
4 abortion-inducing drug that caused the death or injury that is the
5 basis for the action, the liability is apportioned among all
6 manufacturers of abortion-inducing drugs in proportion to each
7 manufacturer's share of the market for abortion-inducing drugs.

8 Sec. 171A.104. STATUTE OF LIMITATIONS. Notwithstanding any
9 other law, a person may bring an action under Section 171A.101 not
10 later than the sixth anniversary of the date the cause of action
11 accrues.

12 Sec. 171A.105. WAIVER PROHIBITED. A waiver or purported
13 waiver of the right to bring an action under Section 171A.101 is
14 void as against public policy and is not enforceable in any court.

15 Sec. 171A.106. CONSTRUCTION OF SUBCHAPTER. This subchapter
16 may not be construed to impose liability on speech or conduct
17 protected by the First Amendment of the United States Constitution,
18 as made applicable to the states through the United States Supreme
19 Court's interpretation of the Fourteenth Amendment of the United
20 States Constitution or protected by Section 8, Article I, Texas
21 Constitution.

22 Sec. 171A.107. JURISDICTION; APPLICABILITY OF STATE LAW.
23 (a) Notwithstanding any other law, including Subchapter C, Chapter
24 17, Civil Practice and Remedies Code, the courts of this state have
25 personal jurisdiction over a defendant sued under Section 171A.101
26 to the maximum extent permitted by the Fourteenth Amendment to the
27 United States Constitution.

1 (3) by any person who impregnated the woman who used or
2 sought to obtain abortion-inducing drugs through conduct
3 constituting an offense under Section 21.02, 21.11, 22.011, 22.021,
4 or 25.02, Penal Code, or by another person who acts in concert or
5 participation with that person.

6 (d) Notwithstanding any other law, including rules of civil
7 procedure adopted under Chapter 26, Civil Practice and Remedies
8 Code, an action brought under this section may not be litigated on
9 behalf of a claimant class or a defendant class, and no court may
10 certify a class in the action.

11 Sec. 171A.152. DEFENSES. (a) It is an affirmative defense
12 to an action brought under Section 171A.151 that the defendant:

13 (1) was unaware that the defendant was engaged in the
14 conduct prohibited by Section 171A.051; and

15 (2) took every reasonable precaution to ensure that
16 the defendant would not violate Section 171A.051.

17 (b) A defendant has the burden of proving an affirmative
18 defense under Subsection (a) by a preponderance of the evidence.

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

21 (1) ignorance or mistake of law;

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

25 (3) a defendant's reliance on a court decision that has
26 been vacated, reversed, or overruled on appeal or by a subsequent
27 court, even if that court decision had not been vacated, reversed,

1 or overruled when the cause of action accrued;

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

5 (5) a defendant's reliance on a federal statute,
6 agency rule or action, or treaty that has been repealed,
7 superseded, or declared invalid or unconstitutional, even if that
8 federal statute, agency rule or action, or treaty had not been
9 repealed, superseded, or declared invalid or unconstitutional when
10 the cause of action accrued;

11 (6) non-mutual issue preclusion or non-mutual claim
12 preclusion;

13 (7) the consent of the claimant or the unborn child's
14 mother to the abortion;

15 (8) contributory or comparative negligence;

16 (9) assumption of risk; or

17 (10) a claim that the enforcement of this chapter or
18 the imposition of civil liability against the defendant will
19 violate the constitutional rights of third parties.

20 Sec. 171A.153. STATUTE OF LIMITATIONS. Notwithstanding any
21 other law, a person may bring an action under Section 171A.151 not
22 later than the sixth anniversary of the date the cause of action
23 accrues.

24 Sec. 171A.154. REMEDIES. (a) Except as provided by
25 Subsection (c), if a claimant prevails in an action brought under
26 Section 171A.151, the court shall award:

27 (1) injunctive relief sufficient to prevent the

1 defendant from violating Section 171A.051;

2 (2) nominal damages or compensatory damages if the
3 claimant has suffered injury or harm from the defendant's conduct,
4 including loss of consortium and emotional distress;

5 (3) statutory damages in an amount of not less than
6 \$10,000 for each violation of Section 171A.051; and

7 (4) costs and reasonable attorney's fees.

8 (b) A court may not award relief under Subsection (a)(3) or
9 (a)(4) in response to a violation of Section 171A.051 if the
10 defendant demonstrates that a court has already ordered the
11 defendant to pay the full amount of statutory damages under
12 Subsection (a)(3) in another action for that particular violation.

13 (c) A court may not award costs or attorney's fees to a
14 defendant against whom an action is brought under Section 171A.151.

15 Sec. 171A.155. CONSTRUCTION OF SUBCHAPTER. This subchapter
16 may not be construed to impose liability on speech or conduct
17 protected by the First Amendment of the United States Constitution,
18 as made applicable to the states through the United States Supreme
19 Court's interpretation of the Fourteenth Amendment of the United
20 States Constitution or protected by Section 8, Article I, Texas
21 Constitution.

22 Sec. 171A.156. PUBLIC ENFORCEMENT PROHIBITED. (a)
23 Notwithstanding any other law, this state, a political subdivision
24 of this state, or an officer or employee of this state or a
25 political subdivision of this state may not:

26 (1) act in concert or participation with a claimant
27 bringing an action under Section 171A.151;

1 (2) establish or attempt to establish any type of
2 agency or fiduciary relationship with a claimant bringing an action
3 under Section 171A.151;

4 (3) make any attempt to control or influence a person's
5 decision to bring an action under Section 171A.151 or that person's
6 conduct of the litigation; or

7 (4) intervene in an action brought under Section
8 171A.151.

9 (b) This section does not prohibit a governmental entity or
10 officer or employee of a governmental entity from filing an amicus
11 curiae brief in an action brought under Section 171A.151 if the
12 entity, officer, or employee does not act in concert or
13 participation with the claimant.

14 Sec. 171A.157. JURISDICTION; APPLICABILITY OF STATE LAW.

15 (a) Notwithstanding any other law, including Subchapter C, Chapter
16 17, Civil Practice and Remedies Code, the courts of this state have
17 personal jurisdiction over a defendant sued under Section 171A.151
18 to the maximum extent permitted by the Fourteenth Amendment to the
19 United States Constitution.

20 (b) Notwithstanding any other law, the law of this state
21 applies to an action brought under Section 171A.151 to the maximum
22 extent permitted by the United States Constitution.

23 (c) Chapters 27 and 110, Civil Practice and Remedies Code,
24 do not apply to an action brought under Section 171A.151.

25 SUBCHAPTER E. PRIVATE CIVIL ENFORCEMENT AGAINST INTERACTIVE

26 COMPUTER SERVICES FACILITATING ABORTION

27 Sec. 171A.201. CIVIL ACTION AGAINST INTERACTIVE COMPUTER

1 SERVICE PROVIDER. (a) A person, other than this state, a political
2 subdivision of this state, and an officer or employee of this state
3 or a political subdivision of this state, has standing to bring and
4 may bring a civil action against a person who provides or maintains:

5 (1) an interactive computer service that allows
6 residents of this state to access information or material that
7 assists or facilitates efforts to obtain elective abortions or
8 abortion-inducing drugs;

9 (2) a platform for downloading any application or
10 software for use on a computer or electronic device that is designed
11 to assist or facilitate efforts to obtain elective abortions or
12 abortion-inducing drugs; or

13 (3) a platform that allows or enables those who
14 provide or aid or abet elective abortions, or those who
15 manufacture, distribute, mail, transport, deliver, or provide
16 abortion-inducing drugs, to collect money, digital currency,
17 resources, or any other thing of value in connection with that
18 conduct.

19 (b) Notwithstanding any other law, including rules of civil
20 procedure adopted under Chapter 26, Civil Practice and Remedies
21 Code, an action brought under this section may not be litigated on
22 behalf of a claimant class or a defendant class, and no court may
23 certify a class in the action.

24 Sec. 171A.202. DEFENSES. (a) It is an affirmative defense
25 to an action brought under Section 171A.201 that the defendant:

26 (1) was unaware that the defendant's interactive
27 computer service or platform was being used to assist or facilitate

1 efforts to obtain elective abortions or abortion-inducing drugs;
2 and

3 (2) on learning that the defendant's interactive
4 computer service or platform was being used to assist or facilitate
5 efforts to obtain elective abortions or abortion-inducing drugs,
6 took prompt action to:

7 (A) block access to any information, material,
8 application, or software that assists or facilitates efforts to
9 obtain elective abortions or abortion-inducing drugs; and

10 (B) block those who provide or aid or abet
11 elective abortions and those who manufacture, distribute, mail,
12 transport, deliver, or provide abortion-inducing drugs, from
13 collecting money, digital currency, resources, or any other thing
14 of value through its interactive computer service or platform.

15 (b) A defendant has the burden of proving an affirmative
16 defense under Subsection (a) by a preponderance of the evidence.

17 Sec. 171A.203. REMEDIES. (a) Except as provided by
18 Subsection (b), if a claimant prevails in an action brought under
19 Section 171A.201, the court shall award only declaratory or
20 injunctive relief. A court may not award:

21 (1) damages in the action, even if the claimant
22 demonstrates harm from the defendant's conduct; or

23 (2) a prevailing claimant's attorney's fees or costs.

24 (b) A court may not award relief under Subsection (a) if the
25 action was brought in response to:

26 (1) the exercise of a constitutional right that
27 belongs personally to the defendant;

1 (2) conduct engaged in at the direction of a federal
2 agency, contractor, or employee who is carrying out a duty under
3 federal law, if the relief authorized by Subsection (a) would
4 violate the doctrines of preemption or intergovernmental immunity;
5 or

6 (3) conduct engaged in by a woman who aborted or
7 attempted to abort her unborn child, if that woman is the named
8 defendant in the action.

9 Sec. 171A.204. RELATION TO OTHER INFORMATION CONTENT
10 PROVIDERS. A person who engages in conduct described by Section
11 171A.201(a)(1), (2), or (3) may not be:

12 (1) held vicariously liable for nominal, statutory, or
13 compensatory damages incurred by another information content
14 provider;

15 (2) held liable or legally responsible for the conduct
16 of a publisher or speaker of any information provided by another
17 information content provider; or

18 (3) treated as the speaker or publisher of any
19 information provided by another information content provider under
20 any provision of the laws of this state.

21 Sec. 171A.205. EXCLUSIVE ENFORCEMENT; EFFECT OF OTHER LAW.

22 (a) Notwithstanding any other law, conduct described by Section
23 171A.201(1), (2), or (3) is not subject to criminal, civil, or
24 administrative liability except solely through the private civil
25 action described by Section 171A.201. This state, a political
26 subdivision of this state, or an officer or employee of this state
27 or a political subdivision of this state may not take a direct or

1 indirect enforcement action under this subchapter against any
2 person, by any means.

3 (b) Except as provided by Subsection (c), a person may not
4 use conduct described by Section 171A.201(1), (2), or (3) as a
5 justification for the enforcement of any other law or any type of
6 adverse consequence under any other law except as provided by
7 Section 171A.201.

8 (c) This section does not preclude or limit the enforcement
9 of any other law or regulation against conduct that is
10 independently prohibited by that other law or regulation.

11 Sec. 171A.206. PUBLIC ENFORCEMENT PROHIBITED. (a)
12 Notwithstanding any other law, this state, a political subdivision
13 of this state, or an officer or employee of this state or a
14 political subdivision of this state may not:

15 (1) act in concert or participation with a claimant
16 bringing an action under Section 171A.201;

17 (2) establish or attempt to establish any type of
18 agency or fiduciary relationship with a claimant bringing an action
19 under Section 171A.201;

20 (3) make any attempt to control or influence a person's
21 decision to bring an action under Section 171A.201 or that person's
22 conduct of the litigation; or

23 (4) intervene in an action brought under Section
24 171A.201.

25 (b) This section does not prohibit a governmental entity or
26 officer or employee of a governmental entity from filing an amicus
27 curiae brief in an action brought under Section 171A.201 if the

1 entity, officer, or employee does not act in concert or
2 participation with the claimant.

3 Sec. 171A.207. JURISDICTION; APPLICABILITY OF STATE LAW.

4 (a) Notwithstanding any other law, including Subchapter C, Chapter
5 17, Civil Practice and Remedies Code, the courts of this state have
6 personal jurisdiction over a defendant sued under Section 171A.201
7 to the maximum extent permitted by the Fourteenth Amendment to the
8 United States Constitution.

9 (b) Notwithstanding any other law, the law of this state
10 applies to an action brought under Section 171A.201 to the maximum
11 extent permitted by the United States Constitution.

12 (c) Chapters 27 and 110, Civil Practice and Remedies Code,
13 do not apply to an action brought under Section 171A.151.

14 Sec. 171A.208. INTERACTIVE COMPUTER SERVICE USER OR
15 PROVIDER IMMUNITY FOR CERTAIN ACTIONS. Notwithstanding any other
16 law, a provider or user of an interactive computer service has
17 absolute and nonwaivable immunity from liability or suit for:

18 (1) an action taken to restrict access to or
19 availability of information or material that assists or facilitates
20 access to elective abortions or abortion-inducing drugs,
21 regardless of whether the information or material is
22 constitutionally protected;

23 (2) an action taken to enable or make available to
24 information content providers or others the technical means to
25 restrict access to information or material described by Subdivision
26 (1); or

27 (3) a denial of service to persons who provide or aid

1 or abet elective abortions or who manufacture, mail, distribute,
2 transport, or provide abortion-inducing drugs.

3 SUBCHAPTER F. PROVISIONS GENERALLY APPLICABLE TO CIVIL LIABILITY
4 FOR FACILITATING ABORTION

5 Sec. 171A.251. AFFIRMATIVE DEFENSE. (a) A defendant
6 against whom an action is brought under Section 171A.101, 171A.151,
7 or 171A.201 may assert an affirmative defense to liability under
8 this section if:

9 (1) the imposition of civil liability on the defendant
10 will violate constitutional or federally protected rights that
11 belong to the defendant personally; or

12 (2) the defendant:

13 (A) has standing to assert the rights of a third
14 party under the tests for third-party standing established by the
15 United States Supreme Court; and

16 (B) demonstrates that the imposition of civil
17 liability on the defendant will violate constitutional or federally
18 protected rights belonging to a third party.

19 (b) The defendant has the burden of proving an affirmative
20 defense described by Subsection (a) by a preponderance of the
21 evidence.

22 Sec. 171A.252. CONSTRUCTION OF CHAPTER WITH RESPECT TO
23 CIVIL LIABILITY AND ENFORCEMENT. This chapter may not be construed
24 to limit or preclude a defendant from asserting the
25 unconstitutionality of any provision or application of the laws of
26 this state as a defense to liability under Section 171A.101,
27 171A.151, or 171A.201 or from asserting any other defense that

1 might be available under any other source of law.

2 Sec. 171A.253. APPLICATION OF OTHER LAW. Notwithstanding
3 any other law, a court may not apply the law of another state or
4 jurisdiction to any civil action brought under Section 171A.101,
5 171A.151, or 171A.201 unless Article VI of the United States
6 Constitution compels it to do so.

7 Sec. 171A.254. VENUE. (a) Notwithstanding any other law, a
8 civil action brought under Section 171A.101, 171A.151, or 171A.201
9 must be brought in:

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

12 (2) the county of a defendant's residence at the time
13 the cause of action accrued if a defendant is an individual;

14 (3) the county of the principal office in this state of
15 a defendant that is not an individual; or

16 (4) the county of the claimant's residence if the
17 claimant is an individual residing in this state.

18 (b) If a civil action is brought under Section 171A.101,
19 171A.151, or 171A.201 in a venue described by Subsection (a), the
20 action may not be transferred to a different venue without the
21 written consent of all parties.

22 Sec. 171A.255. PROTECTION FROM COUNTER ACTIONS. If an
23 action brought against a person or liability imposed in a judgment
24 entered against a person is wholly or partly based on the person's
25 decision to bring or threat to bring an action under Section
26 171A.101, 171A.151, or 171A.201, the person may recover damages
27 from the claimant who brought the action or obtained the judgment or

1 who has sought to enforce the judgment. The damages include:

2 (1) compensatory damages created by the action or
3 judgment, including money damages in an amount of the judgment and
4 costs, expenses, and reasonable attorney's fees spent in defending
5 the action;

6 (2) costs, expenses, and reasonable attorney's fees
7 incurred in bringing an action under this section; and

8 (3) additional statutory damages in an amount of not
9 less than \$100,000.

10 SUBCHAPTER G. INTERNET SERVICE PROVIDER DUTIES

11 Sec. 171A.301. RESTRICTIONS ON ACCESS TO CERTAIN

12 INFORMATION AND MATERIALS ACCESSIBLE THROUGH CERTAIN INTERNET
13 WEBSITES. Each Internet service provider that provides Internet
14 services in this state shall make every reasonable and
15 technologically feasible effort to block Internet access to
16 information or material intended to assist or facilitate efforts to
17 obtain an elective abortion or an abortion-inducing drug, including
18 information or material accessible through:

19 (1) the following Internet websites:

20 (A) aidaccess.org;

21 (B) heyjane.co;

22 (C) plancpills.org;

23 (D) mychoix.co;

24 (E) justthepill.com; and

25 (F) carafem.org;

26 (2) an Internet website, platform, or other
27 interactive computer service operated by or on behalf of an

1 abortion provider or abortion fund;

2 (3) an Internet website, platform, or other
3 interactive computer service for downloading any application or
4 software for use on a computer or electronic device that is designed
5 to assist or facilitate efforts to obtain an elective abortion or an
6 abortion-inducing drug; or

7 (4) an Internet website, platform, or other
8 interactive computer service that allows or enables those who
9 provide or aid or abet elective abortions, or those who
10 manufacture, mail, distribute, transport, or provide
11 abortion-inducing drugs, to collect money, digital currency,
12 resources, or any other thing of value.

13 Sec. 171A.302. NOTIFICATION TO INTERNET SERVICE PROVIDER.
14 A person who becomes aware that information or material described
15 by Section 171A.301 is accessible through an Internet service
16 provider that provides Internet services in this state may notify
17 the provider and request that the provider block access to the
18 information or material in accordance with that section. A person
19 may provide the notification by:

20 (1) calling the provider's customer support number and
21 providing a precise description and location of the information or
22 material; or

23 (2) mailing a letter to the provider that includes a
24 precise description and location of the information or material.

25 Sec. 171A.303. PUBLIC ENFORCEMENT PROHIBITED. (a)
26 Notwithstanding any other law, direct or indirect enforcement of
27 this subchapter may not be taken or threatened by this state or a

1 political subdivision of this state, or by any officer, employee,
2 or agent of this state or a political subdivision of this state, by
3 any means.

4 (b) This state, a political subdivision of this state, or an
5 officer, employee, or agent of this state or a political
6 subdivision of this state may request or encourage an Internet
7 service provider to comply with the requirements of this
8 subchapter.

9 Sec. 171A.304. LIABILITY; RECOVERY OF DAMAGES. (a)
10 Notwithstanding any other law, an Internet service provider that
11 provides Internet services in this state has absolute and
12 nonwaivable immunity from liability or suit for:

13 (1) an action taken to comply with the requirements of
14 this subchapter, or to restrict access to or availability of the
15 information or material described by Section 171A.301;

16 (2) an action taken to enable or make available to
17 information content providers or others the technical means to
18 restrict access to information or material described by Section
19 171A.301; or

20 (3) a denial of service to persons who use or seek to
21 use the Internet to make available information or material
22 described by Section 171A.301.

23 (b) An Internet service provider against whom an action is
24 brought or a judgment is entered in state or federal court that is
25 wholly or partly based on the provider's compliance with the
26 requirements of this subchapter may recover damages from a claimant
27 that brought the action or obtained the judgment or who has sought

1 to enforce the judgment. The damages include:

2 (1) compensatory damages created by the action or
3 judgment, including money damages in an amount of the judgment, and
4 expenses and reasonable attorney's fees spent in defending the
5 action;

6 (2) costs, expenses, and reasonable attorney's fees
7 incurred in bringing an action under this section; and

8 (3) additional statutory damages in an amount of not
9 less than \$100,000.

10 SUBCHAPTER H. CRIMINAL OFFENSES

11 Sec. 171A.351. OFFENSE: PAYING OR REIMBURSING ABORTION

12 COSTS. (a) A person that knowingly pays for or reimburses the
13 costs associated with obtaining an elective abortion performed on a
14 pregnant woman commits an offense. An offense under this
15 subsection is a felony of the second degree, except that the offense
16 is a felony of the first degree if an unborn child dies as a result
17 of the offense.

18 (b) The prohibition under Subsection (a) applies regardless
19 of:

20 (1) the individual on whom the elective abortion is
21 performed;

22 (2) the location at which the elective abortion is
23 performed;

24 (3) the law of the jurisdiction in which the elective
25 abortion is performed; and

26 (4) whether the payment or reimbursement is provided
27 directly or through an intermediary.

1 (c) The prohibition under Subsection (a) does not apply to a
2 pregnant woman on whom an elective abortion is performed or
3 attempted.

4 (d) The prohibition under Subsection (a) applies
5 extraterritorially to the maximum extent permitted by the United
6 States Constitution or the Texas Constitution.

7 Sec. 171A.352. OFFENSE: DESTROYING EVIDENCE OF ABORTION.

8 (a) A person commits an offense if the person knowingly or
9 recklessly conceals, destroys, or spoliates evidence of an elective
10 abortion performed or attempted:

11 (1) in this state; or

12 (2) on a resident of this state, regardless of whether
13 the person knew or should have known that the elective abortion was
14 performed or attempted on the resident.

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

18 (c) The prohibition under Subsection (a) does not apply to a
19 pregnant woman on whom an elective abortion is performed or
20 attempted.

21 (d) The prohibition under Subsection (a) applies
22 extraterritorially to the maximum extent permitted by the United
23 States Constitution or the Texas Constitution.

24 SUBCHAPTER I. PROVISIONS RELATING TO ENFORCEMENT OF ABORTION LAWS

25 Sec. 171A.401. DEFINITION. In this subchapter, "abortion
26 law" means any law of this state regulating abortion, including
27 this chapter and Chapter 6-1/2, Title 71, Revised Statutes.

1 Sec. 171A.402. STATUTE OF LIMITATIONS. Notwithstanding any
2 other law, there is no applicable statute of limitations for an
3 offense committed under an abortion law.

4 Sec. 171A.403. CONCURRENT JURISDICTION OF ATTORNEY
5 GENERAL. Notwithstanding any other law, the attorney general has
6 concurrent jurisdiction to prosecute any abortion law and may
7 authorize a district attorney to investigate or prosecute a
8 violation of an abortion law if a local district attorney fails or
9 refuses to investigate or prosecute the violation.

10 Sec. 171A.404. ATTORNEY GENERAL ACTION FOR VIOLATION OF
11 CERTAIN ABORTION LAWS. (a) The attorney general has parens patriae
12 standing to bring an action under this section on behalf of unborn
13 children of residents of this state.

14 (b) The attorney general may bring an action for damages or
15 injunctive relief on behalf of an unborn child of a resident of this
16 state against a person who violates any abortion law of this state
17 except for Subchapter H, Chapter 171, or Subchapter B, C, or E of
18 this chapter.

19 Sec. 171A.405. FEE SHIFTING. (a) Notwithstanding any
20 other law, a person, including an entity, attorney, or law firm, who
21 brings an action seeking declaratory or injunctive relief to
22 prevent a person, including this state, a political subdivision of
23 this state, or an officer, employee, or agent of this state or a
24 political subdivision of this state, from enforcing or bringing an
25 action to enforce a law, including a statute, ordinance, rule, or
26 regulation, that regulates or restricts abortion or that limits
27 taxpayer funding for persons that perform or promote abortions in a

1 state or federal court or who represents a litigant seeking such
2 relief in a state or federal court is jointly and severally liable
3 to pay the costs and reasonable attorney's fees of the prevailing
4 party in the action seeking declaratory or injunctive relief.

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

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

11 (2) enters judgment in the party's favor on that claim
12 or cause of action.

13 (c) A prevailing party may recover costs and reasonable
14 attorney's fees under this section only to the extent that those
15 costs and attorney's fees were incurred while defending claims or
16 causes of action on which the party prevailed.

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

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

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

27 (e) It is not a defense to an action brought under

1 Subsection (d) that:

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

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

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

10 SUBCHAPTER J. IMMUNITY AND LIMITS ON STATE-COURT JURISDICTION

11 Sec. 171A.451. SOVEREIGN, GOVERNMENTAL, AND OFFICIAL

12 IMMUNITY. (a) Except as provided by Subsection (b) but
13 notwithstanding any other law, the state has sovereign immunity, a
14 political subdivision of this state has governmental immunity, and
15 an officer or employee of this state or a political subdivision of
16 this state has official immunity in an action, claim, counterclaim,
17 or any other type of legal or equitable action that:

18 (1) challenges the validity of any provision or
19 application of this chapter, on constitutional grounds or
20 otherwise; or

21 (2) seeks to prevent or enjoin this state, a political
22 subdivision of this state, or an officer or employee of this state
23 or a political subdivision of this state from:

24 (A) enforcing any provision or application of
25 this chapter; or

26 (B) hearing, adjudicating, or docketing a civil
27 action brought under Section 171A.101, 171A.151, or 171A.201.

1 (b) Subsection (a) does not apply to the extent that
2 immunity has been abrogated or preempted by federal law in a manner
3 consistent with the United States Constitution.

4 (c) Sovereign immunity conferred by this section includes
5 the constitutional sovereign immunity recognized by the United
6 States Supreme Court, which applies in both state and federal court
7 and may not be abrogated by Congress or by a state or federal court
8 except under legislation authorized by:

9 (1) Section 5 of the Fourteenth Amendment, United
10 States Constitution;

11 (2) the Bankruptcy Clause of Article I, United States
12 Constitution; or

13 (3) Congress's powers to raise and support armies and
14 to provide and maintain a navy.

15 Sec. 171A.452. APPLICABILITY OF IMMUNITY. Notwithstanding
16 any other law, the immunity conferred by Section 171A.451 applies
17 to every court, both state and federal, and in every type of
18 adjudicative proceeding.

19 Sec. 171A.453. CONSTRUCTION OF CHAPTER. This chapter may
20 not be construed to prevent a litigant from asserting the
21 invalidity or unconstitutionality of a provision or application of
22 this chapter as a defense to an action, claim, or counterclaim
23 brought against the litigant.

24 Sec. 171A.454. WAIVER OF IMMUNITY. (a) Notwithstanding
25 any other law, a provision of the laws of this state may not be
26 construed to waive or abrogate an immunity conferred by Section
27 171A.451 unless it expressly waives or abrogates immunity with

1 specific reference to that section.

2 (b) Notwithstanding any other law, an attorney representing
3 the state, a political subdivision of this state, or an officer or
4 employee of this state or a political subdivision of this state may
5 not waive an immunity conferred by Section 171A.451 or take an
6 action that would result in a waiver of that immunity. A purported
7 waiver or action described by this subsection is considered void
8 and an ultra vires act.

9 Sec. 171A.455. JURISDICTION. Notwithstanding any other
10 law, a court of this state does not have jurisdiction to consider
11 and may not award relief under any action, claim, or counterclaim
12 that:

13 (1) seeks declaratory or injunctive relief, or any
14 type of writ, that would pronounce any provision or application of
15 this subchapter invalid or unconstitutional; or

16 (2) would restrain a person, including this state, a
17 political subdivision of this state, or an officer or employee of
18 this state or a political subdivision of this state, from:

19 (A) enforcing any provision or application of
20 this chapter; or

21 (B) hearing, adjudicating, or docketing a civil
22 action brought under Section 171A.101, 171A.151, or 171A.201.

23 Sec. 171A.456. EFFECT OF CONTRARY JUDICIAL ACTIONS. (a)
24 Notwithstanding any other law, judicial relief issued by a court of
25 this state that disregards the immunity conferred by Section
26 171A.451 or the jurisdictional limitation described by Section
27 171A.455:

1 (1) is considered void because a court without
2 jurisdiction issued the relief; and

3 (2) may not be enforced or obeyed by an officer,
4 employee, or agent, including a judicial official, of this state or
5 a political subdivision of this state.

6 (b) Notwithstanding any other law, a writ, injunction, or
7 declaratory judgment issued by a court of this state that purports
8 to restrain a person, including the state, a political subdivision
9 of this state, or an officer or employee of this state or a
10 political subdivision of this state, from hearing, adjudicating,
11 docketing, or filing an action brought under Section 171A.101,
12 171A.151, or 171A.201:

13 (1) is considered void and a violation of the Due
14 Process Clause of the Fourteenth Amendment to the United States
15 Constitution; and

16 (2) may not be enforced or obeyed by an officer,
17 employee, or agent, including a judicial official, of this state or
18 a political subdivision of this state.

19 Sec. 171A.457. LIABILITY FOR VIOLATION. (a)

20 Notwithstanding any other law, a person may bring an action against
21 an officer, employee, or agent, including a judicial official, of
22 this state or a political subdivision of this state, who issues,
23 enforces, or obeys a writ, injunction, or declaratory judgment
24 described by Subsection (b) if the writ, injunction, or judgment
25 prevents or delays the person from bringing an action under Section
26 171A.101, 171A.151, or 171A.201.

27 (b) A claimant who prevails in an action brought under this

1 section is entitled to:

2 (1) injunctive relief;

3 (2) compensatory damages;

4 (3) exemplary damages of not less than \$100,000; and

5 (4) costs and reasonable attorney's fees.

6 (c) Notwithstanding any other law, in an action brought
7 under this section, a person who violates Section 171A.455 or
8 171A.456(b):

9 (1) may not assert and is not entitled to any type of
10 immunity defense, including sovereign immunity, governmental
11 immunity, official immunity, or judicial immunity;

12 (2) may not be indemnified for an award of damages or
13 costs and attorney's fees entered against the person or for the
14 costs of the person's legal defense; and

15 (3) may not receive or obtain legal representation
16 from the attorney general.

17 Sec. 171A.458. ACTION TO RECOVER COSTS. (a)
18 Notwithstanding any other law, a claimant who brings an action
19 seeking a writ, injunction, or declaratory judgment that would
20 restrain a person from hearing, adjudicating, docketing, or filing
21 an action under Section 171A.101, 171A.151, or 171A.201 is liable
22 to the person for the person's costs and attorney's fees incurred in
23 connection with the action.

24 (b) A person entitled to recover costs and attorney's fees
25 under this section may bring an action in state or federal court.

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

1 (1) the claimant failed to seek recovery of costs or
2 attorney's fees in the underlying action;

3 (2) the court in the underlying action declined to
4 recognize or enforce 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 4. Section 71.02(a), Penal Code, is amended to read
10 as follows:

11 (a) A person commits an offense if, with the intent to
12 establish, maintain, or participate in a combination or in the
13 profits of a combination or as a member of a criminal street gang,
14 the person commits or conspires to commit one or more of the
15 following:

16 (1) murder, capital murder, arson, aggravated
17 robbery, robbery, burglary, theft, aggravated kidnapping,
18 kidnapping, aggravated assault, aggravated sexual assault, sexual
19 assault, continuous sexual abuse of young child or disabled
20 individual, solicitation of a minor, forgery, deadly conduct,
21 assault punishable as a Class A misdemeanor, burglary of a motor
22 vehicle, or unauthorized use of a motor vehicle;

23 (2) any gambling offense punishable as a Class A
24 misdemeanor;

25 (3) promotion of prostitution, aggravated promotion
26 of prostitution, or compelling prostitution;

27 (4) unlawful manufacture, transportation, repair, or

- 1 sale of firearms or prohibited weapons;
- 2 (5) unlawful manufacture, delivery, dispensation, or
3 distribution of a controlled substance or dangerous drug, or
4 unlawful possession of a controlled substance or dangerous drug
5 through forgery, fraud, misrepresentation, or deception;
- 6 (5-a) causing the unlawful delivery, dispensation, or
7 distribution of a controlled substance or dangerous drug in
8 violation of Subtitle B, Title 3, Occupations Code;
- 9 (6) any unlawful wholesale promotion or possession of
10 any obscene material or obscene device with the intent to wholesale
11 promote the same;
- 12 (7) any offense under Subchapter B, Chapter 43,
13 depicting or involving conduct by or directed toward a child
14 younger than 18 years of age;
- 15 (8) any felony offense under Chapter 32;
- 16 (9) any offense under Chapter 36;
- 17 (10) any offense under Chapter 34, 35, or 35A;
- 18 (11) any offense under Section 37.11(a);
- 19 (12) any offense under Chapter 20A;
- 20 (13) any offense under Section 37.10;
- 21 (14) any offense under Section 38.06, 38.07, 38.09, or
22 38.11;
- 23 (15) any offense under Section 42.10;
- 24 (16) any offense under Section 46.06(a)(1) or 46.14;
- 25 (17) any offense under Section 20.05 or 20.06;
- 26 (18) any offense under Section 16.02; [~~or~~]
- 27 (19) any offense classified as a felony under the Tax

1 Code;

2 (20) a violation of 18 U.S.C. Section 1462(c);

3 (21) a violation of an abortion law under Chapter 170,
4 170A, 171, or 171A, Health and Safety Code, or Chapter 6-1/2, Title
5 71, Revised Statutes; and

6 (22) an offense under Chapter 28 directed at a church,
7 a crisis pregnancy center, an adoption agency, or an entity that
8 offers alternatives to abortion services.

9 SECTION 5. (a) Mindful of *Leavitt v. Jane L.*, 518 U.S. 137
10 (1996), in which in the context of determining the severability of a
11 state statute regulating abortion the United States Supreme Court
12 held that an explicit statement of legislative intent is
13 controlling, it is the intent of the legislature that every
14 provision, section, subsection, sentence, clause, phrase, or word
15 in this Act, and every application of the provisions in this Act to
16 every person, group of persons, or circumstances, are severable
17 from each other.

18 (b) If any application of any provision in this Act to any
19 person, group of persons, or circumstances is found by a court to be
20 invalid, preempted, or unconstitutional, for any reason
21 whatsoever, then the remaining applications of that provision to
22 all other persons and circumstances shall be severed and preserved,
23 and shall remain in effect. All constitutionally valid
24 applications of the provisions in this Act shall be severed from any
25 applications that a court finds to be invalid, preempted, or
26 unconstitutional, because it is the legislature's intent and
27 priority that every single valid application of every statutory

1 provision be allowed to stand alone.

2 (c) The legislature further declares that it would have
3 enacted this Act, and each provision, section, subsection,
4 sentence, clause, phrase, or word, and all constitutional
5 applications of the provisions of this Act, irrespective of the
6 fact that any provision, section, subsection, sentence, clause,
7 phrase, or word, or applications of this Act were to be declared
8 invalid, preempted, or unconstitutional.

9 (d) If any provision of this Act is found by any court to be
10 unconstitutionally vague, then the applications of that provision
11 that do not present constitutional vagueness problems shall be
12 severed and remain in force, consistent with the severability
13 requirements of Subsections (a), (b), and (c) of this section.

14 (e) No court may decline to enforce the severability
15 requirements of Subsections (a), (b), (c), and (d) of this section
16 on the ground that severance would rewrite the statute or involve
17 the court in legislative or lawmaking activity. A court that
18 declines to enforce or enjoins a state official from enforcing a
19 statutory provision is not rewriting a statute or engaging in
20 legislative or lawmaking activity, as the statute continues to
21 contain the same words as before the court's decision. A judicial
22 injunction or declaration of unconstitutionality:

23 (1) is nothing more than an edict prohibiting
24 enforcement of the disputed statute against the named parties to
25 that lawsuit, which may subsequently be vacated by a later court if
26 that court has a different understanding of the requirements of the
27 Texas Constitution or United States Constitution;

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

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

6 (f) If any state or federal court disregards any of the
7 severability requirements in Subsections (a), (b), (c), (d), or (e)
8 of this section, and declares or finds any provision of this Act
9 facially invalid, preempted, or unconstitutional, when there are
10 discrete applications of that provision that can be enforced
11 against a person, a group of persons, or circumstances without
12 violating federal law or the United States Constitution or Texas
13 Constitution, then that provision shall be interpreted, as a matter
14 of state law, as if the legislature had enacted a provision limited
15 to the persons, group of persons, or circumstances for which the
16 provision's application will not violate federal law or the United
17 States Constitution or Texas Constitution, and every court shall
18 adopt this saving construction of that provision until the court
19 ruling that pronounced the provision facially invalid, preempted,
20 or unconstitutional is vacated or overruled.

21 SECTION 6. Chapter 171A, Health and Safety Code, as added by
22 this Act, applies only to a cause of action that accrues on or after
23 the effective date of this Act.

24 SECTION 7. Section 71.02, Penal Code, as amended by this
25 Act, applies only to an offense committed on or after the effective
26 date of this Act. An offense committed before the effective date of
27 this Act is governed by the law in effect on the date the offense was

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

5 SECTION 8. This Act takes effect on the 91st day after the
6 last day of legislative session.