

By: Hughes

S.B. No. 6

A BILL TO BE ENTITLED

AN ACT

relating to abortion, including civil liability for the manufacture and provision of abortion-inducing drugs, exemptions from the Texas Citizens Participation Act and Religious Freedom Restoration Act, authorizing civil and qui tam actions, amendments to the fee-shifting statute governing abortion litigation, immunity defenses and limits on state-court jurisdiction and relief, the parens patriae standing of the attorney general, and the jurisdiction of the Fifteenth Court of Appeals; providing for severability.

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

SECTION 1. This Act shall be known as the Woman and Child Protection Act.

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

CHAPTER 171A. ABORTION-INDUCING DRUGS AND FACILITATION OF

ABORTION; ENFORCEMENT OF ABORTION LAWS

SUBCHAPTER A. GENERAL PROVISIONS

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

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

(2) "Abortion-inducing drug" has the meaning assigned by Section [171.061](#).

(3) "Medical emergency" has the meaning assigned by

1 Section 171.002.

2 Sec. 171A.002. CONSTRUCTION OF CHAPTER RELATED TO
3 LIABILITY. (a) Notwithstanding any other law, this chapter may not
4 be construed to impose liability on the speech or conduct of:

5 (1) an Internet service provider or the provider's
6 affiliates or subsidiaries;

7 (2) a search engine; or

8 (3) a cloud service provider that solely provides
9 access or connection to or from an Internet website or other
10 information or content on the Internet or on a facility, system, or
11 network that is not under the provider's control, including
12 transmission, downloading, intermediate storage, access software,
13 or other services.

14 (b) Notwithstanding any other law, this chapter may not be
15 construed to impose liability on any action taken to manufacture,
16 distribute, mail, transport, deliver, prescribe, provide, or
17 possess an abortion-inducing drug or other medication solely for
18 one or more of the following purposes:

19 (1) treating a medical emergency;

20 (2) removing an ectopic pregnancy;

21 (3) removing a dead, unborn child whose death was
22 caused by spontaneous abortion; or

23 (4) a purpose that does not include performing,
24 inducing, attempting, or assisting an abortion.

25 (c) Notwithstanding any other law, this chapter may not be
26 construed to impose liability on any person who manufactures,
27 distributes, mails, transports, delivers, prescribes, provides, or

possesses abortion-inducing drugs solely for one or more of the following purposes:

- (1) treating a medical emergency;
- (2) removing an ectopic pregnancy;
- (3) removing a dead, unborn child whose death was caused by spontaneous abortion; or
- (4) a purpose that does not include performing, inducing, attempting, or assisting an abortion.

(d) Notwithstanding any other law, a court of this state does not have jurisdiction to consider a claim, cross-claim, or counterclaim under this chapter that seeks to impose liability on any of the persons or actions described in Subsections (a), (b), and (c).

(e) Notwithstanding any other law, if a party to an action brought under this chapter asserts a jurisdictional defense under Subsection (d), it may take an interlocutory appeal of an order denying its plea to the jurisdiction.

(f) Notwithstanding any other law, the Fifteenth Court of Appeals shall have exclusive intermediate appellate jurisdiction over an interlocutory appeal brought under Subsection (e).

SUBCHAPTER B. PROTECTION FROM ABORTION-INDUCING DRUGS

Sec. 171A.051. PROHIBITIONS RELATED TO ABORTION-INDUCING DRUGS. (a) Notwithstanding any other law and except as provided by Subsection (b), a person may not:

- (1) manufacture or distribute an abortion-inducing drug in this state; or
- (2) mail, transport, deliver, prescribe, or provide an

abortion-inducing drug in any manner to or from any person or location in this state.

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

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

(2) conduct of a pregnant woman who aborts or seeks to abort the woman's unborn child;

(3) the possession, distribution, mailing, transport, delivery, or provision of an abortion-inducing drug for a purpose that does not include performing, inducing, attempting, or assisting an abortion, or for any purpose described in Section 171A.002(b); or

(4) conduct of a person under the direction of a federal agency, contractor, or employee to carry out a duty under federal law, if prohibiting that conduct would violate the doctrine of preemption or intergovernmental immunity.

Sec. 171A.052. EXCLUSIVE ENFORCEMENT; EFFECT OF OTHER LAW.

(a) Notwithstanding any other law, this subchapter may be enforced only through a qui tam action brought under Subchapter C.

(b) No other direct or indirect enforcement of this subchapter may be taken or threatened by this state, a political subdivision of this state, a district or county attorney, or any officer or employee of this state or a political subdivision of this

1 state against any person, by any means whatsoever, except as
2 provided in Subchapter C.

3 (c) This section does not preclude or limit the enforcement
4 of any other law or regulation against conduct that is
5 independently prohibited by the other law or regulation and that
6 would remain prohibited by the other law or regulation in the
7 absence of this subchapter.

8 SUBCHAPTER C. QUI TAM ENFORCEMENT OF PROHIBITIONS RELATING TO
9 ABORTION-INDUCING DRUGS

10 Sec. 171A.151. QUI TAM ACTION AUTHORIZED. (a)
11 Notwithstanding any other law and except as provided by this
12 section or by section 171A.002, a person, other than a political
13 subdivision of this state, or an officer or employee of this state
14 or a political subdivision of this state, has standing to bring and
15 may bring a qui tam action against a person who:

16 (1) violates Section 171A.051; or

17 (2) intends to violate Section 171A.051.

18 (b) An action brought under this section must be brought in
19 the name of the qui tam relator, who shall be regarded as an
20 assignee of the state's claim for relief. The transfer of the
21 state's claim to the qui tam relator is absolute, with the state
22 retaining no interest in the subject matter, notwithstanding any
23 other law.

24 (c) A qui tam relator may not bring an action under this
25 section if the action is preempted by 47 U.S.C. Section 230(c).

26 (d) Notwithstanding any other law, a qui tam action may not
27 be brought under this section:

1 (1) against a woman for using, obtaining, or seeking
2 to obtain abortion-inducing drugs to abort or attempt to abort her
3 unborn child;

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

8 (3) against a common carrier that:

9 (A) transports a pregnant woman or other
10 passengers to an abortion provider; and

11 (B) is unaware the passenger is traveling to an
12 abortion provider;

13 (4) by any person who impregnated a woman through
14 conduct constituting sexual assault under Section 22.011, Penal
15 Code, or aggravated sexual assault under Section 22.021, Penal
16 Code, or by another person who acts in concert or participation with
17 that person; or

18 (5) against a physician, hospital, healthcare
19 provider, healthcare facility, pharmacy, pharmaceutical
20 manufacturer, pharmaceutical distributor, or common carrier that
21 took every reasonable precaution to ensure that it would not
22 manufacture, distribute, mail, transport, deliver, prescribe,
23 provide, possess, or aid or abet the manufacture, distribution,
24 mailing, transportation, delivery, prescription, provision, or
25 possession of abortion-inducing drugs except for the purposes
26 described in Section 171A.002(b), including by adopting a policy
27 that it will not manufacture, distribute, mail, transport, deliver,

1 prescribe, provide, possess, or aid or abet the manufacture,
2 distribution, mailing, transportation, delivery, prescription,
3 provision, possession of abortion-inducing drugs except for the
4 purposes described in Section 171A.002(b).

5 (e) Notwithstanding any other law, including rules of civil
6 procedure adopted under Chapter 26, Civil Practice and Remedies
7 Code, an action brought under this section may not be litigated on
8 behalf of a claimant class or a defendant class, and a court may not
9 certify a class in the action.

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

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

14 (2) took reasonable precautions to ensure the
15 defendant would not violate Section 171A.051.

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

18 (c) Notwithstanding any other law, the following are not a
19 defense to an action brought under Section 171A.151:

20 (1) a defendant's ignorance or mistake of law,
21 including a defendant's mistaken belief that the requirements or
22 provisions of this chapter are unconstitutional or were
23 unconstitutional;

24 (2) a defendant's reliance on a court decision that has
25 been vacated, reversed, or overruled on appeal or by a subsequent
26 court, even if the court decision had not been vacated, reversed, or
27 overruled when the cause of action accrued;

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

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

10 (5) the laws of another state or jurisdiction,
11 including an abortion shield law, unless the Texas Constitution or
12 federal law compels the court to enforce that law;

13 (6) non-mutual issue preclusion or non-mutual claim
14 preclusion;

15 (7) sovereign immunity, governmental immunity, or
16 official immunity, except that sovereign immunity, governmental
17 immunity, or official immunity is not waived for:

18 (A) a hospital owned and operated by the state
19 that facilitates or makes available abortion-inducing drugs solely
20 for purposes described in section 171A.002(b);

21 (B) a political subdivision, including a
22 hospital district, that facilitates or makes available
23 abortion-inducing drugs solely for purposes described in section
24 171A.002(b); or

25 (C) a physician or other health care professional
26 employed by a hospital owned or operated by the state or a political
27 subdivision in this state, including a hospital district, acting

1 within the scope of their employment who prescribes, distributes,
2 administers, or otherwise makes available abortion-inducing drugs
3 solely for purposes described in section 171A.002(b); or

4 (8) a claim that the enforcement of this chapter or the
5 imposition of civil liability against the defendant will violate
6 the constitutional or federally protected rights of third parties,
7 except as provided by Section 171A.201.

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

12 Sec. 171A.154. REMEDIES. (a) Notwithstanding any other
13 law and except as provided by Subsection (b), if a qui tam relator
14 prevails in an action brought under Section 171A.151, the court
15 shall award to the relator:

16 (1) injunctive relief sufficient to prevent the
17 defendant from violating Section 171A.051;

18 (2) statutory damages in an amount of not less than
19 \$100,000 for each violation of Section 171A.051; and

20 (3) costs and reasonable attorney's fees.

21 (b) A court may not award relief under Subsection (a)(2) or
22 (3) in response to a violation of Section 171A.051 if the defendant
23 demonstrates that a court previously ordered the defendant to pay
24 damages under Subsection (a)(2) in another action for that
25 particular violation, and that court order has not been vacated,
26 reversed, or overturned.

27 (c) Notwithstanding any other law, a court may not award

costs or attorney's fees under the Texas Rules of Civil Procedure or any other rule adopted by the supreme court under Section 22.004, Government Code, to a defendant against whom an action is brought under Section 171A.151. This section does not preclude an award of sanctions under Chapter 10, Civil Practice and Remedies Code, nor does it preclude a court from sanctioning a litigant or attorney for frivolous, malicious, or bad-faith conduct.

Sec. 171A.155. CONSTRUCTION OF SUBCHAPTER RELATED TO FIRST AMENDMENT PROTECTIONS. This subchapter may not be construed to impose liability on speech or conduct protected by the First Amendment to the United States Constitution, as made applicable to the states through the United States Supreme Court's interpretation of the Fourteenth Amendment to the United States Constitution, or protected by Section 8, Article I, Texas Constitution.

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

(1) act in concert or participation with a qui tam relator bringing an action under Section 171A.151;

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

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

(4) intervene in an action brought under Section

1 171A.151.

2 (b) This section does not prohibit this state, a political
3 subdivision of this state, or an officer or employee of this state
4 or a political subdivision of this state from filing an amicus
5 curiae brief in an action brought under Section 171A.151 if this
6 state, the political subdivision, the officer, or the employee does
7 not act in concert or participation with the qui tam relator.

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

9 (a) Notwithstanding any other law, including Subchapter C, Chapter
10 17, Civil Practice and Remedies Code, the courts of this state have
11 personal jurisdiction over a defendant sued under Section 171A.151
12 to the maximum extent permitted by the Fourteenth Amendment to the
13 United States Constitution and the defendant may be served outside
14 this state.

15 (b) Notwithstanding any other law, the law of this state
16 applies to an action brought under Section 171A.151 to the maximum
17 extent permitted by the Texas Constitution and federal law,
18 including the United States Constitution.

19 (c) Notwithstanding any other law, any contractual
20 choice-of-law provision that requires or purports to require
21 application of the laws of a different jurisdiction is void based on
22 this state's public policy and is not enforceable in any court.

23 (d) Notwithstanding any other law, Chapters 27 and 110,
24 Civil Practice and Remedies Code, do not apply to an action brought
25 under Section 171A.151.

26 Sec. 171A.158. APPEALS. Notwithstanding any other law, the
27 Fifteenth Court of Appeals shall have exclusive intermediate

appellate jurisdiction over any appeal or original proceeding arising out of an action brought under Section 171A.151 in the courts of this state.

SUBCHAPTER D. PROVISIONS GENERALLY APPLICABLE TO CIVIL LIABILITY
FOR FACILITATING ABORTION

Sec. 171A.201. AFFIRMATIVE DEFENSE. (a) A defendant against whom an action is brought under 171A.151 may assert an affirmative defense to liability under this section if:

(1) the imposition of civil liability on the defendant will violate the defendant's rights under federal law or the United States Constitution;

(2) the defendant:

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

(B) demonstrates the imposition of civil liability on the defendant will violate that third party's rights under federal law or the United States Constitution;

(3) the imposition of civil liability on the defendant will violate the defendant's rights under the Texas Constitution; or

(4) the imposition of civil liability on the defendant will violate limits on extraterritorial jurisdiction imposed by the United States Constitution or the Texas Constitution.

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

1 Sec. 171A.202. CONSTRUCTION OF CHAPTER RELATED TO CIVIL
2 LIABILITY AND ENFORCEMENT. This chapter may not be construed to
3 limit or preclude a defendant from asserting the
4 unconstitutionality of any provision or application of the laws of
5 this state as a defense to liability under Section 171A.151 or from
6 asserting any other defense that might be available under any other
7 source of law.

8 Sec. 171A.203. APPLICATION OF OTHER LAW. (a)
9 Notwithstanding any other law, a court may not apply the law of
10 another state or jurisdiction to any qui tam action brought under
11 Section 171A.151 unless the Texas Constitution or federal law
12 compels it to do so.

13 (b) Notwithstanding any other law, any contractual
14 choice-of-law provision that requires or purports to require
15 application of the laws of a different jurisdiction is void based on
16 this state's public policy and is not enforceable in any court.

17 Sec. 171A.204. VENUE. (a) Notwithstanding any other law,
18 including Chapter 15, Civil Practice and Remedies Code, a qui tam
19 action brought under Section 171A.151 may be brought in:

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

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

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

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

1 (b) If a qui tam action is brought under Section 171A.151 in
2 a venue described by Subsection (a), the action may not be
3 transferred to a different venue without the written consent of all
4 parties.

5 (c) Notwithstanding any other law, any contractual
6 choice-of-forum provision that requires or purports to require a
7 qui tam action under Sections 171A.151 to be litigated in a
8 particular forum is void based on this state's public policy and is
9 not enforceable in any court.

10 Sec. 171A.205. PROTECTION FROM COUNTER ACTIONS. (a) For
11 purposes of this section, the term "clawback provision" refers to
12 any law of another state or jurisdiction that authorizes lawsuits
13 against a person for:

14 (1) bringing or engaging in:

15 (A) an action under Section [170A.005](#), [171.208](#),
16 [171A.151](#), [171A.252](#), or any other law of this state that regulates or
17 restricts abortion;

18 (B) a criminal prosecution under Section
19 [170A.004](#), Chapter 6-1/2, Title 71, Revised Statutes, or any other
20 law of this state that imposes criminal penalties on abortion or
21 abortion-related conduct;

22 (C) an action or criminal prosecution that
23 alleges conduct that violates one or more of the state's abortion
24 laws; or

25 (D) an action under Subsection (g);

26 (2) attempting, intending, or threatening to bring or
27 engage in an action or criminal prosecution described in Subsection

1 (a)(1); or

2 (3) providing legal representation or any type of
3 assistance to a person who brings or engages in an action or
4 criminal prosecution described in Subsection (a)(1).

5 (b) For purposes of this section, the term "clawback
6 provision" includes but is not limited to each of the following
7 laws:

8 (1) Section 1798.303, California Civil Code;
9 (2) Section 52-571m, Connecticut General Statutes;
10 (3) Section 3929, Title 10, Delaware Code;
11 (4) Section 2-1461.02, District of Columbia Code;
12 (5) Section 126/29-15, Chapter 740, Illinois Compiled
13 Statutes;

14 (6) Section 9003, Title 14, Maine Revised Statutes;
15 (7) Section 1111/2, Chapter 12, Massachusetts General
16 Laws;

17 (8) Section 604.415, Minnesota Statutes;
18 (9) Section 24-35-5, New Mexico Statutes;
19 (10) Section 70-b, New York Civil Rights Law;
20 (11) Section 23-101-3, Rhode Island Statutes;
21 (12) Section 7302, Title 12, Vermont Statutes; and
22 (13) Section 7.115.040, Washington Revised Code.

23 (c) Notwithstanding any other law, and except as otherwise
24 required by federal law or the Texas Constitution, the law of this
25 state applies to:

26 (1) the conduct described in Subsection (a);
27 (2) any claim brought against a person for engaging in

1 conduct described in Subsection (a);

2 (3) any claim brought under a clawback provision
3 against a citizen or resident of this State; and

4 (4) any claim brought under Subsection (g).

5 (d) Notwithstanding any other law, in any action or criminal
6 prosecution described in Subsection (a)(1), the court shall, upon
7 request, issue a temporary, preliminary, or permanent injunction
8 that restrains each of the defendants, their privities, and all
9 persons in active concert or participation with them, from:

10 (1) suing the plaintiffs or prosecutors, their
11 privities, or any person providing legal representation or any type
12 of assistance to the plaintiffs or prosecutors, under any clawback
13 provision;

14 (2) continuing to litigate any proceedings that have
15 been brought against one or more of the plaintiffs or prosecutors,
16 their privities, or any person providing legal representation or
17 any type of assistance to the plaintiffs or prosecutors, under any
18 clawback provision.

19 (e) Notwithstanding any other law, a judgment entered in an
20 action or criminal prosecution described in Subsection (a)(1) shall
21 preclude the defendants and their privities, under the doctrines of
22 res judicata and collateral estoppel, from litigating or
23 relitigating any claim or issue under any clawback provision
24 against the plaintiffs or their privities that was raised or that
25 could have been raised under the federal or Texas rules of civil
26 procedure or criminal procedure as a claim, cross-claim,
27 counterclaim, set off, or affirmative defense.

1 (f) Notwithstanding any other law, no court of this state
2 may enforce an out-of-state judgment obtained under a clawback
3 provision unless federal law or the Texas Constitution requires it
4 to do so.

5 (g) Notwithstanding any other law, if an action is brought
6 against a person or a judgment is entered against a person under a
7 clawback provision based wholly or partly on the person's decision
8 to engage in conduct described in Subsection (a), that person shall
9 be entitled to injunctive relief and shall recover damages from any
10 person who brought the action or obtained the judgment or who has
11 sought to enforce the judgment. Notwithstanding any other law, the
12 relief must include:

13 (1) compensatory damages created by the action or
14 judgment, including money damages in an amount of the judgment and
15 costs, expenses, and reasonable attorney's fees spent in defending
16 the action;

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

19 (3) additional statutory damages consisting of the
20 greater of:

21 (A) twice the amount of the sum of damages
22 described in Subsections (g)(1) and (g)(2); or

23 (B) \$100,000; and

24 (4) injunctive relief that restrains the person or
25 persons who brought the clawback action, their privities, and all
26 persons in active concert or participation with them, from:

27 (A) suing the person or persons against whom the

clawback action was brought, their privities, or any person providing legal representation or any type of assistance to them under any clawback provision;

(B) continuing to litigate any clawback action that has been brought against the persons described in Subsection (g)(4)(A); and

(C) enforcing or attempting to enforce any judgment obtained under a clawback provision against the persons described in Subsection (g)(4)(A).

(h) Notwithstanding any other law, it is not a defense to an action brought under Subsection (g) that:

(1) the claimant failed to seek recovery under Subsection (g) in an action brought against it under a clawback provision; or

(2) a court in a previous action brought against the claimant declined to recognize or enforce Subsection (g), or held that any provisions of Subsection (g) are invalid, unconstitutional, or preempted by federal law, notwithstanding the doctrines of issue or claim preclusion.

(i) Notwithstanding any other law, Chapter 27, Civil Practice and Remedies Code, does not apply to an action brought under Subsection (g).

(j) Notwithstanding any other law, the Fifteenth Court of Appeals shall have exclusive intermediate appellate jurisdiction over any appeal or original proceeding arising out of a civil action brought under Subsection (g) in the courts of this state.

SUBCHAPTER E. ENFORCEMENT OF ABORTION LAWS

1 Sec. 171A.251. DEFINITION. In this subchapter, "criminal
2 abortion law" means any law of this state imposing criminal
3 penalties on abortion, including Chapter 6-1/2, Title 71, Revised
4 Statutes.

5 Sec. 171A.252. ATTORNEY GENERAL ACTION FOR VIOLATION OF
6 CERTAIN ABORTION LAWS. (a) The attorney general has parens patriae
7 standing to bring an action under this section on behalf of unborn
8 children of residents of this state.

9 (b) The attorney general may bring an action for damages or
10 injunctive relief on behalf of the unborn children of residents of
11 this state against a person who violates or intends to violate:

12 (1) any criminal abortion law of this state except for
13 Subchapter H, Chapter 171, or Subchapter B or C of this chapter; or

14 (2) any criminal law of the United States that governs
15 the mailing, delivery, shipment, or transportation of
16 abortion-inducing drugs.

17 (d) Notwithstanding any other law, the attorney general may
18 not bring an action under this section against a woman for aborting
19 or attempting to abort her unborn child, or for using, obtaining, or
20 seeking to obtain abortion-inducing drugs to abort or attempt to
21 abort her unborn child.

22 SUBCHAPTER F. IMMUNITY AND LIMITS ON STATE-COURT JURISDICTION

23 Sec. 171A.301. SOVEREIGN, GOVERNMENTAL, AND OFFICIAL
24 IMMUNITY. (a) Notwithstanding any other law, this state has
25 sovereign immunity, a political subdivision of this state has
26 governmental immunity, and an officer or employee of this state or a
27 political subdivision of this state has official immunity, as well

1 as sovereign or governmental immunity, as appropriate), in an
2 action, claim, cross-claim, counterclaim, or any other type of
3 legal or equitable action that:

4 (1) challenges the validity of any provision or
5 application of this chapter, on constitutional grounds or
6 otherwise; or

7 (2) seeks to prevent or enjoin this state, a political
8 subdivision of this state, or an officer, employee, or agent of this
9 state or a political subdivision of this state from:

10 (A) enforcing any provision or application of
11 this chapter; or

12 (B) filing, hearing, adjudicating, or docketing
13 an action brought under Section 171A.151.

14 (b) The sovereign immunity described in or conferred by this
15 section includes the constitutional sovereign immunity recognized
16 by the United States Supreme Court in *Seminole Tribe of Florida v.*
17 *Florida*, 517 U.S. 44 (1996), and *Alden v. Maine*, 527 U.S. 706
18 (1999), which applies in both state and federal court and may not be
19 abrogated by Congress or by a state or federal court except under
20 congressional legislation authorized by:

21 (1) Section 5 of the Fourteenth Amendment, United
22 States Constitution;

23 (2) the Bankruptcy Clause of Article I, United States
24 Constitution;

25 (3) Congress's powers to raise and support armies and
26 to provide and maintain a navy; or

27 (4) any other congressional power that the United

1 States Supreme Court recognizes as a ground for abrogating a
2 state's sovereign immunity.

3 Sec. 171A.302. APPLICABILITY OF IMMUNITY. Notwithstanding
4 any other law, the immunities described in or conferred by Section
5 171A.301 apply in every court, both state and federal, and in every
6 type of adjudicative proceeding.

7 Sec. 171A.303. CONSTRUCTION OF CHAPTER RELATED TO ASSERTED
8 DEFENSE. This chapter may not be construed to prevent a litigant
9 from asserting the invalidity or unconstitutionality of a provision
10 or application of this chapter as a defense to an action, claim,
11 cross-claim, or counterclaim brought against the litigant.

12 Sec. 171A.304. WAIVER OF IMMUNITY. (a) Notwithstanding
13 any other law, a provision of the laws of this state may not be
14 construed to waive or abrogate an immunity described in or
15 conferred by Section 171A.301 unless it expressly waives or
16 abrogates immunity with specific reference to that section.

17 (b) Notwithstanding any other law, an attorney representing
18 this state, a political subdivision of this state, or an officer or
19 employee of this state or a political subdivision of this state may
20 not waive an immunity described in or conferred by Section 171A.301
21 or take an action that would result in a waiver of that immunity. A
22 purported waiver or action described by this subsection is
23 considered void and an ultra vires act.

24 Sec. 171A.305. JURISDICTION. (a) Notwithstanding any other
25 law, including Chapter 37, Civil Practice and Remedies Code, a
26 court of this state does not have jurisdiction to consider and may
27 not award relief under any action, claim, cross-claim, or

counterclaim that:

(1) seeks declaratory or injunctive relief, or any type of writ, including a writ of prohibition, that would pronounce any provision or application of this chapter invalid or unconstitutional; or

(2) would restrain this state, a political subdivision of this state, an officer, employee, or agent of this state or a political subdivision of this state, or any person from:

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

(B) filing, hearing, adjudicating, or docketing an action brought under Section 171A.151.

(b) Notwithstanding any other law, the Fifteenth Court of Appeals shall have exclusive intermediate appellate jurisdiction over any appeal or original proceeding arising out of a civil action that seeks the relief described in Subsection (a).

SECTION 3. Section 27.010(a), Civil Practice and Remedies Code, is amended to read as follows:

(a) This chapter does not apply to:

(1) an enforcement action that is brought in the name of this state or a political subdivision of this state by the attorney general, a district attorney, a criminal district attorney, or a county attorney;

(2) a legal action brought against a person primarily engaged in the business of selling or leasing goods or services, if the statement or conduct arises out of the sale or lease of goods, services, or an insurance product, insurance services, or a

1 commercial transaction in which the intended audience is an actual
2 or potential buyer or customer;

3 (3) a legal action seeking recovery for bodily injury,
4 wrongful death, or survival or to statements made regarding that
5 legal action;

6 (4) a legal action brought under the Insurance Code or
7 arising out of an insurance contract;

8 (5) a legal action arising from an officer-director,
9 employee-employer, or independent contractor relationship that:

10 (A) seeks recovery for misappropriation of trade
11 secrets or corporate opportunities; or

12 (B) seeks to enforce a non-disparagement
13 agreement or a covenant not to compete;

14 (6) a legal action filed under Title 1, 2, 4, or 5,
15 Family Code, or an application for a protective order under
16 Subchapter A, Chapter 7B, Code of Criminal Procedure;

17 (7) a legal action brought under Chapter 17, Business
18 & Commerce Code, other than an action governed by Section 17.49(a)
19 of that chapter;

20 (8) a legal action in which a moving party raises a
21 defense pursuant to Section 160.010, Occupations Code, Section
22 161.033, Health and Safety Code, or the Health Care Quality
23 Improvement Act of 1986 (42 U.S.C. 11101 et seq.);

24 (9) an eviction suit brought under Chapter 24,
25 Property Code;

26 (10) a disciplinary action or disciplinary proceeding
27 brought under Chapter 81, Government Code, or the Texas Rules of

Disciplinary Procedure;

(11) a legal action brought under Chapter 554, Government Code;

(12) a legal action based on a common law fraud claim; ~~[or]~~

(13) a legal malpractice claim brought by a client or former client;

(14) an action brought under Chapter 170, 170A, 171, or 171A, Health and Safety Code, or a petition for the taking of a deposition under Rule 202, Texas Rules of Civil Procedure, to investigate a potential claim or in anticipation of an action under those chapters; or

(15) an action brought under Section 30.022, Civil Practice and Remedies Code.

SECTION 4. Chapter 110, Civil Practice and Remedies Code, is amended by adding Section 110.013 to read as follows:

Sec. 110.013. LAWS REGULATING OR RESTRICTING ABORTION NOT AFFECTED. Nothing in this chapter may be construed to limit the scope or enforcement of Chapter 170, 170A, 171, or 171A, Health and Safety Code, or Chapter 6-1/2, Title 71, Revised Statutes, or any other law that regulates or restricts abortion or that withholds taxpayer funds from entities that perform or promote abortions.

SECTION 5. Subchapter H, Chapter 171, Health and Safety Code, is amended by adding Section 171.2105 to read as follows:

Sec. 171.2105. JURISDICTION. Notwithstanding any other law, including Chapter 37, Civil Practice and Remedies Code, a court of this state does not have jurisdiction to consider and may

not award relief under any action, claim, cross-claim, or counterclaim that seeks declaratory or injunctive relief, or any type of writ, including a writ of prohibition, that would pronounce any provision or application of this subchapter invalid or unconstitutional.

SECTION 6. Section 30.022, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 30.022. AWARD OF ATTORNEY'S FEES IN ACTIONS CHALLENGING ABORTION LAWS. (a) Notwithstanding any other law, any person, including an entity, attorney, or law firm, who seeks declaratory or injunctive relief to prevent this state, a political subdivision, any governmental entity or public official in this state, or any person ~~in this state~~ from enforcing or bringing an action to enforce any statute, ordinance, rule, regulation, or any other type of law that regulates or restricts abortion or that limits taxpayer funding for individuals or entities that perform or promote abortions, in any state or federal court, or that represents any litigant seeking such relief in any state or federal court, is jointly and severally liable to pay the costs and reasonable attorney's fees of the prevailing party, including the costs and reasonable attorney's fees that the prevailing party incurs in the party's efforts to recover costs and fees.

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

(1) a state or federal court dismisses any claim or cause of action brought against the party by a litigant that seeks the declaratory or injunctive relief described by Subsection (a),

1 regardless of the reason for the dismissal;~~or~~

2 (2) a state or federal court enters judgment in the
3 party's favor on any such claim or cause of action; or

4 (3) the litigant that seeks the declaratory or
5 injunctive relief described by Subsection (a) voluntarily
6 dismisses or nonsuits its claims against the party under Rule 41,
7 Federal Rules of Civil Procedure, Rule 162, Texas Rules of Civil
8 Procedure, or any other procedural rule.

9 (c) A prevailing party may recover costs and reasonable
10 attorney's fees under this section only to the extent those costs
11 and attorney's fees were incurred while defending claims or causes
12 of action on which the party prevailed, or while attempting to
13 recover those costs and attorney's fees.

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

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

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

24 (de) Notwithstanding any other law, it is not a defense to
25 an action brought under Subsection (c) that:

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

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

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

7 (f) Notwithstanding any other law, including Chapter 15,
8 Civil Practice and Remedies Code, a civil action brought under
9 Subsection (d) may 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 residence of a defendant at the time
13 the cause of action accrued, if the 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 residence of the claimant, if the
17 claimant is an individual residing in this state.

18 (g) If a civil action under Subsection (d) is brought in a
19 venue described by Subsection (f), the action may not be
20 transferred to a different venue without the written consent of all
21 parties.

22 (h) Notwithstanding any other law, any contractual
23 choice-of-forum provision that purports to require a civil action
24 under Subsection (d) be litigated in another forum is void based on
25 this state's public policy and is not enforceable in any state or
26 federal court.

27 (i) Notwithstanding any other law, Chapter 27, Civil

1 Practice and Remedies Code, does not apply to an action brought
2 under Subsection (d).

3 (j) Notwithstanding any other law, the Fifteenth Court of
4 Appeals shall have exclusive intermediate appellate jurisdiction
5 over any appeal or original proceeding arising out of a civil action
6 brought under Subsection (d) in the courts of this state.

7 SECTION 7. Chapter 171A, Health and Safety Code, as added by
8 this Act, applies only to a cause of action that accrues on or after
9 the effective date of this Act.

10 SECTION 8. It is the intent of the legislature that every
11 provision, section, subsection, sentence, clause, phrase, or word
12 in this Act, and every application of the provisions in this Act to
13 every person, group of persons, or circumstances, is severable from
14 each other. If any application of any provision in this Act to any
15 person, group of persons, or circumstances is found by a court to be
16 invalid for any reason, the remaining applications of that
17 provision to all other persons and circumstances shall be severed
18 and may not be affected.

19 SECTION 9. This Act takes effect September 1, 2025.