

By: Hughes, et al.

S.B. No. 7

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

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

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

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

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

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 the imposition of civil  
17 liability on the defendant will violate that third party's rights  
18 under federal law or the United States Constitution;

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

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

25 (b) The defendant has the burden of proving an affirmative  
26 defense described by Subsection (a) by a preponderance of the  
27 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



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

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

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

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

25 (1) a state or federal court dismisses any claim or  
26 cause of action brought against the party by a litigant that seeks  
27 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.