

BILL ANALYSIS

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S.B. 2880
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2021, the 87th Legislature passed S.B. 8, the Heartbeat Bill, and H.B. 1280, the Trigger Bill. This legislation continues to save thousands of lives of Texas children. However, abortion pill providers have continued to send abortion pills into our state, creating a new avenue for illegal abortions.

S.B. 2880 would increase civil liability tools citizens may use against those trafficking abortion pills. S.B. 2880 would allow for lawsuits against those mailing, delivering, or trafficking abortion pills. The bill would hold manufacturers and distributors of abortion pills liable and would include market-share liability. The bill would also allow women and families to bring wrongful death and injury suits six years after being injured by abortion.

S.B. 2880 would enhance criminal penalties for abortion crimes. The bill classifies paying for or reimbursing costs associated with the abortion as a first or second degree felony, depending on the circumstance. The bill would add penalties for aiding and abetting abortions by pills, including paying for or reimbursing abortion costs. The bill would penalize the destruction or concealment of evidence related to an illegal abortion in or outside the state.

S.B. 2880 would provide more tools to target online trafficking of abortion drugs. The bill would hold those making or maintaining Internet platforms, websites, and apps accountable for facilitating or advertising abortion pill sales. The bill would prohibit financial service providers, crowdfunding platforms, and payment processors (like Paypal or Stripe) from collecting or transferring money for abortion pills. The bill would authorize the Attorney General to prosecute abortion crimes.

Texas recognizes an exception for abortion in cases of medical emergencies. As such, there are no penalties created under this bill for the distribution of pills intended for use in medical emergencies. This bill also creates no penalties for any woman seeking an abortion. This bill targets the large companies and bad actors who are shipping abortion-inducing drugs into Texas.

As proposed, S.B. 2880 amends current law relating to abortion, including civil liability for distribution of abortion-inducing drugs, and to the destruction of certain property, makes conforming changes and harmonizes conforming provisions, creates criminal offenses, and authorizes a private civil right of action.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Requires that this Act be known as the Women and Child Protection Act.

SECTION 2. Amends Subtitle H, Title 2, Health and Safety Code, by adding Chapter 171A, as follows:

CHAPTER 171A. ABORTION-INDUCING DRUGS AND FACILITATION OF ABORTION;
ENFORCEMENT OF ABORTION LAWS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 171A.001. DEFINITIONS. Defines "abortion," "abortion assistance organization," "abortion-inducing drug," "abortion provider," "elective abortion," "information content provider," "interactive computer service," and "medical emergency."

Sec. 171A.002. CONSTRUCTION OF CHAPTER RELATED TO LIABILITY. Prohibits this chapter from being construed to impose liability on the speech or conduct of certain entities.

SUBCHAPTER B. PROTECTION FROM ABORTION-INDUCING DRUGS

Sec. 171A.051. PROHIBITIONS RELATED TO ABORTION-INDUCING DRUGS. (a) Prohibits a person, except as provided by Subsection (b), from taking certain actions relating to abortion-inducing drugs.

(b) Provides that, notwithstanding any other law, Subsection (a) does not prohibit certain actions relating to abortion-inducing drugs.

Sec. 171A.052. EXCLUSIVE ENFORCEMENT; EFFECT OF OTHER LAW. (a) Provides that, notwithstanding any other law, this subchapter is authorized only to be enforced through a qui tam or private civil action brought under Subchapter C, D, or E.

(b) Provides that no other direct or indirect enforcement of this subchapter is authorized to 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 state against any person, by any means whatsoever, and no violation of this subchapter is authorized to be used to justify or trigger the enforcement of any other law or any type of adverse consequence under any other law, except as provided in Subchapter C, D, or E.

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

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

Sec. 171A.101. CIVIL ACTION FOR DISTRIBUTION OF ABORTION-INDUCING DRUGS. (a) Provides that, notwithstanding any other law and except as provided by this subchapter, a person who manufactures, possesses, distributes, mails, transports, delivers, prescribes, or provides an abortion-inducing drug, who aids or abets the manufacture, possession, distribution, mailing, transport, delivery, prescription, or provision of an abortion-inducing drug, or who engages in any conduct prohibited by Section 171A.051 is strictly, absolutely, and jointly and severally liable for the wrongful death of an unborn child or pregnant woman from the use of the abortion-inducing drug and personal injury of an unborn child or pregnant woman from the use of the abortion-inducing drug.

(b) Prohibits a claimant from bringing an action under this section if the action is preempted by 47 U.S.C. Section 230(c).

(c) Provides that a person who engages in conduct described by Subsection (a) is liable for damages resulting from the death or personal injury sustained by an unborn child or pregnant woman if the person's conduct contributed in any way to the death or injury, regardless of whether the person's conduct was the actual or proximate cause of the death or injury.

(d) Authorizes the mother or father of an unborn child, notwithstanding any other law, to bring a civil action under this section for the wrongful death of the unborn child from the use of an abortion-inducing drug, regardless of whether the other parent brings a civil action for the wrongful death. Authorizes the biological father of an unborn child to bring the action regardless of whether the father was married to the unborn child's mother at the time of the unborn child's conception or death.

(e) Prohibits a civil action, notwithstanding any other law, from being brought under this section by or against certain persons.

(f) Prohibits an action brought under this section, notwithstanding any other law, including rules of civil procedure adopted under Chapter 26 (Class Actions), Civil Practice and Remedies Code, from being litigated on behalf of a claimant class or a defendant class, and a court from certifying a class in the action.

Sec. 171A.102. DEFENSES. (a) Provides that it is an affirmative defense to an action brought under Section 171A.101 that the defendant meets certain criteria.

(b) Provides that a defendant has the burden of proving an affirmative defense under Subsection (a) by a preponderance of the evidence.

(c) Provides that, notwithstanding any other law, certain claims are not a defense to an action brought under Section 171A.101.

Sec. 171A.103. MARKET-SHARE LIABILITY. Provides that, notwithstanding any other law, if a claimant who brings an action under Section 171A.101 is unable to identify the specific manufacturer of the abortion-inducing drug that caused the death or injury that is the basis for the action, the liability is apportioned among all manufacturers of abortion-inducing drugs in proportion to each manufacturer's share of the national market for abortion-inducing drugs at the time the death or injury occurred.

Sec. 171A.104. STATUTE OF LIMITATIONS. Authorizes a person, notwithstanding any other law, to bring an action under Section 171A.101 not later than the sixth anniversary of the date the cause of action accrues.

Sec. 171A.105. WAIVER PROHIBITED. Provides that, notwithstanding any other law, a waiver or purported waiver of the right to bring an action under Section 171A.101 is void as against public policy and is not enforceable in any court.

Sec. 171A.106. OTHER DEFENSES. Provides that, notwithstanding any other law, this subchapter does not impose liability for certain conduct or damages.

Sec. 171A.107. JURISDICTION; APPLICABILITY OF STATE LAW. (a) Provides that, notwithstanding any other law, including Subchapter C (Long-Arm Jurisdiction in Suit on Business Transaction or Tort), Chapter 17 (Parties; Citation; Long-Arm Jurisdiction), Civil Practice and Remedies Code, the courts of this state have personal jurisdiction over a defendant sued under Section 171A.101 to the maximum extent permitted by the Fourteenth Amendment to the United States Constitution and the defendant is authorized to be served outside this state.

(b) Provides that, notwithstanding any other law, the law of this state applies to the use of an abortion-inducing drug by a resident of this state, regardless of where the use of the drug occurs, and to an action brought under Section 171A.101 to the maximum extent permitted by the Texas Constitution and federal law, including the United States Constitution.

(c) Provides that, notwithstanding any other law, any contractual choice-of-law provision that requires or purports to require application of the laws of a different

jurisdiction is void based on this state's public policy and is not enforceable in any court.

(d) Provides that, notwithstanding any other law, Chapters 27 (Actions Involving the Exercise of Certain Constitutional Rights) and 110 (Religious Freedom), Civil Practice and Remedies Code, do not apply to an action brought under Section 171A.101.

Sec. 171A.108. COORDINATED ENFORCEMENT PROHIBITED. (a) Prohibits this state, a political subdivision of this state, or an officer or employee of this state or a political subdivision of this state, notwithstanding any other law, from taking certain actions.

(b) Provides that this section does not prohibit this state, a political subdivision of this state, or an officer or employee of this state or a political subdivision of this state from filing an amicus curiae brief in an action brought under Section 171A.101 if the state, political subdivision, officer, or employee does not act in concert or participation with the claimant who brings the action.

SUBCHAPTER D. QUI TAM ENFORCEMENT OF PROHIBITIONS RELATING TO ABORTION-INDUCING DRUGS

Sec. 171A.151. QUI TAM ACTION AUTHORIZED. (a) Provides that, except as provided by this section, a person, other than a political subdivision of this state or an officer or employee of a political subdivision of this state, has standing to bring and is authorized to bring a qui tam action against a person who violates Section 171A.051 or intends to violate Section 171A.051.

(b) Requires that an action brought under this section be brought in the name of the qui tam relator and of the state.

(c) Prohibits a qui tam relator from bringing an action under this section if the action is preempted by 47 U.S.C. Section 230(c).

(d) Prohibits a qui tam action, notwithstanding any other law, from being brought under this section by or against certain persons.

(e) Prohibits an action brought under this section, notwithstanding any other law, from being litigated on behalf of a claimant class or a defendant class, and prohibits a court from certifying a class in the action.

Sec. 171A.152. DEFENSES. (a) Provides that it is an affirmative defense to an action brought under Section 171A.151 that the defendant was unaware the defendant was engaged in the conduct prohibited by Section 171A.051 and took every reasonable precaution to ensure the defendant would not violate Section 171A.051.

(b) Provides that a defendant has the burden of proving an affirmative defense under Subsection (a) by a preponderance of the evidence.

(c) Provides that, notwithstanding any other law, certain claims are not a defense to an action brought under Section 171A.151.

Sec. 171A.153. STATUTE OF LIMITATIONS. Authorizes a person, notwithstanding any other law, to bring an action under Section 171A.151 not later than the sixth anniversary of the date the cause of action accrues.

Sec. 171A.154. REMEDIES. (a) Requires the court, except as provided by Subsection (b), if a qui tam relator prevails in an action brought under Section 171A.151, to award to the relator:

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

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

(3) costs and reasonable attorney's fees.

(b) Prohibits a court from awarding relief under Subsection (a)(2) or (a)(3) in response to a violation of Section 171A.051 if the defendant demonstrates that a court already ordered the defendant to pay damages under Subsection (a)(2) in another action for that particular violation.

(c) Prohibits a court, notwithstanding any other law, from awarding costs or attorney's fees to a defendant against whom an action is brought under Section 171A.151.

Sec. 171A.155. CONSTRUCTION OF SUBCHAPTER RELATED TO FIRST AMENDMENT PROTECTIONS. Prohibits this subchapter from being 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 (Freedom of Speech and Press; Libel), Article I (Bill of Rights), Texas Constitution.

Sec. 171A.156. COORDINATED ENFORCEMENT PROHIBITED. (a) Prohibits a political subdivision of this state or an officer or employee of a political subdivision of this state, notwithstanding any other law, from taking certain actions.

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

Sec. 171A.157. JURISDICTION; APPLICABILITY OF STATE LAW. (a) Provides that, notwithstanding any other law, including Subchapter C, Chapter 17, Civil Practice and Remedies Code, the courts of this state have personal jurisdiction over a defendant sued under Section 171A.151 to the maximum extent permitted by the Fourteenth Amendment to the United States Constitution and the defendant is authorized to be served outside this state.

(b) Provides that, notwithstanding any other law, the law of this state applies to an action brought under Section 171A.151 to the maximum extent permitted by the Texas Constitution or federal law, including the United States Constitution.

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

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

SUBCHAPTER E. QUI TAM ENFORCEMENT AGAINST INTERACTIVE COMPUTER SERVICES FACILITATING ABORTION

Sec. 171A.201. QUI TAM ACTION AGAINST INTERACTIVE COMPUTER SERVICE PROVIDER. (a) Provides that a person, other than this state, a political

subdivision of this state, or an officer or employee of this state or a political subdivision of this state, has standing to bring and is authorized to bring a qui tam action against a person who provides or maintains certain services or platforms.

(b) Requires that an action brought under this section be brought in the name of the qui tam relator and of the state.

(c) Provides that, notwithstanding any other law, including rules of civil procedure adopted under Chapter 26, Civil Practice and Remedies Code, an action brought under this section is prohibited from being litigated on behalf of a claimant class or a defendant class, and no court is authorized to certify a class in the action.

Sec. 171A.202. DEFENSES. (a) Provides that it is an affirmative defense to an action brought under Section 171A.201 that the defendant meets certain criteria.

(b) Provides that a defendant has the burden of proving an affirmative defense under Subsection (a) by a preponderance of the evidence.

Sec. 171A.203. REMEDIES. (a) Requires the court, except as provided by Subsection (b), if a qui tam relator prevails in an action brought under Section 171A.201, to award only declaratory or injunctive relief. Prohibits a court from, under any circumstances, awarding damages or civil penalties in any amount in the action or attorney's fees or costs.

(b) Prohibits a court from awarding relief under Subsection (a) if the action was brought in response to certain conduct.

Sec. 171A.204. RELATION TO OTHER INFORMATION CONTENT PROVIDERS. Prohibits a person who engages in conduct described by Section 171A.201(a) from being held liable for certain damages or conduct or treated in a certain manner.

Sec. 171A.205. EXCLUSIVE ENFORCEMENT; EFFECT OF OTHER LAW. (a) Provides that, notwithstanding any other law, this subchapter is authorized to only be enforced through a qui tam action brought under Section 171A.201.

(b) Provides that no other direct or indirect enforcement of this subchapter is authorized to 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 state against any person, by any means whatsoever, and no violation of this subchapter is authorized to be used to justify or trigger the enforcement of any other law or any type of adverse consequence under any other law, except as provided in this subchapter.

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

Sec. 171A.206. COORDINATED ENFORCEMENT PROHIBITED. (a) Prohibits a political subdivision of this state or an officer or employee of a political subdivision of this state, notwithstanding any other law, from taking certain actions.

(b) Provides that this section does not prohibit a political subdivision of this state or an officer or employee of a political subdivision of this state from filing an amicus curiae brief in an action brought under Section 171A.201 if the political subdivision, officer, or employee does not act in concert or participation with the qui tam relator.

Sec. 171A.207. JURISDICTION; APPLICABILITY OF STATE LAW. (a) Provides that, notwithstanding any other law, including Subchapter C, Chapter 17, Civil Practice and Remedies Code, the courts of this state have personal jurisdiction over a defendant sued under Section 171A.201 to the maximum extent permitted by the Fourteenth Amendment to the United States Constitution and the defendant is authorized to be served outside this state.

(b) Provides that, notwithstanding any other law, the law of this state applies to an action brought under Section 171A.201 to the maximum extent permitted by the Texas Constitution or federal law, including the United States Constitution.

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

(d) Provides that, notwithstanding any other law, Chapters 27 and 110, Civil Practice and Remedies Code, do not apply to an action brought under Section 171A.201.

Sec. 171A.208. INTERACTIVE COMPUTER SERVICE USER OR PROVIDER IMMUNITY FOR CERTAIN ACTIONS. Provides that, notwithstanding any other law, a provider or user of an interactive computer service, Internet service provider, search engine, or cloud service provider has absolute and nonwaivable immunity from liability or suit for:

(1) an action taken to restrict access to or availability of information or material that assists or facilitates access to elective abortions or abortion-inducing drugs, regardless of whether the information or material is constitutionally protected from government censorship;

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

(3) a denial of service to persons who provide or aid or abet elective abortions or who manufacture, mail, distribute, transport, or provide abortion-inducing drugs.

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

Sec. 171A.251. AFFIRMATIVE DEFENSE. (a) Authorizes a defendant against whom an action is brought under Section 171A.101, 171A.151, or 171A.201 to assert an affirmative defense to liability under this section if certain conditions are met.

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

Sec. 171A.252. CONSTRUCTION OF CHAPTER WITH RESPECT TO CIVIL LIABILITY AND ENFORCEMENT. Prohibits this chapter from being construed to limit or preclude a defendant from asserting the unconstitutionality of any provision or application of the laws of this state as a defense to liability under Section 171A.101, 171A.151, or 171A.201 or from asserting any other defense that might be available under any other source of law.

Sec. 171A.253. APPLICATION OF OTHER LAW. (a) Prohibits a court, notwithstanding any other law, from apply the law of another state or jurisdiction to any civil or qui tam action brought under Section 171A.101, 171A.151, or 171A.201 unless the Texas Constitution or federal law, including the United States Constitution, compels it to do so.

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

Sec. 171A.254. VENUE. (a) Authorizes a civil or qui tam action brought under Section 171A.101, 171A.151, or 171A.201, notwithstanding any other law, including Chapter 15 (Venue), Civil Practice and Remedies Code, to be brought in certain counties.

(b) Prohibits an action, if civil or qui tam action is brought under Section 171A.101, 171A.151, or 171A.201 in a venue described by Subsection (a), from being transferred to a different venue without the written consent of all parties.

(c) Provides that, notwithstanding any other law, any contractual choice-of-forum provision that requires or purports to require a civil or qui tam action under Sections 171A.101, 171A.151, or 171A.201 to be litigated in a particular forum is void based on this state's public policy and is not enforceable in any court.

Sec. 171A.255. PROTECTION FROM COUNTER ACTIONS. Authorizes a person, if an action is brought against the person or a judgment is entered against the person based wholly or partly on the person's decision to bring or threat to bring an action under Section 171A.101, 171A.151, or 171A.201, to recover damages from the claimant who brought the action or obtained the judgment or who has sought to enforce the judgment. Requires that the damages include certain damages and costs.

SUBCHAPTER G. CRIMINAL OFFENSES

Sec. 171A.301. OFFENSE: PAYING OR REIMBURSING ABORTION COSTS. (a) Provides that a person that knowingly pays for or reimburses the costs associated with obtaining an elective abortion performed on a pregnant woman commits an offense. Provides that an offense under this subsection is a felony of the second degree, except that the offense is a felony of the first degree if an unborn child or the pregnant woman dies as a result of the offense.

(b) Provides that the prohibition under Subsection (a) applies regardless of certain circumstances.

(c) Provides that the prohibition under Subsection (a) does not apply to the pregnant woman on whom the elective abortion is performed or attempted.

(d) Provides that the prohibition under Subsection (a) applies extraterritorially to the maximum extent permitted by the Texas Constitution or federal law, including the United States Constitution.

Sec. 171A.302. OFFENSE: DESTROYING EVIDENCE OF ABORTION. (a) Provides that a person commits an offense if the person knowingly or recklessly conceals, destroys, or spoliates evidence of an elective abortion performed or attempted in this state or on a resident of this state, regardless of whether the person knew or should have known that the elective abortion was performed or attempted on the resident.

(b) Provides that an offense under Subsection (a) is a felony of the second degree.

(c) Provides that the prohibition under Subsection (a) does not apply to the pregnant woman on whom the elective abortion is performed or attempted.

(d) Provides that the prohibition under Subsection (a) applies extraterritorially to the maximum extent permitted by the Texas Constitution or federal law, including the United States Constitution.

Sec. 171A.351. DEFINITION. Defines "criminal abortion law."

Sec. 171A.352. STATUTE OF LIMITATIONS. Provides that, notwithstanding any other law, there is no applicable statute of limitations for an offense committed under a criminal abortion law.

Sec. 171A.353. CONCURRENT JURISDICTION OF ATTORNEY GENERAL. Provides that, notwithstanding any other law, the attorney general has concurrent jurisdiction to prosecute any criminal abortion law and is authorized to authorize a district attorney to investigate or prosecute a violation of an abortion law if a local district attorney fails or refuses to investigate or prosecute the violation.

Sec. 171A.354. ATTORNEY GENERAL ACTION FOR VIOLATION OF CERTAIN ABORTION LAWS. (a) Provides that the attorney general has parens patriae standing to bring an action under this section on behalf of unborn children of residents of this state.

(b) Authorizes the attorney general to bring an action for damages or injunctive relief on behalf of an unborn child of a resident of this state against a person who violates any criminal abortion law of this state except for Subchapter H (Detection of Fetal Heartbeat), Chapter 171 (Abortion), or Subchapter B, C, D, or E of this chapter.

Sec. 171A.355. FEE SHIFTING. (a) Provides that, notwithstanding any other law, a person, including an entity, attorney, or law firm, who seeks declaratory or injunctive relief to prevent a person, including this state, a political subdivision of this state, or an officer, employee, or agent of this state or a political subdivision of this state, from enforcing or bringing an action to enforce a law, including a statute, ordinance, rule, or regulation, that regulates or restricts abortion or that limits taxpayer funding for persons that perform or promote abortions in any state or federal court, or who represents a 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 in the action seeking declaratory or injunctive relief, including the costs and reasonable attorney's fees that the prevailing party incurs in its efforts to recover costs and fees.

(b) Provides that, for purposes of this section, a party is considered a prevailing party if certain conditions are met.

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

(d) Authorizes a prevailing party under this section, regardless of whether a prevailing party sought to recover costs or attorney's fees in the underlying action, to bring a civil action to recover costs and attorney's fees against a person, including an entity, attorney, or law firm, who sought declaratory or injunctive relief described by Subsection (a) not later than the third anniversary of the date on which, as applicable the dismissal or judgment described by Subsection (b) becomes final on the conclusion of appellate review or the time for seeking appellate review expires.

(e) Provides that certain claims are not a defense to a civil action brought under Subsection (d).

(f) Authorizes a civil action brought under Subsection (d), notwithstanding any other law, including Chapter 15, Civil Practice and Remedies Code, to be brought in certain counties.

(g) Prohibits a civil action, if the action is brought under Subsection (d) in a venue described by Subsection (f), from being transferred to a different venue without the written consent of all parties.

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

SUBCHAPTER I. IMMUNITY AND LIMITS ON STATE-COURT JURISDICTION

Sec. 171A.401. SOVEREIGN, GOVERNMENTAL, AND OFFICIAL IMMUNITY. (a) Provides that, notwithstanding any other law, the state has sovereign immunity, a political subdivision of this state has governmental immunity, and an officer or employee of this state or a political subdivision of this state has official immunity in certain actions, claims, counterclaims, or any other type of legal or equitable actions.

(b) Provides that sovereign immunity conferred by this section includes the constitutional sovereign immunity recognized by the United States Supreme Court, which applies in both state and federal court and is prohibited from being abrogated by Congress or by a state or federal court except under congressional legislation authorized by certain provisions or powers.

Sec. 171A.402. APPLICABILITY OF IMMUNITY. Provides that, notwithstanding any other law, the immunities conferred by Section 171A.401 apply in every court, both state and federal, and in every type of adjudicative proceeding.

Sec. 171A.403. CONSTRUCTION OF CHAPTER RELATED TO ASSERTED DEFENSE. Prohibits this chapter from being construed to prevent a litigant from asserting the invalidity or unconstitutionality of a provision or application of this chapter as a defense to an action, claim, or counterclaim brought against the litigant.

Sec. 171A.404. WAIVER OF IMMUNITY. (a) Prohibits a provision of the laws of this state, notwithstanding any other law, from being construed to waive or abrogate an immunity conferred by Section 171A.401 unless it expressly waives or abrogates immunity with specific reference to that section.

(b) Prohibits an attorney representing the state, a political subdivision of this state, or an officer or employee of this state or a political subdivision of this state, notwithstanding any other law, from waiving an immunity conferred by Section 171A.401 or take an action that would result in a waiver of that immunity. Provides that a purported waiver or action described by this subsection is considered void and an ultra vires act.

Sec. 171A.405. JURISDICTION. Provides that, notwithstanding any other law, including Chapter 37 (Declaratory Judgements), Civil Practice and Remedies Code, a court of this state does not have jurisdiction to consider and is prohibited from awarding relief under certain actions, claims, or counterclaims.

Sec. 171A.406. EFFECT OF CONTRARY JUDICIAL ACTIONS. (a) Provides that, notwithstanding any other law, judicial relief issued by a court of this state that disregards the immunity conferred by Section 171A.401 or the limits on jurisdiction or permissible relief described by Section 171A.405 is considered void because a court without jurisdiction issued the relief and is prohibited from being enforced or obeyed by an officer, employee, or agent, including a judicial official, of this state or a political subdivision of this state.

(b) Provides that, notwithstanding any other law, a writ, injunction, or declaratory judgment issued by a court of this state that purports to restrain a person, including this state, a political subdivision of this state, or an officer or employee of this state or a political subdivision of this state, from hearing, adjudicating, docketing, or filing an action brought under Section 171A.101, 171A.151, or 171A.201 or an action described by Section 171A.208 is considered void and a

violation of the Due Process Clause of the Fourteenth Amendment to the United States Constitution and is prohibited from being enforced or obeyed by an officer, employee, or agent, including a judicial official, of this state or a political subdivision of this state.

Sec. 171A.407. **LIABILITY FOR VIOLATION.** (a) Authorizes a person, notwithstanding any other law, to bring an action against an officer, employee, or agent, including a judicial official, of this state or a political subdivision of this state, who issues, enforces, or obeys a writ, injunction, or declaratory judgment described by Section 171A.406(b) if the writ, injunction, or judgment prevents or delays the person from bringing an action under Section 171A.101, 171A.151, or 171A.201 or an action described by Section 171A.208.

(b) Provides that a claimant who prevails in an action brought under this section is entitled to certain compensation.

(c) Provides that, notwithstanding any other law, in an action brought under this section, a person who violates Section 171A.405 or 171A.406(b) is:

(1) prohibited from asserting and is not entitled to any type of immunity defense, including sovereign immunity, governmental immunity, official immunity, or judicial immunity;

(2) prohibited from being indemnified for an award of damages or costs and attorney's fees entered against the person or for the costs of the person's legal defense; and

(3) prohibited from receiving or obtaining legal representation from the attorney general.

SECTION 3. Amends Section 27.010(a), Civil Practice and Remedies Code, to provide that this chapter does not apply to certain actions, including an action brought under Chapter 170 (Prohibited Acts Regarding Abortion), 170A (Performance of Abortion), 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 an action brought under Section 30.022 (Award of Attorney's Fees in Actions Challenging Abortion Laws).

SECTION 4. Amends Chapter 110, Civil Practice and Remedies Code, by adding Section 110.013, as follows:

Sec. 110.013. **LAWS REGULATING OR RESTRICTING ABORTION NOT AFFECTED.** Provides that nothing in this chapter is authorized to be construed to limit the scope or enforcement of Chapter 170, 170A, 171, or 171A, Health and Safety Code, or Chapter 6-1/2 (Abortion), Title 71 (Health--Public), 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. Amends Subchapter H, Chapter 171, Health and Safety Code, by adding Section 171.2105, as follows:

Sec. 171.2105. **JURISDICTION.** Provides that, notwithstanding any other law, including Chapter 37, Civil Practice and Remedies Code, a court of this state does not have jurisdiction to consider and is prohibited from awarding relief under any action, 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. Reenacts Section 71.02(a), Penal Code, as amended by Chapters 269 (S.B. 224), 369 (H.B. 1442), 462 (S.B. 1900), 885 (H.B. 4635), and 910 (H.B. 6), Acts of the 88th Legislature, Regular Session, 2023, and amends it, as follows:

(a) Provides that a person commits an offense if, with the intent to establish, maintain, or participate in a combination or in the profits of a combination or as a member of a criminal street gang or foreign terrorist organization, the person commits or conspires to commit one or more of the following:

(1)-(5-a) makes no changes to these subdivisions;

(6)-(19) makes no changes to these subdivisions;

(20)-(23) makes nonsubstantive changes to these subdivisions;

(24) a violation of 18 U.S.C. Section 1461 that involves using the mails for the mailing, carriage in the mails, or delivery of certain items;

(25) a violation of 18 U.S.C. Section 1462(c) that involves taking certain actions;

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

(27) an offense under Chapter 28 (Arson, Criminal Mischief, and Other Property Damage or Destruction) involving damage or destruction to the property of a church, a crisis pregnancy center, an adoption agency, or an entity that offers services covered under the Thriving Texas Families Program established under Chapter 54 (Living Organ Donor Education Program), Health and Safety Code.

Deletes text of existing Subdivisions (5-b) and (5-b) providing that a person commits an offense if, with the intent to take certain actions, the person commits or conspires to commit any unlawful possession with intent to deliver a controlled substance or dangerous drug or unlawful possession with intent to deliver a controlled substance listed in Penalty Group 1-B under Section 481.1022 (Penalty Group 1-B), Health and Safety Code.

SECTION 7. Makes application of Chapter 171A, Health and Safety Code, as added by this Act, prospective.

SECTION 8. Makes application of Section 71.02(a), Penal Code, as reenacted and amended by this Act, prospective.

SECTION 9. Severability clause.

SECTION 10. Effective date: September 1, 2025.