

By: Hughes

S.B. No. 2880

A BILL TO BE ENTITLED

AN ACT

relating to abortion, including civil liability for distribution of abortion-inducing drugs, and to the destruction of certain property; making conforming changes and harmonizing conforming provisions; creating criminal offenses; authorizing a private civil right of action.

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

SECTION 1. This Act shall be known as the Women 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 assistance organization" means a person that procures or facilitates the procurement of an elective abortion by:

(A) offering or providing money to pay for, reimburse, insure, or offset the costs of an abortion or any costs incurred in or associated with obtaining an elective abortion, regardless of where the abortion is performed;

1 (B) paying for, reimbursing, insuring, planning,
2 or executing plans for travel accommodations, including
3 transportation, meals, or lodging, with the intent of facilitating
4 the procurement of an elective abortion, regardless of where the
5 abortion is performed;

6 (C) offering, providing, or paying for any type
7 of service or logistical support, including child care or abortion
8 doula services, with the intent of facilitating the procurement of
9 an elective abortion, regardless of where the abortion is
10 performed; or

11 (D) collecting or distributing abortion-inducing
12 drugs to provide easier access to the drugs.

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

15 (4) "Abortion provider" means a person that performs
16 elective abortions.

17 (5) "Elective abortion" means an abortion performed or
18 induced by a licensed physician that is not performed or induced in
19 response to a medical emergency.

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

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

1 to the Internet and such systems operated or services offered by
2 libraries or educational institutions. The term does not include:

3 (A) an Internet service provider or the
4 provider's affiliates or subsidiaries;

5 (B) a search engine; or

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

12 (8) "Medical emergency" has the meaning assigned by
13 Section 171.002.

14 Sec. 171A.002. CONSTRUCTION OF CHAPTER RELATED TO
15 LIABILITY. This chapter may not be construed to impose liability on
16 the speech or conduct of:

17 (1) an Internet service provider or the provider's
18 affiliates or subsidiaries;

19 (2) a search engine; or

20 (3) a cloud service provider that solely provides
21 access or connection to or from an Internet website or other
22 information or content on the Internet or on a facility, system, or
23 network that is not under the provider's control, including
24 transmission, downloading, intermediate storage, access software,
25 or other services.

26 SUBCHAPTER B. PROTECTION FROM ABORTION-INDUCING DRUGS

27 Sec. 171A.051. PROHIBITIONS RELATED TO ABORTION-INDUCING

1 DRUGS. (a) Except as provided by Subsection (b), a person may not:

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

4 (2) mail, transport, deliver, prescribe, or provide an
5 abortion-inducing drug in any manner to or from any person or
6 location in this state;

7 (3) provide information on the method for obtaining an
8 abortion-inducing drug;

9 (4) create, edit, upload, publish, host, maintain, or
10 register a domain name for an Internet website, platform, or other
11 interactive computer service that assists or facilitates a person's
12 effort in obtaining an abortion-inducing drug;

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

18 (6) engage in conduct that aids or abets an act
19 described by this subsection if the person would be held criminally
20 responsible for the aiding or abetting under Chapter 7, Penal Code.

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

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

1 (2) conduct this state is prohibited from regulating
2 under the Texas Constitution or federal law, including the United
3 States Constitution;

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

6 (4) the possession, distribution, mailing, transport,
7 delivery, or provision of an abortion-inducing drug for a purpose
8 that does not include performing, inducing, attempting, or
9 assisting an abortion;

10 (5) the possession, distribution, mailing, transport,
11 delivery, or provision of an abortion-inducing drug for the purpose
12 of enabling a licensed physician to treat a pregnant woman during a
13 medical emergency;

14 (6) the possession of an abortion-inducing drug for
15 purposes of entrapping a person that violates this section;

16 (7) conduct engaged in by a person under the direction
17 of a federal agency, contractor, or employee to carry out a duty
18 under federal law, if prohibiting that conduct would violate the
19 doctrine of preemption or intergovernmental immunity; or

20 (8) conduct described by Section 171A.201(a).

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

22 (a) Notwithstanding any other law, this subchapter may only be
23 enforced through a qui tam or private civil action brought under
24 Subchapter C, D, or E.

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

1 officer or employee of this state or a political subdivision of this
2 state against any person, by any means whatsoever, and no violation
3 of this subchapter may be used to justify or trigger the enforcement
4 of any other law or any type of adverse consequence under any other
5 law, except as provided in Subchapter C, D, or E.

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

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

13 Sec. 171A.101. CIVIL ACTION FOR DISTRIBUTION OF
14 ABORTION-INDUCING DRUGS. (a) Notwithstanding any other law and
15 except as provided by this subchapter, a person who manufactures,
16 possesses, distributes, mails, transports, delivers, prescribes,
17 or provides an abortion-inducing drug, who aids or abets the
18 manufacture, possession, distribution, mailing, transport,
19 delivery, prescription, or provision of an abortion-inducing drug,
20 or who engages in any conduct prohibited by Section 171A.051 is
21 strictly, absolutely, and jointly and severally liable for:

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

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

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

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

7 (d) Notwithstanding any other law, the mother or father of
8 an unborn child may bring a civil action under this section for the
9 wrongful death of the unborn child from the use of an
10 abortion-inducing drug, regardless of whether the other parent
11 brings a civil action for the wrongful death. The biological father
12 of an unborn child may bring the action regardless of whether the
13 father was married to the unborn child's mother at the time of the
14 unborn child's conception or death.

15 (e) Notwithstanding any other law, a civil action may not be
16 brought under this section:

17 (1) against the woman who used or sought to obtain
18 abortion-inducing drugs to abort or attempt to abort her unborn
19 child;

20 (2) against a person that acted under the direction of
21 a federal agency, contractor, or employee who is carrying out
22 duties under federal law if the imposition of liability would
23 violate the doctrine of preemption or intergovernmental immunity;
24 or

25 (3) by any person who impregnated the woman who used
26 abortion-inducing drugs through conduct constituting sexual
27 assault under Section 22.011, Penal Code, or aggravated sexual

1 assault under Section 22.021, Penal Code, or by another person who
2 acts in concert or participation with that person.

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

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

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

12 (2) took every reasonable precaution to ensure the
13 defendant would not manufacture, possess, distribute, mail,
14 transport, deliver, prescribe, or provide or aid or abet the
15 manufacture, possession, distribution, mailing, transport,
16 delivery, prescription, or provision of abortion-inducing drugs.

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

19 (c) Notwithstanding any other law, the following are not a
20 defense to an action brought under Section 171A.101:

21 (1) ignorance or mistake of law;

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

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

1 overruled when the cause of action accrued;

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

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

11 (6) the laws of another state or jurisdiction,
12 including an interstate abortion shield law, unless the Texas
13 Constitution or federal law, including the United States
14 Constitution, compels the court to enforce that law;

15 (7) non-mutual issue preclusion or non-mutual claim
16 preclusion;

17 (8) the consent of the claimant or the unborn child's
18 mother to the abortion;

19 (9) contributory or comparative negligence;

20 (10) assumption of risk;

21 (11) entrapment;

22 (12) lack of actual or proximate cause;

23 (13) sovereign immunity, governmental immunity, or
24 official immunity; or

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

1 parties, except as provided by Section 171A.251.

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

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

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

18 Sec. 171A.106. OTHER DEFENSES. Notwithstanding any other
19 law, this subchapter does not impose liability for:

20 (1) death or personal injury resulting from an
21 abortion performed or induced by a licensed physician in response
22 to a medical emergency;

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

1 (3) conduct this state is prohibited from regulating
2 under the Texas Constitution or federal law, including the United
3 States Constitution;

4 (4) conduct of a pregnant woman who aborts or seeks to
5 abort her unborn child;

6 (5) the possession, distribution, mailing, transport,
7 delivery, or provision of an abortion-inducing drug for the purpose
8 of enabling a licensed physician to treat a pregnant woman during a
9 medical emergency;

10 (6) the provision of basic public services, including
11 fire and police protection and utilities, by this state, a
12 political subdivision of this state, or a common carrier to an
13 abortion provider, an abortion assistance organization, an
14 affiliate of an abortion provider or an abortion assistance
15 organization, or a manufacturer or distributor of
16 abortion-inducing drugs, in the same manner as this state, the
17 political subdivision, or the common carrier provides those
18 services to the general public; or

19 (7) conduct a person engages in under the direction of
20 a federal agency, contractor, or employee to carry out a duty under
21 federal law, if a prohibition on that conduct would violate the
22 doctrine of preemption or intergovernmental immunity.

23 Sec. 171A.107. JURISDICTION; APPLICABILITY OF STATE LAW.

24 (a) Notwithstanding any other law, including Subchapter C, Chapter
25 17, Civil Practice and Remedies Code, the courts of this state have
26 personal jurisdiction over a defendant sued under Section 171A.101
27 to the maximum extent permitted by the Fourteenth Amendment to the

1 United States Constitution and the defendant may be served outside
2 this state.

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

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

13 (d) Notwithstanding any other law, Chapters 27 and 110,
14 Civil Practice and Remedies Code, do not apply to an action brought
15 under Section 171A.101.

16 Sec. 171A.108. COORDINATED ENFORCEMENT PROHIBITED. (a)
17 Notwithstanding any other law, this state, a political subdivision
18 of this state, or an officer or employee of this state or a
19 political subdivision of this state may not:

20 (1) act in concert or participation with a claimant
21 bringing an action under Section 171A.101;

22 (2) establish or attempt to establish any type of
23 agency or fiduciary relationship with a claimant bringing an action
24 under Section 171A.101;

25 (3) attempt to control or influence a person's
26 decision to bring an action under Section 171A.101 or that person's
27 conduct of the litigation; or

1 a federal agency, contractor, or employee who is carrying out
2 duties under federal law if the imposition of liability would
3 violate the doctrine of preemption or intergovernmental immunity;

4 (3) against a common carrier that:

5 (A) transports a pregnant woman or other
6 passenger to an abortion provider; and

7 (B) is unaware the passenger is traveling to an
8 abortion provider; or

9 (4) by any person who impregnated the woman who used or
10 sought to obtain abortion-inducing drugs through conduct
11 constituting sexual assault under Section 22.011, Penal Code, or
12 aggravated sexual assault under Section 22.021, Penal Code, or by
13 another person who acts in concert or participation with that
14 person.

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

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

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

24 (2) took every reasonable precaution to ensure the
25 defendant would not violate Section 171A.051.

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

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

3 (1) ignorance or mistake of law;

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

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

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

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

20 (6) the laws of another state or jurisdiction,
21 including an interstate abortion shield law, unless the Texas
22 Constitution or federal law, including the United States
23 Constitution, compels the court to enforce that law;

24 (7) non-mutual issue preclusion or non-mutual claim
25 preclusion;

26 (8) entrapment;

27 (9) sovereign immunity, governmental immunity, or

1 official immunity; or

2 (10) a claim that the enforcement of this chapter or
3 the imposition of civil liability against the defendant will
4 violate the constitutional or federally protected rights of third
5 parties, except as provided by Section 171A.251.

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

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

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

15 (2) statutory damages in an amount of not less than
16 \$100,000 for each violation of Section 171A.051; and

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

18 (b) A court may not award relief under Subsection (a)(2) or
19 (a)(3) in response to a violation of Section 171A.051 if the
20 defendant demonstrates that a court already ordered the defendant
21 to pay damages under Subsection (a)(2) in another action for that
22 particular violation.

23 (c) Notwithstanding any other law, a court may not award
24 costs or attorney's fees to a defendant against whom an action is
25 brought under Section 171A.151.

26 Sec. 171A.155. CONSTRUCTION OF SUBCHAPTER RELATED TO FIRST
27 AMENDMENT PROTECTIONS. This subchapter may not be construed to

1 impose liability on speech or conduct protected by the First
2 Amendment to the United States Constitution, as made applicable to
3 the states through the United States Supreme Court's interpretation
4 of the Fourteenth Amendment to the United States Constitution, or
5 protected by Section 8, Article I, Texas Constitution.

6 Sec. 171A.156. COORDINATED ENFORCEMENT PROHIBITED. (a)

7 Notwithstanding any other law, a political subdivision of this
8 state or an officer or employee of a political subdivision of this
9 state may not:

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

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

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

18 (4) intervene in an action brought under Section
19 171A.151.

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

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

27 (a) Notwithstanding any other law, including Subchapter C, Chapter

1 17, Civil Practice and Remedies Code, the courts of this state have
2 personal jurisdiction over a defendant sued under Section 171A.151
3 to the maximum extent permitted by the Fourteenth Amendment to the
4 United States Constitution and the defendant may be served outside
5 this state.

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

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

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

17 SUBCHAPTER E. QUI TAM ENFORCEMENT AGAINST INTERACTIVE COMPUTER

18 SERVICES FACILITATING ABORTION

19 Sec. 171A.201. QUI TAM ACTION AGAINST INTERACTIVE COMPUTER
20 SERVICE PROVIDER. (a) A person, other than this state, a political
21 subdivision of this state, or an officer or employee of this state
22 or a political subdivision of this state, has standing to bring and
23 may bring a qui tam action against a person who provides or
24 maintains:

25 (1) an interactive computer service that allows
26 residents of this state to access information or material that
27 aids, abets, assists, or facilitates efforts to obtain elective

1 abortions or abortion-inducing drugs;

2 (2) a platform for downloading any application or
3 software for use on a computer or electronic device used to aid,
4 abet, assist, or facilitate efforts to obtain elective abortions or
5 abortion-inducing drugs; or

6 (3) a platform that allows or enables those who
7 provide or aid or abet elective abortions, or those who
8 manufacture, possess, distribute, mail, transport, deliver,
9 prescribe, or provide abortion-inducing drugs, to collect money,
10 digital currency, resources, or any other thing of value in
11 connection with that conduct.

12 (b) An action brought under this section must be brought in
13 the name of the qui tam relator and of the state.

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

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

21 (1) was unaware that the defendant's interactive
22 computer service or platform was being used to assist or facilitate
23 efforts to obtain elective abortions or abortion-inducing drugs;
24 and

25 (2) on learning the defendant's interactive computer
26 service or platform was being used to assist or facilitate efforts
27 to obtain elective abortions or abortion-inducing drugs, took

1 prompt action to:

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

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

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

12 Sec. 171A.203. REMEDIES. (a) Except as provided by
13 Subsection (b), if a qui tam relator prevails in an action brought
14 under Section 171A.201, the court shall award only declaratory or
15 injunctive relief. A court may not, under any circumstances,
16 award:

17 (1) damages or civil penalties in any amount in the
18 action; or

19 (2) attorney's fees or costs.

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

22 (1) the defendant's exercise of a constitutional or
23 federally protected right that belongs personally to the defendant;

24 (2) conduct engaged in at the direction of a federal
25 agency, contractor, or employee who is carrying out a duty under
26 federal law, if the relief authorized by Subsection (a) would
27 violate the doctrine of preemption or intergovernmental immunity;

1 or

2 (3) conduct of a woman who aborted or attempted to
3 abort her unborn child, if that woman is the named defendant in the
4 action.

5 Sec. 171A.204. RELATION TO OTHER INFORMATION CONTENT
6 PROVIDERS. A person who engages in conduct described by Section
7 171A.201(a) may not be:

8 (1) held vicariously liable for nominal, statutory, or
9 compensatory damages incurred by another information content
10 provider;

11 (2) held liable or legally responsible for the conduct
12 of a publisher or speaker of any information provided by another
13 information content provider; or

14 (3) treated as the speaker or publisher of any
15 information provided by another information content provider under
16 any provision of the laws of this state.

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

18 (a) Notwithstanding any other law, this subchapter may only be
19 enforced through a qui tam action brought under Section 171A.201.

20 (b) No other direct or indirect enforcement of this
21 subchapter may be taken or threatened by this state, a political
22 subdivision of this state, a district or county attorney, or any
23 officer or employee of this state or a political subdivision of this
24 state against any person, by any means whatsoever, and no violation
25 of this subchapter may be used to justify or trigger the enforcement
26 of any other law or any type of adverse consequence under any other
27 law, except as provided in this subchapter.

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

6 Sec. 171A.206. COORDINATED ENFORCEMENT PROHIBITED. (a)
7 Notwithstanding any other law, a political subdivision of this
8 state or an officer or employee of a political subdivision of this
9 state may not:

10 (1) act in concert or participation with a qui tam
11 relator bringing an action under Section 171A.201;

12 (2) establish or attempt to establish any type of
13 agency or fiduciary relationship with a qui tam relator bringing an
14 action under Section 171A.201;

15 (3) attempt to control or influence a person's
16 decision to bring an action under Section 171A.201 or that person's
17 conduct of the litigation; or

18 (4) intervene in an action brought under Section
19 171A.201.

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

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

27 (a) Notwithstanding any other law, including Subchapter C, Chapter

1 17, Civil Practice and Remedies Code, the courts of this state have
2 personal jurisdiction over a defendant sued under Section 171A.201
3 to the maximum extent permitted by the Fourteenth Amendment to the
4 United States Constitution and the defendant may be served outside
5 this state.

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

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

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

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

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

27 (2) an action taken to enable or make available to

1 information content providers or others the technical means to
2 restrict access to information or material described by Subdivision
3 (1); or

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

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

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

13 (1) the imposition of civil liability on the defendant
14 will violate the defendant's personal constitutional or federally
15 protected rights;

16 (2) the defendant:

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

20 (B) demonstrates the imposition of civil
21 liability on the defendant will violate constitutional or federally
22 protected rights belonging to a third party;

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

26 (4) the imposition of civil liability on the defendant
27 would violate the limits on extraterritorial jurisdiction imposed

1 by the United States Constitution or the Texas Constitution.

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

5 Sec. 171A.252. CONSTRUCTION OF CHAPTER WITH RESPECT TO
6 CIVIL LIABILITY AND ENFORCEMENT. This chapter may not be construed
7 to limit or preclude a defendant from asserting the
8 unconstitutionality of any provision or application of the laws of
9 this state as a defense to liability under Section 171A.101,
10 171A.151, or 171A.201 or from asserting any other defense that
11 might be available under any other source of law.

12 Sec. 171A.253. APPLICATION OF OTHER LAW. (a)
13 Notwithstanding any other law, a court may not apply the law of
14 another state or jurisdiction to any civil or qui tam action brought
15 under Section 171A.101, 171A.151, or 171A.201 unless the Texas
16 Constitution or federal law, including the United States
17 Constitution, compels it to do so.

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

22 Sec. 171A.254. VENUE. (a) Notwithstanding any other law,
23 including Chapter 15, Civil Practice and Remedies Code, a civil or
24 qui tam action brought under Section 171A.101, 171A.151, or
25 171A.201 may be brought in:

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

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

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

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

7 (b) If a civil or qui tam action is brought under Section
8 171A.101, 171A.151, or 171A.201 in a venue described by Subsection
9 (a), the action may not be transferred to a different venue without
10 the written consent of all parties.

11 (c) Notwithstanding any other law, any contractual
12 choice-of-forum provision that requires or purports to require a
13 civil or qui tam action under Sections 171A.101, 171A.151, or
14 171A.201 to be litigated in a particular forum is void based on this
15 state's public policy and is not enforceable in any court.

16 Sec. 171A.255. PROTECTION FROM COUNTER ACTIONS. If an
17 action is brought against a person or a judgment is entered against
18 a person based wholly or partly on the person's decision to bring or
19 threat to bring an action under Section 171A.101, 171A.151, or
20 171A.201, the person may recover damages from the claimant who
21 brought the action or obtained the judgment or who has sought to
22 enforce the judgment. The damages must include:

23 (1) compensatory damages created by the action or
24 judgment, including money damages in an amount of the judgment and
25 costs, expenses, and reasonable attorney's fees spent in defending
26 the action;

27 (2) costs, expenses, and reasonable attorney's fees

1 incurred in bringing an action under this section; and

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

4 SUBCHAPTER G. CRIMINAL OFFENSES

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

12 (b) The prohibition under Subsection (a) applies regardless
13 of:

14 (1) the individual on whom the elective abortion is
15 performed;

16 (2) the location where the elective abortion is
17 performed;

18 (3) the law of the jurisdiction in which the elective
19 abortion is performed; and

20 (4) whether the payment or reimbursement is provided
21 directly or through an intermediary.

22 (c) The prohibition under Subsection (a) does not apply to
23 the pregnant woman on whom the elective abortion is performed or
24 attempted.

25 (d) The prohibition under Subsection (a) applies
26 extraterritorially to the maximum extent permitted by the Texas
27 Constitution or federal law, including the United States

1 Constitution.

2 Sec. 171A.302. OFFENSE: DESTROYING EVIDENCE OF ABORTION.

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

6 (1) in this state; or

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

10 (b) An offense under Subsection (a) is a felony of the
11 second degree.

12 (c) The prohibition under Subsection (a) does not apply to
13 the pregnant woman on whom the elective abortion is performed or
14 attempted.

15 (d) The prohibition under Subsection (a) applies
16 extraterritorially to the maximum extent permitted by the Texas
17 Constitution or federal law, including the United States
18 Constitution.

19 SUBCHAPTER H. PROVISIONS RELATING TO ENFORCEMENT OF ABORTION LAWS

20 Sec. 171A.351. DEFINITION. In this subchapter, "criminal
21 abortion law" means any law of this state imposing criminal
22 penalties on abortion, including Chapter 6-1/2, Title 71, Revised
23 Statutes.

24 Sec. 171A.352. STATUTE OF LIMITATIONS. Notwithstanding any
25 other law, there is no applicable statute of limitations for an
26 offense committed under a criminal abortion law.

27 Sec. 171A.353. CONCURRENT JURISDICTION OF ATTORNEY

1 GENERAL. Notwithstanding any other law, the attorney general has
2 concurrent jurisdiction to prosecute any criminal abortion law and
3 may authorize a district attorney to investigate or prosecute a
4 violation of an abortion law if a local district attorney fails or
5 refuses to investigate or prosecute the violation.

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

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

15 Sec. 171A.355. FEE SHIFTING. (a) Notwithstanding any
16 other law, a person, including an entity, attorney, or law firm, who
17 seeks declaratory or injunctive relief to prevent a person,
18 including this state, a political subdivision of this state, or an
19 officer, employee, or agent of this state or a political
20 subdivision of this state, from enforcing or bringing an action to
21 enforce a law, including a statute, ordinance, rule, or regulation,
22 that regulates or restricts abortion or that limits taxpayer
23 funding for persons that perform or promote abortions in any state
24 or federal court, or who represents a litigant seeking such relief
25 in any state or federal court, is jointly and severally liable to
26 pay the costs and reasonable attorney's fees of the prevailing
27 party in the action seeking declaratory or injunctive relief,

1 including the costs and reasonable attorney's fees that the
2 prevailing party incurs in its efforts to recover costs and fees.

3 (b) For purposes of this section, a party is considered a
4 prevailing party if:

5 (1) a state or federal court dismisses a claim or cause
6 of action brought against the party by a litigant that seeks the
7 declaratory or injunctive relief described by Subsection (a),
8 regardless of the reason for the dismissal;

9 (2) a state or federal court enters judgment in the
10 party's favor on that claim or cause of action; or

11 (3) the litigant that seeks the declaratory or
12 injunctive relief described by Subsection (a) voluntarily
13 dismisses or nonsuits its claims against the party under Rule 41,
14 Federal Rules of Civil Procedure, Rule 162, Texas Rules of Civil
15 Procedure, or any other procedural rule.

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

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

27 (1) the dismissal or judgment described by Subsection

1 (b) becomes final on the conclusion of appellate review; or

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

3 (e) It is not a defense to a civil action brought under
4 Subsection (d) that:

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

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

9 (3) the court in the underlying action held that any
10 provisions of this section are invalid, unconstitutional, or
11 preempted by federal law, notwithstanding the doctrine of issue or
12 claim preclusion.

13 (f) Notwithstanding any other law, including Chapter 15,
14 Civil Practice and Remedies Code, a civil action brought under
15 Subsection (d) may be brought in:

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

18 (2) the county of residence of a defendant at the time
19 the cause of action accrued, if the defendant is an individual;

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

22 (4) the county of residence of the claimant, if the
23 claimant is an individual residing in this state.

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

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

6 SUBCHAPTER I. IMMUNITY AND LIMITS ON STATE-COURT JURISDICTION

7 Sec. 171A.401. SOVEREIGN, GOVERNMENTAL, AND OFFICIAL
8 IMMUNITY. (a) Notwithstanding any other law, the state has
9 sovereign immunity, a political subdivision of this state has
10 governmental immunity, and an officer or employee of this state or a
11 political subdivision of this state has official immunity in an
12 action, claim, counterclaim, or any other type of legal or
13 equitable action that:

14 (1) challenges the validity of any provision or
15 application of this chapter, on constitutional grounds or
16 otherwise; or

17 (2) seeks to prevent or enjoin this state, a political
18 subdivision of this state, or an officer, employee, or agent of this
19 state or a political subdivision of this state from:

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

22 (B) filing, hearing, adjudicating, or docketing
23 an action brought under Section 171A.101, 171A.151, or 171A.201 or
24 an action described by Section 171A.208.

25 (b) Sovereign immunity conferred by this section includes
26 the constitutional sovereign immunity recognized by the United
27 States Supreme Court, which applies in both state and federal court

1 and may not be abrogated by Congress or by a state or federal court
2 except under congressional legislation authorized by:

3 (1) Section 5 of the Fourteenth Amendment, United
4 States Constitution;

5 (2) the Bankruptcy Clause of Article I, United States
6 Constitution;

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

9 (4) any other congressional power that the United
10 States Supreme Court recognizes as a ground for abrogating a
11 state's sovereign immunity.

12 Sec. 171A.402. APPLICABILITY OF IMMUNITY. Notwithstanding
13 any other law, the immunities conferred by Section 171A.401 apply
14 in every court, both state and federal, and in every type of
15 adjudicative proceeding.

16 Sec. 171A.403. CONSTRUCTION OF CHAPTER RELATED TO ASSERTED
17 DEFENSE. This chapter may not be construed to prevent a litigant
18 from asserting the invalidity or unconstitutionality of a provision
19 or application of this chapter as a defense to an action, claim, or
20 counterclaim brought against the litigant.

21 Sec. 171A.404. WAIVER OF IMMUNITY. (a) Notwithstanding
22 any other law, a provision of the laws of this state may not be
23 construed to waive or abrogate an immunity conferred by Section
24 171A.401 unless it expressly waives or abrogates immunity with
25 specific reference to that section.

26 (b) Notwithstanding any other law, an attorney representing
27 the state, a political subdivision of this state, or an officer or

1 employee of this state or a political subdivision of this state may
2 not waive an immunity conferred by Section 171A.401 or take an
3 action that would result in a waiver of that immunity. A purported
4 waiver or action described by this subsection is considered void
5 and an ultra vires act.

6 Sec. 171A.405. JURISDICTION. Notwithstanding any other
7 law, including Chapter 37, Civil Practice and Remedies Code, a
8 court of this state does not have jurisdiction to consider and may
9 not award relief under any action, claim, or counterclaim that:

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

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

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

19 (B) filing, hearing, adjudicating, or docketing
20 an action brought under Section 171A.101, 171A.151, or 171A.201 or
21 an action described by Section 171A.208.

22 Sec. 171A.406. EFFECT OF CONTRARY JUDICIAL ACTIONS. (a)
23 Notwithstanding any other law, judicial relief issued by a court of
24 this state that disregards the immunity conferred by Section
25 171A.401 or the limits on jurisdiction or permissible relief
26 described by Section 171A.405:

27 (1) is considered void because a court without

1 jurisdiction issued the relief; and

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

5 (b) Notwithstanding any other law, a writ, injunction, or
6 declaratory judgment issued by a court of this state that purports
7 to restrain a person, including this state, a political subdivision
8 of this state, or an officer or employee of this state or a
9 political subdivision of this state, from hearing, adjudicating,
10 docketing, or filing an action brought under Section 171A.101,
11 171A.151, or 171A.201 or an action described by Section 171A.208:

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

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

18 Sec. 171A.407. LIABILITY FOR VIOLATION. (a)
19 Notwithstanding any other law, a person may bring an action against
20 an officer, employee, or agent, including a judicial official, of
21 this state or a political subdivision of this state, who issues,
22 enforces, or obeys a writ, injunction, or declaratory judgment
23 described by Section 171A.406(b) if the writ, injunction, or
24 judgment prevents or delays the person from bringing an action
25 under Section 171A.101, 171A.151, or 171A.201 or an action
26 described by Section 171A.208.

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

1 section is entitled to:

2 (1) injunctive relief;

3 (2) compensatory damages;

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

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

6 (c) Notwithstanding any other law, in an action brought
7 under this section, a person who violates Section 171A.405 or
8 171A.406(b):

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

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

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

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

19 (a) This chapter does not apply to:

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

24 (2) a legal action brought against a person primarily
25 engaged in the business of selling or leasing goods or services, if
26 the statement or conduct arises out of the sale or lease of goods,
27 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

1 Disciplinary Procedure;

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

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

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

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

13 (15) an action brought under Section 30.022.

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

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

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

24 Sec. 171.2105. JURISDICTION. 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, or counterclaim that

1 seeks declaratory or injunctive relief, or any type of writ,
2 including a writ of prohibition, that would pronounce any provision
3 or application of this subchapter invalid or unconstitutional.

4 SECTION 6. Section 71.02(a), Penal Code, as amended by
5 Chapters 269 (S.B. 224), 369 (H.B. 1442), 462 (S.B. 1900), 885 (H.B.
6 4635), and 910 (H.B. 6), Acts of the 88th Legislature, Regular
7 Session, 2023, is reenacted and amended to read as follows:

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

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

20 (2) any gambling offense punishable as a Class A
21 misdemeanor;

22 (3) promotion of prostitution, aggravated promotion
23 of prostitution, or compelling prostitution;

24 (4) unlawful manufacture, transportation, repair, or
25 sale of firearms or prohibited weapons;

26 (5) unlawful manufacture, delivery, dispensation, or
27 distribution of a controlled substance or dangerous drug, or

1 unlawful possession of a controlled substance or dangerous drug:

2 (A) through forgery, fraud, misrepresentation,
3 or deception; or

4 (B) with the intent to deliver the controlled
5 substance or dangerous drug;

6 (5-a) causing the unlawful delivery, dispensation, or
7 distribution of a controlled substance or dangerous drug in
8 violation of Subtitle B, Title 3, Occupations Code;

9 ~~[(5-b) any unlawful possession with intent to deliver
10 a controlled substance or dangerous drug;~~

11 ~~[(5-b) unlawful possession with intent to deliver a
12 controlled substance listed in Penalty Group 1-B under Section
13 [481.1022](#), Health and Safety Code.]~~

14 (6) any unlawful wholesale promotion or possession of
15 any obscene material or obscene device with the intent to wholesale
16 promote the same;

17 (7) any offense under Subchapter B, Chapter [43](#),
18 depicting or involving conduct by or directed toward a child
19 younger than 18 years of age;

20 (8) any felony offense under Chapter [32](#);

21 (9) any offense under Chapter [36](#);

22 (10) any offense under Chapter [34](#), [35](#), or [35A](#);

23 (11) any offense under Section [37.11\(a\)](#);

24 (12) any offense under Chapter [20A](#);

25 (13) any offense under Section [37.10](#);

26 (14) any offense under Section [38.06](#), [38.07](#), [38.09](#), or
27 [38.11](#);

- 1 (15) any offense under Section 42.10;
- 2 (16) any offense under Section 46.06(a)(1) or 46.14;
- 3 (17) any offense under Section 20.05, 20.06, or 20.07;
- 4 (18) any offense under Section 16.02;
- 5 (19) any offense punishable under Section 42.03(d) or
- 6 (e);
- 7 (20) [~~(19)~~] an offense under Section 28.03 that is
- 8 punishable under Subsection (b)(4)(E) of that section;
- 9 (21) [~~(20)~~] an offense under Section 31.21 that is
- 10 punishable under Subsection (d) of that section; [~~or~~]
- 11 (22) [~~(20)~~] any offense classified as a felony under
- 12 the Tax Code; [~~or~~]
- 13 (23) [~~(21)~~] any offense under Section 545.420,
- 14 Transportation Code;
- 15 (24) a violation of 18 U.S.C. Section 1461 that
- 16 involves using the mails for the mailing, carriage in the mails, or
- 17 delivery of:
- 18 (A) any item designed, adapted, or intended for
- 19 producing an elective abortion, as defined by Section 171A.001,
- 20 Health and Safety Code; or
- 21 (B) any instrument, substance, drug, medicine,
- 22 or other item that is advertised or described in a manner calculated
- 23 to lead a person to use or apply the item for producing an elective
- 24 abortion, as defined by Section 171A.001, Health and Safety Code;
- 25 (25) a violation of 18 U.S.C. Section 1462(c) that
- 26 involves:
- 27 (A) using any express company or other common

1 carrier or interactive computer service for carrying through
2 interstate or foreign commerce any drug, medicine, article, or item
3 designed, adapted, or intended for producing an elective abortion,
4 as defined by Section 171A.001, Health and Safety Code; or

5 (B) knowingly taking or receiving from an express
6 company or other common carrier or interactive computer service for
7 carrying through interstate or foreign commerce a drug, medicine,
8 article, or item described by Paragraph (A);

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

12 (27) an offense under Chapter 28 involving damage or
13 destruction to the property of a church, a crisis pregnancy center,
14 an adoption agency, or an entity that offers services covered under
15 the Thriving Texas Families Program established under Chapter 54,
16 Health and Safety Code.

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

20 SECTION 8. Section 71.02(a), Penal Code, as reenacted and
21 amended by this Act, applies only to an offense committed on or
22 after the effective date of this Act. An offense committed before
23 the effective date of this Act is governed by the law in effect on
24 the date the offense was committed, and the former law is continued
25 in effect for that purpose. For purposes of this section, an
26 offense was committed before the effective date of this Act if any
27 element of the offense occurred before that date.

1 SECTION 9. It is the intent of the legislature that every
2 provision, section, subsection, sentence, clause, phrase, or word
3 in this Act, and every application of the provisions in this Act to
4 every person, group of persons, or circumstances, is severable from
5 each other. If any application of any provision in this Act to any
6 person, group of persons, or circumstances is found by a court to be
7 invalid for any reason, the remaining applications of that
8 provision to all other persons and circumstances shall be severed
9 and may not be affected.

10 SECTION 10. This Act takes effect September 1, 2025.