

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.