

By: Tinderholt

H.B. No. 896

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting abortion and protecting the rights of an unborn child.

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

SECTION 1. The heading to Section 151.002, Family Code, is amended to read as follows:

Sec. 151.002. RIGHTS OF A LIVING CHILD [~~AFTER AN ABORTION OR PREMATURE BIRTH~~].

SECTION 2. Section 151.002(a), Family Code, is amended to read as follows:

(a) A living human child, from the moment of fertilization on fusion of a human spermatozoon with a human ovum, [~~born alive after an abortion or premature birth~~] is entitled to the same rights, powers, and privileges as are secured or granted by the laws of this state to any other human child [~~born alive after the normal gestation period~~].

SECTION 3. Subchapter B, Chapter 402, Government Code, is amended by adding Section 402.0375 to read as follows:

Sec. 402.0375. ABORTION PROHIBITION ENFORCEMENT. The attorney general shall monitor this state's enforcement of Chapters 19 and 22, Penal Code, in relation to abortion. The attorney general shall direct a state agency to enforce those laws, regardless of any contrary federal law, executive order, or court decision.

1 SECTION 4. The heading to Chapter 370, Local Government
2 Code, is amended to read as follows:

3 CHAPTER 370. MISCELLANEOUS PROVISIONS RELATING TO [~~MUNICIPAL AND~~
4 ~~COUNTY~~] HEALTH AND PUBLIC SAFETY FOR MORE THAN ONE TYPE OF LOCAL
5 GOVERNMENT

6 SECTION 5. Chapter 370, Local Government Code, is amended
7 by adding Section 370.007 to read as follows:

8 Sec. 370.007. ABORTION PROHIBITION ENFORCEMENT. The
9 governing body of a political subdivision of this state shall
10 ensure that the political subdivision enforces Chapters 19 and 22,
11 Penal Code, in relation to abortion, regardless of any contrary
12 federal law, executive order, or court decision.

13 SECTION 6. Section 19.06, Penal Code, is amended to read as
14 follows:

15 Sec. 19.06. APPLICABILITY TO CERTAIN CONDUCT.
16 Notwithstanding any other law, this [~~This~~] chapter applies [~~does~~
17 ~~not apply~~] to the death of an unborn child, regardless of whether
18 [~~if~~] the conduct charged is:

19 (1) conduct committed by the mother of the unborn
20 child;

21 (2) a [~~lawful medical~~] procedure performed by a
22 physician or other licensed health care provider, including [~~with~~
23 ~~the requisite consent, if the death of the unborn child was the~~
24 ~~intended result of the procedure,~~

25 [~~(3)~~] a [~~lawful medical~~] procedure performed [~~by a~~
26 ~~physician or other licensed health care provider with the requisite~~
27 ~~consent~~] as part of an assisted reproduction as defined by Section

1 160.102, Family Code; or

2 (3) [~~(4)~~] the dispensation or administration of a drug
3 [~~in accordance with law or administration of a drug prescribed in~~
4 ~~accordance with law~~].

5 SECTION 7. Section 22.12, Penal Code, is amended to read as
6 follows:

7 Sec. 22.12. APPLICABILITY TO CERTAIN CONDUCT.

8 Notwithstanding any other law, this [~~This~~] chapter applies [~~does~~
9 ~~not apply~~] to conduct charged as having been committed against an
10 individual who is an unborn child, regardless of whether [~~if~~] the
11 conduct is:

12 (1) committed by the mother of the unborn child;

13 (2) a [~~lawful medical~~] procedure performed by a
14 physician or other health care provider, including [~~with the~~
15 ~~requisite consent,~~

16 [~~(3)~~] a [~~lawful medical~~] procedure performed [~~by a~~
17 ~~physician or other licensed health care provider with the requisite~~
18 ~~consent~~] as part of an assisted reproduction as defined by Section
19 160.102, Family Code; or

20 (3) [~~(4)~~] the dispensation or administration of a drug
21 [~~in accordance with law or administration of a drug prescribed in~~
22 ~~accordance with law~~].

23 SECTION 8. The following provisions are repealed:

24 (1) Section 71.003(c), Civil Practice and Remedies
25 Code;

26 (2) Section 103.002(b), Occupations Code;

27 (3) Section 20.01(5), Penal Code; and

1 (4) Section 49.12, Penal Code.

2 SECTION 9. (a) The changes in law made by this Act apply
3 only to conduct that occurs on or after the effective date of this
4 Act. Conduct that occurs before the effective date of this Act is
5 governed by the law in effect immediately before the effective date
6 of this Act, and that law is continued in effect for that purpose.

7 (b) The changes in law made by this Act apply only to an
8 offense committed on or after the effective date of this Act. An
9 offense committed before the effective date of this Act is governed
10 by the law in effect when the offense was committed, and the former
11 law is continued in effect for that purpose. For purposes of this
12 section, an offense is committed before the effective date of this
13 Act if any element of the offense occurs before the effective date.

14 SECTION 10. Any federal law, executive order, or court
15 decision that purports to supersede, stay, or overrule this Act is
16 in violation of the Texas Constitution and the United States
17 Constitution and is therefore void. The State of Texas, a political
18 subdivision of this state, and any agent of this state or a
19 political subdivision of this state may, but is not required to,
20 enter an appearance, special or otherwise, in any federal suit
21 challenging this Act.

22 SECTION 11. This Act takes effect immediately if it
23 receives a vote of two-thirds of all the members elected to each
24 house, as provided by Section 39, Article III, Texas Constitution.
25 If this Act does not receive the vote necessary for immediate
26 effect, this Act takes effect September 1, 2019.