

AN ACT

relating to the enforcement of the rights of a living unborn child after an abortion; providing a civil penalty; creating a criminal offense.

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; CIVIL PENALTY; CRIMINAL OFFENSE.

SECTION 2. Section 151.002, Family Code, is amended by adding Subsections (c), (d), (e), (f), and (g) to read as follows:

(c) For purposes of this section, a physician-patient relationship is established between a child born alive after an abortion and the physician who performed or attempted to perform the abortion. The physician must exercise the same degree of professional skill, care, and diligence to preserve the life and health of the child as a reasonably diligent and conscientious physician would render to any other child born alive at the same gestational age. In this subsection, "professional skill, care, and diligence" includes a requirement that the physician who performed or attempted the abortion ensure that the child born alive be immediately transferred to a hospital.

(d) A woman on whom an abortion, as defined by Section 245.002, Health and Safety Code, is performed or attempted to be performed may not be held liable under this section.

(e) A physician who violates Subsection (c) by failing to provide the appropriate medical treatment to a child born alive after an abortion or an attempted abortion is liable to the state for a civil penalty of not less than \$100,000. The attorney general may bring a suit to collect the penalty. In addition to the civil penalty, the attorney general may recover reasonable attorney's fees. The civil penalty described in this subsection is in addition to any other recovery authorized under other law.

(f) A person who has knowledge of a failure to comply with this section shall report to the attorney general. The identity and any personally identifiable information of the person reporting the failure to comply with this section is confidential under Chapter 552, Government Code.

(g) A physician or health care practitioner who violates Subsection (c) by failing to provide the appropriate medical treatment to a child born alive after an abortion or an attempted abortion commits an offense. An offense under this subsection is a felony of the third degree.

SECTION 3. Section 151.002, Family Code, as amended by this Act, applies only to a child born alive on or after the effective date of this Act.

SECTION 4. The change in law made by this Act applies only to the prosecution of an offense committed on or after the effective date of this Act. The prosecution of an offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

SECTION 5. This Act takes effect September 1, 2019.

President of the Senate

Speaker of the House

I certify that H.B. No. 16 was passed by the House on April 17, 2019, by the following vote: Yeas 94, Nays 2, 49 present, not voting; and that the House concurred in Senate amendments to H.B. No. 16 on May 23, 2019, by the following vote: Yeas 84, Nays 57, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 16 was passed by the Senate, with amendments, on May 16, 2019, by the following vote: Yeas 21, Nays 10.

Secretary of the Senate

APPROVED: _____
Date

Governor