

## Chapter 800

H.B. No. 1280

### AN ACT

relating to prohibition of abortion; providing a civil penalty;  
creating a criminal offense.

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

SECTION 1. This Act may be cited as the Human Life  
Protection Act of 2021.

SECTION 2. Subtitle H, Title 2, Health and Safety Code, is  
amended by adding Chapter 170A to read as follows:

#### CHAPTER 170A. PERFORMANCE OF ABORTION

##### Sec. 170A.001. DEFINITIONS. In this chapter:

(1) "Abortion" has the meaning assigned by Section  
245.002.

(2) "Fertilization" means the point in time when a  
male human sperm penetrates the zona pellucida of a female human  
ovum.

(3) "Pregnant" means the female human reproductive  
condition of having a living unborn child within the female's body  
during the entire embryonic and fetal stages of the unborn child's  
development from fertilization until birth.

(4) "Reasonable medical judgment" means a medical  
judgment made by a reasonably prudent physician, knowledgeable  
about a case and the treatment possibilities for the medical  
conditions involved.

(5) "Unborn child" means an individual living member

of the homo sapiens species from fertilization until birth,  
including the entire embryonic and fetal stages of development.

Sec. 170A.002. PROHIBITED ABORTION; EXCEPTIONS. (a) A  
person may not knowingly perform, induce, or attempt an abortion.

(b) The prohibition under Subsection (a) does not apply if:

(1) the person performing, inducing, or attempting the  
abortion is a licensed physician;

(2) in the exercise of reasonable medical judgment,  
the pregnant female on whom the abortion is performed, induced, or  
attempted has a life-threatening physical condition aggravated by,  
caused by, or arising from a pregnancy that places the female at  
risk of death or poses a serious risk of substantial impairment of a  
major bodily function unless the abortion is performed or induced;  
and

(3) the person performs, induces, or attempts the  
abortion in a manner that, in the exercise of reasonable medical  
judgment, provides the best opportunity for the unborn child to  
survive unless, in the reasonable medical judgment, that manner  
would create:

(A) a greater risk of the pregnant female's  
death; or

(B) a serious risk of substantial impairment of a  
major bodily function of the pregnant female.

(c) A physician may not take an action authorized under  
Subsection (b) if, at the time the abortion was performed, induced,  
or attempted, the person knew the risk of death or a substantial  
impairment of a major bodily function described by Subsection

1 (b)(2) arose from a claim or diagnosis that the female would engage  
2 in conduct that might result in the female's death or in substantial  
3 impairment of a major bodily function.

4 (d) Medical treatment provided to the pregnant female by a  
5 licensed physician that results in the accidental or unintentional  
6 injury or death of the unborn child does not constitute a violation  
7 of this section.

8 Sec. 170A.003. CONSTRUCTION OF CHAPTER. This chapter may  
9 not be construed to authorize the imposition of criminal, civil, or  
10 administrative liability or penalties on a pregnant female on whom  
11 an abortion is performed, induced, or attempted.

12 Sec. 170A.004. CRIMINAL OFFENSE. (a) A person who  
13 violates Section 170A.002 commits an offense.

14 (b) An offense under this section is a felony of the second  
15 degree, except that the offense is a felony of the first degree if  
16 an unborn child dies as a result of the offense.

17 Sec. 170A.005. CIVIL PENALTY. A person who violates  
18 Section 170A.002 is subject to a civil penalty of not less than  
19 \$100,000 for each violation. The attorney general shall file an  
20 action to recover a civil penalty assessed under this section and  
21 may recover attorney's fees and costs incurred in bringing the  
22 action.

23 Sec. 170A.006. CIVIL REMEDIES UNAFFECTED. The fact that  
24 conduct is subject to a civil or criminal penalty under this chapter  
25 does not abolish or impair any remedy for the conduct that is  
26 available in a civil suit.

27 Sec. 170A.007. DISCIPLINARY ACTION. In addition to any

1 other penalty that may be imposed under this chapter, the  
2 appropriate licensing authority shall revoke the license, permit,  
3 registration, certificate, or other authority of a physician or  
4 other health care professional who performs, induces, or attempts  
5 an abortion in violation of Section 170A.002.

6 SECTION 3. Section 2 of this Act takes effect, to the extent  
7 permitted, on the 30th day after:

8 (1) the issuance of a United States Supreme Court  
9 judgment in a decision overruling, wholly or partly, *Roe v. Wade*,  
10 410 U.S. 113 (1973), as modified by *Planned Parenthood v. Casey*, 505  
11 U.S. 833 (1992), thereby allowing the states of the United States to  
12 prohibit abortion;

13 (2) the issuance of any other United States Supreme  
14 Court judgment in a decision that recognizes, wholly or partly, the  
15 authority of the states to prohibit abortion; or

16 (3) adoption of an amendment to the United States  
17 Constitution that, wholly or partly, restores to the states the  
18 authority to prohibit abortion.

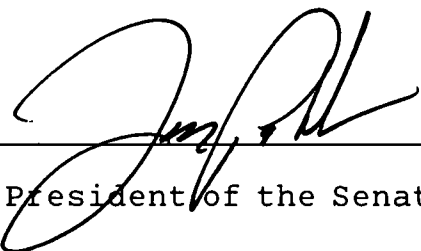
19 SECTION 4. The legislature finds that the State of Texas  
20 never repealed, either expressly or by implication, the state  
21 statutes enacted before the ruling in *Roe v. Wade*, 410 U.S. 113  
22 (1973), that prohibit and criminalize abortion unless the mother's  
23 life is in danger.


24 SECTION 5. The provisions of this Act are hereby declared  
25 severable, and if any provision of this Act or the application of  
26 such provision to any person or circumstance is declared invalid  
27 for any reason, such declaration shall not affect the validity of

H.B. No. 1280.

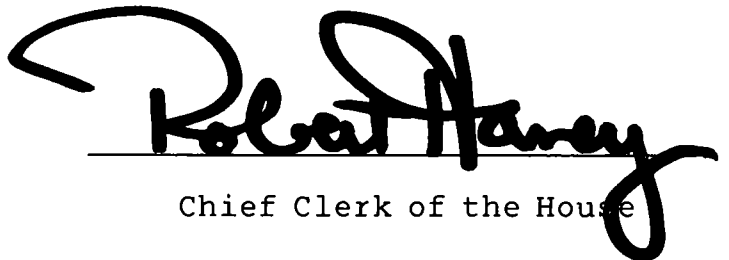
1 the remaining portions of this Act.

2 SECTION 6. This Act takes effect September 1, 2021.

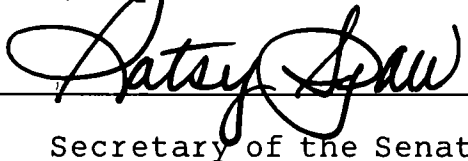
  
\_\_\_\_\_  
President of the Senate

H.B. No. 1280  
  
\_\_\_\_\_  
Speaker of the House

I certify that H.B. No. 1280 was passed by the House on May 6, 2021, by the following vote: Yeas 81, Nays 61, 2 present, not voting.

  
\_\_\_\_\_  
Chief Clerk of the House

I certify that H.B. No. 1280 was passed by the Senate on May 25, 2021, by the following vote: Yeas 19, Nays 12.

  
\_\_\_\_\_  
Secretary of the Senate

APPROVED: 6-14-21

Date

  
\_\_\_\_\_  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE

2pm O'CLOCK

JUN 16 2021

  
\_\_\_\_\_  
Secretary of State